The Bruman Group, PLLC logo

1120 20th Street, N.W., Suite 740

Washington, D.C. 20036

phone: 202.965.3652

fax: 202.965.8913

[bruman@bruman.com](mailto:bruman@bruman.com)

[www.bruman.com](http://www.bruman.com/)

# **The Federal Update for December 15, 2023**

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

Re: Federal Update

Date: December 15, 2023

[Legislation and Guidance 1](#_Toc153455550)

[Ed Workforce Committee Advances WIOA Reauthorization Bill 1](#_Toc153455551)

[Short-Term Pell Bill Advanced to House Floor 2](#_Toc153455552)

[House Approves Legislation to Put More Whole Milk in Schools 3](#_Toc153455553)

[Senate HELP Committee Approves Education Research Revamp 4](#_Toc153455554)

*Due to the upcoming holidays, the next issue of the Federal Update will be published on Friday, January 5, 2024.*

## Legislation and Guidance

### Ed Workforce Committee Advances WIOA Reauthorization Bill

In an unexpected move late last week, the House Committee on Education and the Workforce unveiled A Stronger Workforce for America Act, H.R. 6655 – a bipartisan bill to reauthorize the Workforce Innovation and Opportunity Act (WIOA), which was last updated in 2014.

The House Committee marked up the legislation on Tuesday and advanced it to the full House with only one lawmaker, Representative Bob Good (R-VA), voting no. Chairwoman Virginia Foxx (R-NC) and Ranking Member Bobby Scott (D-VA) both remained committed to the underlying bipartisan agreement reached on the legislation throughout the markup, opposing the few amendments proposed.

The bill makes a combination of minor, technical updates, as well as significant programmatic changes to WIOA programs. The legislation aligns with the focus on using evidence-based activities, added in the most recent updates to the Perkins career and technical education programs, as well as the Elementary and Secondary Education Act. The WIOA reauthorization bill uses the same definition used in other education statutes. The legislation replaces the prior term of “out-of-school youth” with “opportunity youth” and requires 65 percent of youth funding Statewide to be used to serve that population – a change from the current 75 percent local requirement. In addition, in-school youth would have access to individual training accounts (ITAs) moving forward and locals would be required to spend at least 50 percent of their adult and dislocated worker allocation on providing skill development opportunities through ITAs.

Under the proposed changes, governors would be required to review the workforce region designations across their State after enactment of the reauthorization, with more input from local boards, as a majority must agree to any changes. Local boards would also receive more control over requests for redesignation of regions, with certain circumstances, such as multiple local areas requesting to join as a single area, being automatically approved. States may also provide funding incentives from their State activities reservation for regions requesting redesignation as a single area or multiple boards in a planning region developing an agreement to operate as a consortium.

The legislation proposes changes to program accountability and performance requirements as well, modifying some of the current performance indicators and revising the negotiation process for State determined levels of performance. Under the new process, the U.S. Departments of Education and Labor would first propose suggested performance levels based on their statistical adjustment models, with the State then having an opportunity to respond and propose alternative levels, if necessary. The bill modifies the overall system of State consequences for not meeting performance levels as well, introducing two new categories for sanctions and technical assistance that are based on the nature of the failure: targeted support and assistance and comprehensive support and assistance.

One of the most significant changes would be to the process for determining how infrastructure costs at one-stop centers are shared between partners. The bill would remove the option of allowing the local board to voluntarily work with the one-stop partners on the required memorandum of understanding and infrastructure funding agreement. Instead, the State would be fully responsible for making the proportionate use determination for each local board based on data provided by the local partners, which will increase the administrative burden on States.

While the legislation was advanced by the House Committee this week with broad bipartisan support, it remains unclear when or if it may receive a vote by the full House. Lawmakers are preparing to leave Washington for the end-of-year holidays, with the House’s final day in session for 2023 today. The legislation may be taken up in the New Year, but it will be competing for floor time with other priorities, including fiscal year 2024 appropriations.

Author: KSC

### Short-Term Pell Bill Advanced to House Floor

On Tuesday, the House Committee on Education and the Workforce advanced H.R. 6585, the Bipartisan Workforce Pell Act. The bill, which received bipartisan support in a 37-8 vote, would broaden the use of Pell grants and allow them to be used for short-term workforce programs. Currently, Pell grants can only be used for education programs that are at least 15 weeks long. This legislation would allow students to use funds for programs as short as eight weeks.

