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# **The Federal Update for December 8, 2023**

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

Re: Federal Update

Date: December 8, 2023

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## Legislation and Guidance

### Lawmakers Introduce Bipartisan Short-Term Pell Legislation

A bipartisan group of lawmakers introduced legislation this week that would allow Pell Grants to be used for short-term workforce training programs. The Bipartisan Workforce Pell Act, H.R. 6585, was introduced by members of the House Education and the Workforce Committee, including Chair Virginia Foxx (R-NC), Ranking Member Robert C. “Bobby” Scott (D-VA), Elise Stefanik (R-NY), and Mark DeSaulnier (D-CA).

The legislation would allow students to use Pell Grants for high quality programs that prepare them to immediately enter the workforce in high demand fields. Currently, Pell Grants cannot be used for programs in fields such as welding or IT, but this bill would allow students to begin using funds for those types of programs. Scott said the bill will provide many adults “a pathway to the middle class” by helping them afford courses and obtain skills that would lead them into well-paying jobs. Foxx said the legislation is also a major win for employers who are looking for people to fill in-demand roles.

The legislation would require workforce programs to meet requirements that ensure costs are equivalent to the value of the training received, and the bill would provide an accreditation process for participating programs. If the bill passes, it will provide $40 billion in Pell Grants for workforce programs beginning in 2025, and another $30 million for each of the following four years.

[Text of the legislation can be found here.](https://edworkforce.house.gov/news/documentsingle.aspx?DocumentID=409827)

Resources:

Lexi Lonas, “Lawmakers introduce bipartisan bill to allow Pell Grants for workforce programs,” *The Hill*, December 5, 2023.

Author: BNT

### ED Issues New Student Loan Forgiveness Draft

The U.S. Department of Education (ED) released an updated draft of its plan for student loan forgiveness this week that targets specific categories of borrowers. Under the new proposal, borrowers eligible for loan forgiveness are those whose balances are larger than the original loan due to interest amortization, those whose loans are more than 20 or 25 years old, those who are eligible for loan forgiveness but never applied, and those who attended programs that did not meet certain quality standards.

Borrowers seeking forgiveness would also have to meet additional eligibility thresholds in certain cases, with some limits on the amount of forgiveness – for example, the draft would seek cancellation of up to $10,000 of the amount of a borrower’s current balance that is above the original loan amount. Those who are enrolled in an income-driven repayment plan with income below 225 percent of the poverty line could see a total of $20,000 of forgiveness on the total above the amount originally owed.

The proposal does not contain forgiveness for borrowers experiencing financial hardship, which was a category that advocates had urged the administration to add. ED has said it is working on a new proposal for those borrowers. The draft regulatory language released this week will be reviewed and discussed during a negotiated rulemaking session on Monday and Tuesday of next week. Lawmakers in Congress have already introduced a resolution under the Congressional Review Act to rescind the rule. If enacted and signed by the President, the resolution would strike the rule from the *Federal Register* and prohibit the agency from ever issuing substantially similar rules. This resolution is very unlikely to be enacted, but serves as a vehicle for signaling members’ disapproval.

Author: JCM

### Title IX Rule Delayed Again in Updated Regulatory Agenda

The U.S. Department of Education (ED) issued its Fall 2023 Regulatory Agenda this week, indicating that the Title IX rules on athletics and educational programs and activities will be delayed once again, this time until March of 2024. The rules were originally expected to be finalized in October of this year, and comment periods ended in May (for the athletics rule) and September of last year (for the educational programs rule). A tentative release date in next March raises questions about whether the administration could feasibly expect institutions to implement a rule in time for the 2024-25 school year, and whether expected legal challenges could be resolved in that short time frame. The final rules will contain more information on the expected implementation date.

The agenda also notes that ED is expected to release a draft rule on nondiscrimination on the basis of disability shortly, alongside updates to the Education Department General Administrative Regulations (EDGAR). New draft rules on distance education and State authorization under the Higher Education Act, third-party servicers that work with colleges, and return of federal student aid funds are also on the docket for this year. In the new year ED plans to release a rule on parental consent to billing health insurance under the Individuals with Disabilities Education Act in January, a Family Educational Rights and Privacy Act rule in May of 2024, and new regulations on the Perkins Career and Technical Education Act and responsiveness to labor market needs are expected next August.

[The full regulatory agenda is here](https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=1800&csrf_token=4F6C7636906012503DC1A46759E47DBC5C844304F39B5245CED8D06092787D88FAA016F5350B8A9CA411045C4F34B38950C5&source=email).

