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# **The Federal Update for March 22, 2024**

From: Michael Brustein, Julia Martin, Steven Spillan, Kelly Christiansen

Re: Federal Update

Date: March 22, 2024

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## Legislation and Guidance

### Congress Releases Draft Spending Bills Ahead of Deadline

The House passed spending legislation for fiscal year (FY) 2024 this afternoon, as it works to finalize the remaining six appropriations bills by Friday night, when funding will expire for several federal agencies, including the U.S. Department of Education (ED).

The legislation includes a slight cut to overall funding for ED compared to FY 2023 levels. Some major federal education programs would receive minor increases, including a boost of $20 million each for Title I under the Elementary and Secondary Education Act (ESEA) and Part B Grants to States under the Individuals with Disabilities Education Act (IDEA). Those increases amount to 0.1 percent for each program when compared to current funding. Other programs receiving increases include Impact Aid, with a $7 million increase, and student aid administration, which would receive a one percent increase. Most other formula-funded programs under ESEA are level-funded, receiving the same amount as FY 2023, including Title II-A, Title III-A, Title IV-A, 21st Century Community Learning Centers, and Charter School Programs. The Pell Grant maximum award amount will also remain frozen for the first time since FY 2012.

A few programs would be cut under the proposed legislation as well, including a $20 million decrease for national career and technical education programs (State grants would be increased by $10 million, however). Other programs that would be cut include ESEA State assessment grants, certain programs within the Institute for Education Sciences, IDEA technical assistance and dissemination funding, strengthening institutions funding under the Higher Education Act, and ED program administration funding, among others.

Outside of ED, the legislation proposes a two percent increase for Head Start and a nine percent increase for the Child Care and Development Block Grant, which are administered by the U.S. Department of Health and Human Services.

Congress is rushing to try and pass the remaining appropriations bills before Friday at midnight, when many federal agencies would shut down following the expiration of the current continuing resolution. The House passed the bill Friday afternoon, but it remains unclear whether the Senate will be able to vote on the legislation and send it to President Biden before midnight tonight. Some senators have indicated they plan to propose amendments to the bill, which will slow down the process. A weekend shutdown that is resolved before Monday, however, will not have a practical impact on federal government operations.

Author: KSC

### House Education Committee Advances Bills to Floor

Yesterday, the House Committee on Education and the Workforce met to mark up one resolution and three bills related to reforming the Higher Education Act (HEA), funding for charter schools, and the Department of Labor’s (DOL’s) new independent contractor rule.

In her opening remarks at the markup, Chairwoman Virginia Foxx (R-NC) said that the bills represented the Committee’s effort to not “surrender our schools to either the woke ideologues or the ballooning education bureaucracy.” In an effort to reform the HEA, the Committee considered two bills. The first was H.R. 3724, Accreditation for College Excellence Act of 2023, which would amend the HEA to prohibit accrediting agencies from requiring, as a condition of accreditation, any partisan, social, or political belief from an institution of higher education (IHE).

Additionally, H.R. 7683, Respecting the First Amendment on Campus Act, would amend the HEA to require IHEs to provide certain free speech notices and would prohibit them from placing restrictions on campus free speech and from requiring students to take political litmus tests if they receive Title IV funds. Representative Brandon Williams (R-NY), the author of the bill, along with Foxx, released a joint statement saying that IHEs have encouraged intolerance among students and this bill would address the problem by holding IHEs accountable for ensuring free speech policies are transparent. Representative Kathy Manning (D-NC) proposed two amendments to the bill related to concerns about increased antisemitism on college campuses, both of which passed.

The Committee also considered H.R. 6418, Empower Charter School Educators to Lead Act, which would allow States to award pre-planning subgrants of up to $10,000 to prospective charter school developers. Foxx said that this bill fit with the theme of academic freedom and would “unleash the full potential of charters,” which are “bastions of innovation and choice.”

The three bills were voted on and advanced to the House floor on Thursday. [An overview of the bills and video of the markup can be found here](https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=410341).

Resources:

Mackenzie Wilkes, “House education panel to consider campus speech bill,” *Politico*, March 20, 2024.

