

# The Federal Update for July 29, 2022

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Re: Federal Update

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## Legislation and Guidance

### Senate Releases Draft Spending Bills

Senate Democrats released draft appropriations legislation for fiscal year (FY) 2023 Thursday. The omnibus appropriations package includes double-digit increases to federal education grants and attempts to shore up child care infrastructure.

Among the increases outlined in the bill are:

* A 15 percent increase for Title I, Part A (for a total of $20.137 billion);
* A 9 percent increase to Head Start program (bringing the program to $12.036 billion);
* A 16 percent increase for the Child Care Development Block Grant (CCDBG), to $7.165 billion; and
* Increasing the maximum Pell grant by $500 to $7,395.

Notably, the legislation would eliminate federal funding for the Special Olympics, and would cut funding for the Teacher and School Leader Incentive Grants by 31 percent. It does not mirror the House proposal for school-based mental health services grant, but provides more money for the Charter School Grant Program and school safety national activities than its House counterpart.

The proposed legislation will be used as a negotiating document once the House passes its own appropriations package. The House is also in the process of passing appropriations bills in all 12 appropriations accounts, which must be reconciled with the Senate version. Those discussions may take place over the upcoming August recess.

Author: JCM

### Draft Regulations Would Reform 90-10, Ownership Change Rules

Draft regulations published on Tuesday by the U.S. Department of Education (ED) would make modifications to requirements surrounding three key aspects of higher education and federal student aid, as well as some other definitions.

Under current regulations, for-profit institutions are required to obtain at least 10% of their revenue other than federal student aid provided by ED. The proposal would expand the federal funds to be counted in the revenue calculation to include all federal funds, including those administered by nonfederal entities. This would expand the rule to consider GI Bill aid and other federal scholarships for active-duty service members, which are currently not counted in the 90-10 rule, ending a flexibility known colloquially as the “90-10 loophole.” ED will publish a list of programs required for inclusion in the federal register. The changes would also restrict when institutions can draw down funds and how they can count institutional loans as non-federal revenue in order to ensure compliance.

ED modified the definitions of non-profit institution and required that an institution undergoing a change of ownership inform the agency and students at least 90 days in advance and obtain additional financial protections in cases where the new owner is missing financial statements. Notifications would be required in more cases – lowering the threshold in change of ownership from 25 percent to 5 percent – and would need to include information on the terms of the proposed transaction.

The regulations would change a number of definitions, offering more information on the definition of a main campus, branch campus, and distance education. Non-profits would be defined more exclusively, clarifying that the institution is generally not a nonprofit if it is an obligor on a debt to a former owner, or if it howls a revenue-sharing or other agreement with a former owner, current or former employee, or board member that is “inconsistent with the services provided.”

And consensus language provided a framework for institutions developing Prison Education Programs (PEP), codifying the eligibility of incarcerated student for federal Pell grants. Other provisions would ensure that credits can transfer after incarcerated students are released and that program graduates are not prohibited from working in a designated profession in which they have received an education.

The draft regulations are based on discussions in negotiated rulemaking committees that met over the last year, where members reached a consensus on the 90/10 rule and Pell eligibility – but not change of ownership, allowing ED to craft its own rule. The rule will be open for public comment for 30 days, and the [text of the draft is available here](https://public-inspection.federalregister.gov/2022-15890.pdf?utm_campaign=pi+subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email). ED said in a statement that it plans to publish final rules this fall that can take effect July 1, 2023.

Author: JCM

### House Committee Advances Child Nutrition Reauthorization

Yesterday, the U.S. House of Representatives Committee on Education and Labor advanced the Healthy Meals, Healthy Kids Act to help increase access to healthy, affordable meals for children and families. If made law, the bill would reauthorize spending on federal child nutrition programs and address food shortage challenges caused by the pandemic. The bill includes provisions expanding access to free meals by expanding the Community Eligibility program – increasing the reimbursement “multiplier” from 1.6 to 2.5, reducing the threshold for participation from 40 percent poverty to 25 percent, and allowing for Statewide participation. The bill would also increase the reimbursement rate for lunch by 10 cents and providing commodity support to the School Breakfast Program, and expand the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) eligibility to age six, among other changes.

Committee Chairman Rep. Bobby Scott (D-VA) sponsored the bill, which Committee passed with a vote of 27-19. Chairman Scott said in a statement: “one of the key lessons reaffirmed by our response to the COVID-19 pandemic is that, when we invest in child nutrition programs, we help reduce child hunger.” He added, “the Healthy Meals, Healthy Kids Act takes long overdue steps to deliver on that goal by modernizing proven child nutrition programs and providing more children and families with access to nutrition assistance.”

While access to healthy meals was a challenge before the pandemic, The Health Meals, Healthy Kids Act addresses both pre-existing meal challenges as well as those caused by the pandemic. Other provisions in the bill address food insecurity during the summer, improve school meal capacity and sustainability, and strengthen the Child and Adult Care Food Program. Next, the bill will go to the full House for a vote.

Author: ASB

## News

### Senate Republicans Ask for More Time to Comment on Title IX

On July 12th, the U.S. Department of Education (ED) formally published its Notice of Proposed Rule Making on regulations implementing Title IX of the Education Amendments of 1972 (Title IX). Specifically, the proposed rule centers on Title IX’s nondiscriminatory mandate by regulating schools’ (including elementary schools, secondary schools, and postsecondary institutions) response to allegations of discrimination and sex-based harassment in their educational environments.

A little over a month after its publication, Senate Republicans, led by the Senate’s HELP ranking member Richard Burr (R-NC), sent a letter to ED Secretary Miguel Cardona opposing the proposed rule and requesting at least 30 additional days for public comment. The letter provides that the proposed rule “seeks to undo three years of dedicated work in half the time” and doesn’t guarantee or protect the rights of students who are accused of sexual assault and harassment. Moreover, the Republican Senators suggest that the proposed rule infringes on free speech by policing the use of proper pronouns toward and amongst students.

However, Catherine Lhamon, ED’s civil rights chief, indicated that the agency will unlikely extend the comment period as the proposal has already received more than 12,000 comments. Lhamon also noted that ED is offering the same period of time (60 days) that the Trump administration offered when updating the Title IX rules in 2018. The rule’s comment period culminates on September 12, 2022.

You can find the Senate Republicans’ letter [here](https://www.help.senate.gov/imo/media/doc/Title%20IX%20Comment%20Period%20Extension%20Letter.pdf).

Author: MP

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