Author: JCM

## News

### Democrats Urge ED to Finalize Title IX Rules

Last week, a group of 66 lawmakers sent a letter to U.S. Department of Education (ED) Secretary, Miguel Cardona, pressing for the finalized Title IX rules. The lawmakers were led by Representatives Lois Frankel (D-FL), Chair of the Democratic Women’s Caucus, and Mark Takano (D-CA), Co-Chair of the Congressional Equality Caucus.

The lawmakers requested that ED provide an updated timeline for the two proposed Title IX rules, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance” and “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance: Sex-Related Eligibility Criteria for Male and Female Athletic Teams.” The proposed rules were originally set to be finalized in May of this year before ED extended the timeline to October, and the updated regulatory agenda released this week further delays the release date to March of next year.

The letter urges ED to finalize the rules “as soon as possible,” as lawmakers are concerned about the previous administration's policies remaining in effect. Those policies, the lawmakers said, decreased sexual assault protections and weakened discrimination protections, especially those related to sexual orientation and gender identity. The two proposed rules would direct schools on how they must address sexual assault complaints, including those made by LGBTQ+ students, and limit schools’ ability to restrict transgender students from playing on athletics teams that align with their gender identity.

[The letter can be viewed here.](https://subscriber.politicopro.com/f/?id=0000018c-1d30-dfe4-af8d-1dba3bfc0000)

Resources:   
Jeremy Bauer-Wolf, “House Democrats press Education Department over Title IX rule delay,” *K-12 Dive*, November 30, 2023.

Author: BNT

## Reports

### ED OIG Releases Semiannual Report

The U.S. Department of Education’s (ED’s) Office of Inspector General (OIG) recently published its semiannual report to Congress, which details its work from April 1, 2023 through September 30, 2023.

During the period covered, ED OIG uncovered more than $2.7 million in questioned or unsupported costs through its audit work. As part of its COVID-19 relief funding oversight, ED OIG issued the first in a series of planned reports on State educational agencies’ oversight of local educational agencies’ (LEAs’) Elementary and Secondary School Emergency Relief (ESSER) Fund plans and spending, as well as a report reviewing how LEAs used ESSER funds for technology. ED OIG conducted audits on higher education COVID-19 relief issues as well, including Federal Student Aid’s (FSA’s) use of relief funds for student aid administration and FSA’s processes for implementing certain COVID-19 flexibilities.

ED OIG issued a number of reports related to higher education, including another report in its series on schools’ use of professional judgment, ED’s oversight and reporting of the 90/10 revenue requirement, and FSA’s outreach to individuals in underserved communities. ED OIG also continued its investigative work to uncover student aid fraud, including investigations of individuals running fraud rings to illegally obtain federal student aid.

On the K-12 side, ED OIG issued reports on ED’s oversight of charter school program grants and ED’s implementation of the significant disproportionality regulations under the Individuals with Disabilities Education Act. ED OIG also conducted investigative work related to fraud committed by K-12 school officials, including the investigation of kickback schemes and embezzlement of federal funds.

During the covered period, ED OIG also conducted desk reviews of a sampling of audits, 28 in total, determining that four passed, 20 passed with deficiencies, and four failed. As a result of ED OIG’s quality control desk reviews, it recommended ED reject two failing audit reports and referred the auditors to the Institute of Certified Public Accountants and their State Board of Accountancy for poor performance.

[The full ED OIG semiannual report to Congress is available here](https://oig.ed.gov/sites/default/files/reports/2023-12/EDOIGSAR87%2520%2528508%2520compliant%2529.pdf).

Author: KSC

### Annual Performance Report Says ED OIG Largely Met Goals

The U.S. Department of Education’s (ED’s) Office of Inspector General (OIG) published its annual performance results report last month, which details ED OIG’s work through fiscal year 2023 and its progress in meeting its annual performance measures as outlined in the FY 2023-2028 strategic plan.

Overall, ED OIG met 20 of its 22 performance goals for fiscal year 2023. ED OIG’s work included identifying more than $2.7 million in unsupported and questioned costs; securing more than $49 million in restitution, settlements, fines, recoveries, forfeitures, and estimated savings; completing 33 quarterly reviews and desk reviews; issuing 17 reports and related reviews; and closing 66 fraud or corruption investigations. ED OIG also continued fraud awareness efforts throughout fiscal year 2023 and updated guidance for auditors conducting non-federal audits.

The two performance goals where ED OIG fell slightly short included the acknowledgment of complex Freedom of Information Act requests within 20 days and delivery to requesters with an estimated completion date, as well as the issuance of draft audit and alternative project reports in accordance with policy and within one year from the entrance conference. ED OIG exceeded its performance goals for the remaining 20 performance measures.

[The full ED OIG performance report is available here](https://oig.ed.gov/sites/default/files/reports/2023-12/FY-2023-Performance-Report-final-compliant.pdf).

Author: KSC

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Posted by the California Department of Education, December 2023