House Committee on Education and the Workforce Press Release, “Chairwoman Foxx Delivers Opening Remarks at Markup to Bolster Workforce and Advance Academic Freedom,” March 21, 2024.

Author: BNT

### ED Issues New Guidance on Recording Federal Interest

In a Dear Colleague letter and Frequently Asked Questions document issued yesterday, the U.S. Department of Education (ED) provided additional information on expectations for recording and reporting a federal interest in school buildings and other facilities. The guidance notes that it was prompted by the heavy use of stimulus dollars, including the Elementary and Secondary School Emergency Relief Fund (ESSER) to fund construction and improvements to schools.

Under the federal rules, grant and subgrant recipients must record the federal interest in the property and report on its status for at least the first fifteen years when federal funds have been used to improve it. However, ED says that it will “generally exempt grantees or subgrantees that use less than $1 million” in ESSER or other federal COVID-19 relief funds from the requirement to record the federal interest. The decision, the agency says, is based on the administrative burden of recording and a desire to focus on the most significant projects. All grantees and subgrantees with projects that exceed $1 million in stimulus funds must record the federal interest by January 28, 2025, using the elements enumerated in the FAQs document.

The annual reporting requirement will remain in place, and ED notes that grantees should use form SF-429 for those reports. Grantees should report on “land, including land improvements, structures and appurtenances thereto,” which ED says “may include HVAC equipment, mobile classrooms, building furniture, and other similar items.”

Author: JCM

### Dear Colleague Suggests Targeting Chronic Absenteeism

A Dear Colleague letter from the U.S. Department of Education asked States to take action in targeting chronic absenteeism. The letter notes that the number of students missing at least 10 percent of school days – about 18 days in a year – increased during the pandemic, and ED expresses concern about the long-term educational success of students who meet this benchmark.

The letter asks States to take three actions to address chronic absenteeism. The first is increasing attendance through the consolidated State plan for implementation of the Elementary and Secondary Education Act (ESEA), including through accountability systems and targeting attendance as part of school improvement plans. The guidance also suggests that States invest in real-time tracking and intervention systems to identify and target students who are, or are at risk of becoming, chronically absent.

Second, the letter suggests that States access resources provided by ED, including through the Student Engagement and Attendance Center (SEAC) to help implement evidence-based strategies. A [fact sheet linked](https://oese.ed.gov/files/2024/03/Chronic_Absenteeism_Sust_508_for-posting.pdf) in the letter highlights resources available to schools and districts to promote attendance.

Last, the letter urges States to “redouble efforts” to invest any remaining American Rescue Plan (ARP) funds in evidence-based strategies for improving regular attendance, including through transportation, wrap-around services, and contracting with community-based organizations to help families find housing.

Author: JCM

## News

### Senators Ask ED to Ease Reporting Timeline

A bipartisan group of Senators has written to the U.S. Department of Education (ED) asking them to ease higher education requirements that constitute a high level of administrative burden on colleges. The letter, sent by Senators Roger Marshall (R-KS), Tommy Tuberville (R-AL), Tim Kaine (D-VA), and John Hickenlooper (D-CO), highlights concerns about the Free Application for Federal Student Aid (FAFSA) delays as well as new gainful employment reporting requirements.

The FAFSA was delayed this fall due to new requirements from Congress and tech issues at ED. Those delays have caused cascading problems for students and colleges, who in many cases are still awaiting the data they need to calculate financial aid awards for the 2024-2025 school year. The letter asks ED to consider accepting electronic copies of FAFSA verification materials, including electronic signatures.

Additionally, the letter asks for a delay in reporting requirements under a new gainful employment regulation, scheduled to go into effect on July 1. Because ED has not issued guidance on reporting, many institutions have complained they have not been able to set up reporting systems. But ED has said it will not publish data or require notification to students until 2026, so the Senators argue that delaying reporting requirements would give institutions some breathing room – allowing them to focus on student financial aid packages – while maintaining the timeline for institutional accountability and transparency.

[The letter is available here](https://www.marshall.senate.gov/wp-content/uploads/3.21.24-Letter-to-ED-re.-FAFSA.pdf).

Author: JCM

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