

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

Washington, D.C. 20036

 phone: 202.965.3652

 fax: 202.965.8913

 bruman@bruman.com

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

# **The Federal Update for January 26, 2024**

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

Re: Federal Update

Date: January 26, 2024

[Legislation and Guidance 1](#_Toc157087016)

[OSEP Issues Letter and Guidance on Assistive Technology 1](#_Toc157087017)

[News 2](#_Toc157087018)

[Lawmakers Ask for FAFSA Investigation 2](#_Toc157087019)

[Dear Colleague Urges Schools to Talk About Gun Safety 3](#_Toc157087020)

[ED, HHS Announce New Grant to Expand Mental Health Supports 3](#_Toc157087021)

## Legislation and Guidance

### OSEP Issues Letter and Guidance on Assistive Technology

The U.S. Department of Education’s Office of Special Education Programs (OSEP) issued a “Dear Colleague” letter and guidance document this week addressing the use of assistive technology (AT) for children with disabilities. The guidance is intended to dispel common misconceptions about the use of AT, as well as review requirements related to AT under the Individuals with Disabilities Education Act (IDEA).

The guidance is targeted to a wide range of stakeholders, including school personnel, parents, and State and local educational agency staff. It outlines the IDEA definition for AT and clarifies the law’s requirements, including that Individualized Education Program (IEP) teams should consider whether the use of AT is appropriate at all IEP meetings, not only occasionally. In addition, the guidance says that local educational agencies are required to provide AT, regardless of available funding, if an IEP team determines AT is necessary for a child. It also states that solely providing an AT device does not necessarily satisfy IDEA requirements; IEP teams must also consider whether AT services are needed.

The guidance also discusses misconceptions regarding AT devices and services generally, as well as the deployment and use of AT devices. The guidance also notes that there are multiple funding sources for AT devices and services and that not all AT devices are expensive, which are both common misconceptions.

[The “Dear Colleague” letter on AT is available here](https://sites.ed.gov/idea/files/DCL-on-Myths-and-Facts-Surrounding-Assistive-Technology-Devices-01-22-2024.pdf) and [the guidance is available here](https://sites.ed.gov/idea/files/Myths-and-Facts-Surrounding-Assistive-Technology-Devices-01-22-2024.pdf).

Author: KSC

## News

### Lawmakers Ask for FAFSA Investigation

Republican members of Congress, led by Senator Bill Cassidy (R-LA) and Representative Virginia Foxx (R-NC), wrote to the Government Accountability Office (GAO) this week asking to them to investigate the administration’s roll-out of the new Free Application for Federal Student Aid (FAFSA) form. The letter asks GAO to outline the challenges faced by students through the application process and how the federal government has addressed those challenges, including with technical fixes and additional information to students and institutions of higher education.

While previously the FAFSA had been available for students in the fall, the new form was supposed to be available by the end of December, under requirements issued by Congress in a 2020 revision. The FAFSA overhaul was intended to simplify the application process and make changes to the formula that determines if families qualify for income-based financial aid. However, the new application required significant changes and technology updates which the U.S. Department of Education (ED) struggled to implement. The application was initially available for only a few hours a day before the full launch was completed this month.

“Repeated delays from the Department of Education (Education) in rolling out the new FAFSA have left students and schools in limbo for the upcoming school year,” wrote the lawmakers. “All these challenges and delays may cause some students—particularly low-income students who are most dependent on federal aid—to give up and not pursue postsecondary education.”

Now ED says that the back-end processing of those applications, including the portion where that information is sent to colleges, will be delayed even further. Colleges have said that slower processing could lead to delays in when students receive their federal student aid awards.

Secretary of Education Miguel Cardona pushed back on Congressional concerns in a statement to reporters Wednesday, saying that the program is “moving in the right direction.”

“That program hasn't been touched in 40 years, and we fixed it with pretty flat funding,” Cardona added. “I wish those same folks that signed the letter committed to funding something that we know is important in this country.”

[The letter is here](https://www.help.senate.gov/imo/media/doc/letter_to_gao_re_fafsa.pdf).

Author: JCM

### Dear Colleague Urges Schools to Talk About Gun Safety

In a Dear Colleague letter released Thursday morning, Secretary of Education Miguel Cardona encouraged principals and teachers to talk to families about safe firearm storage.

“Everyone has a role to play in reducing firearm violence in our communities and preventing deaths and injuries from firearms,” Cardona wrote. “Building awareness about effective, safe storage strategies and devices can be a key complement to this work and can help our children and our communities thrive.”

The letter suggests that appropriate firearm storage helps reduce the risk that weapons will be misused, either at home or elsewhere. It also highlights research which has found that approximately three-quarters of perpetrators in school shooting events obtain firearms from their homes or those of close relatives. Also released Thursday is a document meant to be sent to families which outlines the danger of improperly stored firearms and the steps to properly secure weapons. First Lady Jill Biden held a town hall with school principals to introduce the resource Thursday.

[The letter is here](https://www2.ed.gov/policy/gen/guid/secletter/012524.html); [the sample communication is here](https://rems.ed.gov/docs/Safe-Firearm-Storage).

Author: JCM

### ED, HHS Announce New Grant to Expand Mental Health Supports

The U.S. Departments of Education (ED) and Health and Human Services (HHS) announced a new grant opportunity this week that would utilize funding provided under the Bipartisan Safer Communities Act to expand mental health supports in schools.

The new funding opportunity, called State Grants for the Implementation, Enhancement, and Expansion of Medicaid and CHIP School-Based Services, will provide $50 million administered by the Centers for Medicare & Medicaid Services (CMS) to States that seek to expand mental health service offerings through their school-based Medicaid programs. State Medicaid agencies would be tasked with working with their State educational agencies to amend their current Medicaid plans to “improve and increase Medicaid reimbursement for services provided in schools.”

CMS plans to award up to 20 State grants of up to $2.5 million each. At least 10 grant awards will be provided to States that do not currently offer school-based Medicaid services to all eligible children, not only certain subgroups, like children with disabilities. The funds would be available for a three-year period. CMS will prioritize funds to States that intend to make sustainable changes to their Medicaid or Children’s Health Insurance Program to expand services in schools, including targeting services to rural and underserved populations.

[The grant opportunity is available here](https://grants.gov/search-results-detail/350998). Applications are due by March 25, 2024.

Author: KSC

***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 2024

Contributors: Julia Martin, Kelly Christiansen

Posted by the California Department of Education, January 2024