

# The Federal Update for January 13, 2023

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## Legislation and Guidance

### New House Rules Will Change Consideration of Policy, Funding

After electing a new Speaker of the House over the weekend, the House of Representatives voted early this week to approve a new set of operating rules for the 118th Congress. Many of those rules have the potential to significantly change how appropriations bills are drafted and considered in the chamber.

The changes with the broadest potential impact include an end to both proxy voting and remote Committee business. Many lawmakers in the House have relied on these policies to minimize travel and the impact of quarantine if they test positive for COVID-19. But House Republicans say they want all House business to take place in-person, but existing practices for streaming hearings live via the internet will likely continue. All bills will be subject to a “72-hour rule,” which requires that lawmakers have three days to read proposed legislation before voting for passage on the House floor. Non-controversial rules considered under a suspension of the rules – a fast-track procedure known as “suspension bills” – will need to be voted on individually, rather than *en bloc*. Bills will be limited to a single subject or legislative topic -- rather than allowing members to attach unrelated (“non-germane”) amendments. Also, all legislation will have to be considered under an “open rule,” which would allow for consideration of all amendments without approval of the Rules Committee.

There are also some changes in the Rules specific to how appropriations bills are considered. The proposals will need to be brought to the floor individually, rather than in Omnibus or “minibus” combinations. And finally, legislation to raise the debt ceiling will be subject to a new rule called “CutGo,” which means that increases must be accompanied by commensurate cuts to spending. Approval of budget bills will no longer be considered to automatically increase the debt ceiling.

Finally, there are some targeted rules which align with the new majority’s promise to hold executive branch employees accountable for specific administrative policies. This includes reinstatement of the “Holman Rule,” a 150-year-old rule which allows Congress to cut the salary of specific administrative employees to as little as $1-- functionally dismissing those employees. The House will also create a Select Committee on the Weaponization of Government, designed to review civil and criminal investigations by the Department of Justice and other agencies to determine if those investigations are politically motivated.

The first test for the appropriations and debt ceiling rules could come as early as this summer when the federal government runs up against the limitation of how much it can borrow, but these rules may be waived for specific legislation with the agreement of lawmakers.

Author: JCM

### Foxx to Head Education and Workforce Committee

This week, the Republican Steering Committee voted to appoint Representative Virginia Foxx (R-NC) as Chair of the House Committee on Education and the Workforce, formerly known as the Committee on Education and Labor. This decision comes after Foxx secured a GOP term-limit waiver, which prevents members from serving for more than three consecutive terms as a Chair or Ranking Member of a committee. Foxx previously chaired the committee in the 115th Congress and has served as the Ranking Member in the last two Congresses.

Before the vote, members of the Steering Committee heard presentations from both Foxx and her challenger, Representative Tim Walberg (R-MI), on how they would lead the committee. Foxx’s appointment must be approved by the full Republican conference-- which is expected to affirm the decision.

Foxx has vowed to conduct aggressive oversight of the Biden administration. As Ranking Member, Foxx sent dozens of letters to federal agencies about the administration’s actions regarding Covid relief money, student loan relief, and unions. Foxx plans to oppose the administration’s student loan forgiveness program and prevent the U.S. Department of Education (ED) from extending the repayment moratorium. Additionally, Foxx has announced plans to fight ED’s proposed Title IX rule governing sex discrimination, which is expected to be finalized this year.

For this term, Foxx has pledged to advance legislation that addresses the high cost of college, college outcomes, and school choice. She has also promised to protect parental rights in what children are taught in the classroom, with the “Parents Bill of Rights” as a top priority. Foxx will also prioritize the GOP’s REAL Reform Act, which would change the student loan system and reauthorize the Higher Education Act.

Resources:

Eleanor Mueller and Bianca Quilantan, “Foxx Wins House Education and the Workforce Chair Race,” *Politico*, January 9, 2023.

Bianca Quilantan and Eleanor Mueller, “GOP Clears Way for Foxx to Chair House Education and Labor Committee Again,” *Politico,* December 7, 2022.

Author: BNT

### ED Releases Proposed Rule on Revamped IDR Plan

The U.S. Department of Education (ED) issued a proposed regulation on Monday that details how its revamped income-driven repayment (IDR) program will function. The initial proposal for the updated IDR program was released last year in conjunction with the announcement of the administration’s plan for debt relief, which has since been temporarily halted by federal courts.

Income-driven repayment programs cap the amount that borrowers must pay monthly on their student loans at a percentage of their monthly income. The proposal this week amends the Revised Pay as You Earn (REPAYE) program and would raise the income requirements for individuals and families who are eligible to make $0 monthly payments-- broadening the program’s reach. The new limits would allow for $0 monthly payments for single borrowers making less than $30,600 annually and for families of four earning less than $62,400 annually.

