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# **The Federal Update for October 20, 2023**

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

Re: Federal Update

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[Legislation and Guidance 1](#_Toc148694058)

[House Rejects Temporary Speaker Option as Race Continues 1](#_Toc148694059)

[News 2](#_Toc148694060)

[FCC Approves Rule to Expand Wi-Fi to School Buses 2](#_Toc148694061)

[Reports 3](#_Toc148694062)

[ED Releases Audit on Kentucky’s Oversight of ARP ESSER funds 3](#_Toc148694063)

## Legislation and Guidance

### House Rejects Temporary Speaker Option as Race Continues

The U.S. House of Representatives failed to elect a new Speaker over multiple ballots and several days this week. No candidate was able to rally support from at least 217 members of the House, the majority needed to elect a new Speaker. Representative Steve Scalise (R-LA), who had been named the Speaker-Designate by the House Republican conference, said he would bow out of the race in favor of Representative Jim Jordan (R-OH). Jordan did not get sufficient votes on Tuesday or Wednesday to take the Speaker’s gavel and declined to hold a third round of voting on Thursday without additional negotiations. Jordan also failed to garner enough votes in a third round on Friday.

As the House entered its 16th day without a Speaker on Thursday, some lawmakers floated the idea of appointing a temporary Speaker, creating a new position that would allow Representative Patrick McHenry (R-NC), who is currently serving as Speaker *pro tempore,* to remain in office for a set period of time with limited powers. The version of this plan that surfaced in the press suggested that McHenry could stay in office until the beginning of January and be empowered to oversee legislation for Israel aid and to approve appropriations before the current temporary funding measure expires on November 17th, in addition to his current duties of running the election process for the new Speaker. But Democrats in the House, along with centrist Republicans, said they did not support this position and questioned the wisdom of allowing any unelected individual to serve in that position for any length of time. That plan was abandoned late Thursday, and another vote called for Friday.

Without progress, the House will not be able to hold votes on legislation, and the current temporary funding for fiscal year 2024 expires on November 17th, increasing the risk of a government shutdown. Should a government shutdown in November occur, however, U.S. Department of Education grantees will remain able to access their current year funding for federally funded programs. Although legislative action on the House is floor is paused, both the House and Senate held hearings in Committee on Thursday and seem poised to continue other Congressional business.

Author: JCM

## News

### FCC Approves Rule to Expand Wi-Fi to School Buses

The Federal Communications Commission (FCC) approved a declaratory rule on Thursday that makes final a proposal to expand the E-Rate program to fund Wi-Fi on school buses. The Commission approved the rule on a 3-2 party line vote.

The rule clarifies that under the existing E-Rate program, providing Wi-Fi on school buses serves an “educational purpose,” making the action allowable to fund under the program. During the pandemic, schools have been able to provide this service on buses through a temporary program, the Emergency Connectivity Fund, which is set to expire next year. The change to the E-Rate program will go into effect for the 2024 funding year.

Advocates for the program, as well as Democrats on the Commission, have been pushing for the change to help close the homework gap, particularly for rural students who have extended time on the school bus each day and may not have reliable internet access at home. Opponents, however, including the two Republican members of the Commission and Republican lawmakers, say that the action is not allowable under the E-Rate program statute and that it is duplicative of other federal programs. Senator Ted Cruz (R-TX) and Representative Cathy McMorris Rodgers (R-WA) introduced legislation this week in response to the FCC ruling that would place restrictions on E-Rate funding, including requiring schools receiving funds to block social media access on devices and networks that are paid for with E-Rate funds.

In a statement issued after the ruling, FCC Chairwoman Jessica Rosenworcel said that “we need to make sure E-Rate meets the moment and keeps doing good” and that the change will “help close the Homework Gap and get more kids connected for school.”

Author: KSC

## Reports

### ED Releases Audit on Kentucky’s Oversight of ARP ESSER funds

This month, the U.S. Department of Education Office of Inspector General (ED OIG) published a final audit report, “Kentucky’s Oversight of Local Educational Agency ARP ESSER Plans and Spending.” For 2022, the American Rescue Plan’s Elementary and Secondary School Emergency Relief (ARP ESSER) was considered a high-risk program, meaning that the funds were at higher risk for fraud.

For the audit, ED OIG reviewed whether Kentucky had adequate oversight to ensure local educational agencies (LEAs) met the requirements of and used funds in accordance with ARP ESSER. ED OIG selected two LEAs for review, Jefferson County Public School and Warren County Public Schools, and evaluated the use of funds from March 24, 2021 through July 31, 2022.

In the report, ED OIG found that Kentucky had sufficient processes and technical assistance for LEAs. ARP ESSER requires that LEAs submit to the State educational agency a plan for the use of ARP ESSER funds. ED OIG determined that Kentucky had accurate technical assistance for LEAs on what to include in the plans and how to submit them. The report also noted that both Warren County and Jefferson County met the ARP ESSER plan requirements and that Kentucky consistently reviewed and approved the annual LEA plans.

ED OIG also determined that Kentucky’s process for evaluating reimbursement requests under ARP ESSER needs to be strengthened and adequately documented. The audit found that Kentucky did not review documentation related to LEA reimbursement requests to ensure that expenditures were allowable or properly accounted. Relatedly, ED OIG found that Kentucky did not have policies and procedures for the reimbursement process. Due to the lack of these policies and procedures, ED OIG noted that staff did not have adequate guidance on how to review and process these reimbursements.

To address these concerns, ED OIG recommends that Kentucky create policies and procedures to guide staff through the reimbursement request process. They also recommend that Kentucky have a process to regularly sample expenditures charged to ARP ESSER by LEAs and include that in those procedures. Additionally, ED OIG recommends that Kentucky further implement its monitoring policies and procedures for ARP ESSER funds. Kentucky responded to this by noting that they have already begun implementing its ARP ESSER monitoring. Further, during the auditing process, Kentucky made steps to address the finding and develop policies and procedures on ARP ESSER funds.

[The final audit report can be viewed here.](https://oig.ed.gov/sites/default/files/reports/2023-10/Kentucky-ARP-ESSER-Final-Report-A22CA0095-508-Compliant.pdf)

Author: BNT

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