Despite a divided Congress, the bill is a result of negotiations between the Committee’s Chair, Virginia Foxx (R-NC), and the Ranking Member, Bobby Scott (D-VA). While the support is on both sides of the aisle, the bill is receiving some criticism from the higher education community. Some groups find issue with the provision that outlines how the expansion would be paid for by preventing about 20 private institutions from accessing federal student aid. The groups said that the provision would limit students’ choice of colleges and argue that as a result more students would have to take out private loans. Scott noted that they would consider changes to this part of the bill later in the legislative process.

Additionally, some community colleges and other groups have expressed concern over the bill’s requirements for eligibility. The legislation would allow online and for-profit schools to participate in the program but would require rigorous review by college accreditors and workforce boards, including ensuring that schools meet job placement and graduate earning requirements. Community college groups say that the requirements are much more stringent than those for other student aid programs and that some workforce programs would not qualify under the current language. However, Democratic lawmakers, including Representative Mark Takano (D-CA), said that the requirements are not rigorous enough and recommended that online and for-profit schools be removed from eligibility for the program.

The bill will now be sent to the House floor, and if passed it may face further criticism in the Senate, which has its own proposed short-term Pell bill.

Resources:

Bianca Quilantan, “House education committee clears short-term Pell bill,” *Politico*, December 12, 2023.

Jeremy Bauer- Wolf, “Short-term Pell bill advances out of House education committee,” *Higher Ed Dive*, December 12, 2023.

Author: BNT

### House Approves Legislation to Put More Whole Milk in Schools

The House of Representatives voted 330-99 Wednesday to approve legislation that would bring more whole milk into school cafeterias.

The legislation would require schools to offer whole milk options with school meal programs, including chocolate and strawberry-flavored milks. Currently only low-fat or non-fat flavored milks are allowed under the school meal pattern regulations.

Lawmakers rejected amendments that would require school lunches to offer plant-based milks and kept a provision that requires students to obtain a doctor’s note before a school may serve them alternative milk products.

While dairy producers celebrated the move, nutrition advocates were not happy, noting that whole milk falls outside of current recommendations for saturated fat set in the Dietary Guidelines for Americans. School meal pattern regulations must align with those guidelines, leaving U.S. Department of Agriculture (USDA) with the potential tricky path of trying to allow flavored whole milks without unduly restricting what other items schools may serve. And if the whole milk is incorporated under current totals, schools may have to pull back on other products served in meals to ensure that fat totals fall within recommendations. USDA is already working on new meal pattern rules to be implemented in the coming school years, which are widely expected to cut back on the amount of sodium included in meals and increase the minimum for whole grains served.

The legislation will not see Senate floor action before the end of the year, but a Senate counterpart to the bill has 10 cosponsors.

Author: JCM

### Senate HELP Committee Approves Education Research Revamp

The Senate Committee on Health, Education, Labor, and Pensions approved legislation Tuesday to reauthorize the mission of the U.S. Department of Education’s (ED’s) research arms. The Advancing Research in Education Act was passed out of committee with a vote of 20-1.

The legislation includes a provision that would require ED to study alternative ways of calculating student poverty for the purpose of allocating funds. Currently, many schools and districts use eligibility for Free and Reduced-Price meals, but that data has become less complete as schools shift to universal free meals under the federal Community Eligibility Program or similar State and local initiatives.

Unusually, the Committee sent two versions of the legislation to the full Senate. One includes an amendment that would deny research funds to any school, local educational agency, State educational agency, or institution of higher education that “allows” antisemitism to occur in violation of the Civil Rights Act. But other Senators expressed concern about the use of the word “allows,” arguing that it was overbroad and subject to misinterpretation, which would result in illegal restrictions on free speech. A second version of the language which replaced the word “promote” with “support” was later approved and sent to the full Senate for consideration – which will likely happen in the new year.

Author: JCM

***The Federal Update has been prepared to inform The Bruman Group, PLLC’s legislative clients of recent events in federal education legislation and/or administrative law. It is not intended as legal advice, should not serve as the basis for decision-making in specific situations, and does not create an attorney-client relationship between The Bruman Group, PLLC and the reader.***

© The Bruman Group, PLLC 2023

Contributors: Julia Martin, Kelly Christiansen, Brandi Tennant

Posted by the California Department of Education, December 2023