In addition, for IDR plans, ED is proposing to lower the percentage of discretionary income that borrowers with undergraduate loans in these programs are required to pay from 10 percent down to 5 percent, with discretionary income calculated as income above 225 percent of the federal poverty level. Borrowers with graduate loans would still be required to pay the current 10 percent of discretionary income, and borrowers with both types of loans would pay between 5 and 10 percent “based upon a weighted average calculated from the share of their original loan balances borrowed for undergraduate versus graduate study.”

The proposal would also address a common challenge for borrowers enrolled in IDR programs; interest on their loans continues to accumulate at high levels while they are making lower monthly payments under the current IDR plan. Under the existing plan, borrowers often struggle to pay down interest on the loan or make payments on the principal due to the continued accrual of interest. Under the proposed change, borrowers’ payments would be applied to interest first, as is standard, but if the monthly payment amount cannot cover the total interest amount for that month, then any amount of interest above that level would not be charged to the borrower.

Finally, ED has proposed modifications to the loan forgiveness requirements associated with IDR plans--including providing loan forgiveness to borrowers after regular monthly payments on a shorter timeline than the current programs. If a borrower has $12,000 or less in loans, they will receive forgiveness after 10 years of making on-time payments, and for borrowers with loan amounts above $12,000, ED will add one year of required monthly payments per additional $1,000 in order to receive forgiveness. ED also proposes allowing certain types of forbearance and deferments to count toward loan forgiveness in order to align with the Public Service Loan Forgiveness rules.

Along with ED’s announcement for the IDR program proposed rule, the agency noted its intention to issue a rule on gainful employment and other higher education-related issues this year. ED issued a request for information on Monday as well that seeks public input on how the administration should carry out a plan to publicly identify institutions of higher education that provide the lowest value to students and then require those institutions to submit plans to ED on how they will improve their value.

The [proposed rule on IDR programs is available here](https://www.federalregister.gov/documents/2023/01/11/2022-28605/improving-income-driven-repayment-for-the-william-d-ford-federal-direct-loan-program), and the [request for information on identifying low-value institutions of higher education is available here](https://www.federalregister.gov/documents/2023/01/11/2022-28606/request-for-information-regarding-public-transparency-for-low-financial-value-postsecondary-programs). Both items are open for public comment until February 10, 2023.

Author: KSC

## News

### School District Sues Social Media Companies Over Mental Health Concerns

Seattle Public Schools filed a federal lawsuit late last week against top social media companies, including Snapchat, YouTube, Facebook, TikTok, and Instagram, over concerns regarding the impact of the outlets on students’ mental health.

The lawsuit discusses a mental health crisis among children and youth that has been exacerbated by the COVID-19 pandemic-- in part due to the increased time spent on social media platforms in recent years. The complaint cites data finding increased feelings of sadness and hopelessness among children and youth, increased mental health-related visits to the emergency room, and increased suicide rates over the past 10-15 years.

The school district argues that these social media companies are responsible for an uptick in behavioral disorders, including mental health diagnoses like anxiety and depression. In response to this impact, the district has had to implement additional supports for students, including hiring mental health professionals, according to the district’s lawsuit. In the lawsuit, the district takes issue with these companies’ alleged efforts to target “harmful and exploitive” content to children and youth, as well as aggressive marketing tactics to encourage children and youth to spend more time on social media platforms.

The Communication Decency Act (CDA) includes liability protections for technology companies from what users post on social media, but the school district argues that the issue in this case is the companies’ own promotion of harmful materials to children and youth, not what users are posting, and therefore, the CDA does not apply.

The district requests relief in multiple forms in the lawsuit, including damages and “equitable relief to fund prevention education and treatment for excessive and problematic use of social media,” among others.

[The full complaint is available here](https://s3.amazonaws.com/hoth.bizango/assets/24303/2023-01-06_SPS_SM_Complaint__1_.pdf).

Resources:

Gene Johnson, “Seattle schools sue tech giants over social media harm,” *Associated Press*, January 8, 2023.

Author: KSC

*To stay up-to-date on new regulations and guidance from the U.S. Department of Education, register for one of Brustein & Manasevit’s upcoming virtual trainings. Topics cover a range of issues, including COVID-19 related issues, grants management, the Every Student Succeeds Act, special education, and more. To view all upcoming virtual training topics and to register, visit* [*www.bruman.com/virtualtrainings/*](http://www.bruman.com/virtualtrainings/)*.*

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