The Bruman Group, PLLC logo, address, and contact information
1120 20th St, NW, Suite 740 Washington, D.C. 20036
Phone: 202.965.3652
Fax: 202.965.8913
bruman@bruman.com
www.bruman.com
Fax: 

# **The Federal Update for August 2, 2024**

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

Re: Federal Update

Date: August 2, 2024

[Legislation and Guidance 1](#_Toc173493936)

[Education Appropriations Bill Passes Senate Committee 1](#_Toc173493937)

[Senate Passes Children’s Online Safety Legislation 2](#_Toc173493938)

[News 3](#_Toc173493939)

[Title IX Rules Roll Out in Some States Amid Legal Challenges 3](#_Toc173493940)

[Reports 4](#_Toc173493941)

[Moody’s Predicts Challenges for Districts as ESSER Funds Expire 4](#_Toc173493942)

[GAO Publishes Report on Obstacles to Special Education 4](#_Toc173493943)

## Legislation and Guidance

### Education Appropriations Bill Passes Senate Committee

Though the House of Representatives has left Washington for the August recess, the Senate was in session this week, and the Senate Appropriations Committee voted on Thursday to approve a fiscal year 2025 appropriations bill for the Departments of Labor, Health and Human Services, and Education. In contrast to the House proposal, which would cut funding to the Department of Education (ED) by 14%, this bill would slightly increase funding to the agency and freeze many programs at FY 2024 levels. Others would get small increases, including a 1.5% increase to Title I, Part A, and a 2.1% increase to IDEA State grants.

Notable increases in the bill include an extra 4.9% for Student Aid administration, following a year when ED has struggled with the rollout of the revised Free Application for Federal Student Aid (FAFSA), a 17.5% increase for State Longitudinal Data Systems, and an 18.3% increase for Child Care Development Block Grants.

Other proposed funding levels are as follows:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Program** | **FY 2024 Final** | **FY 2025 President’s proposal** | **FY 2025 House Proposed** | **Percent change v. FY 2024** | **FY 2025 Senate Proposed** | **Percent change v. FY 2024** |
| **Title I** | $19,108 | $19,288 | $14,389 | -24.7% | $18,687 | 1.5% |
| **Title II** | $2,190 | $2,190 | $0 | -100% | $2,190 | -- |
| **Title III English Language Acquisition** | $890 | $940 | $0 | -100% | $895 | 0.6% |
| **21st Century** | $1,330 | $1,330 | $1,330 | -- | $1,330 | -- |
| **Title IV-A/SSAE** | $1,380 | $1,380 | $1,390 | 0.7% | $1,390 | 0.7% |
| **IDEA Part B** | $15,174 | $15,364 | $15,204 | 0.2% | $15,474 | 2.0% |
| **CTE State Grants** | $1,430 | $1,470 | $1,450 | 0.7% | $1,475 | 2.4% |
| **CCDBG** | $8,746 | $8,521 | $8,771 | 0.2% | $10,346 | 18.3% |

(in thousands of dollars)

The bill still has to go to the Senate floor, and faces tough negotiations with the House bill when both chambers return after the August recess.

Author: JCM

### Senate Passes Children’s Online Safety Legislation

The Senate passed two bills this week aimed at expanding privacy protections for children and teenagers online. The bills, the Kids Online Safety Act (KOSA) and the Children and Teens’ Online Privacy Protection Act, were both passed with bipartisan support.

The Children and Teens’ Online Privacy Protection Act reauthorizes a 1998 online privacy bill called COPPA and is being called COPPA 2.0. That legislation clarifies when online websites or other online service operators would be required to obtain parental consent before collecting personal information from children and would also require schools to ensure any educational technology companies they contract with have adequate privacy safeguards in place for students. COPPA 2.0 would also ban targeted advertising online to minors. KOSA would require online platforms to take reasonable measures to prevent harm that could arise from use of those platforms by children, such as cyberbullying, as well as protect minors’ personal information.

While both pieces of legislation have been endorsed by stakeholder organizations, some groups, including the School Superintendents Association, or AASA, have expressed concerns as well, including that KOSA would limit schools’ ability to use educational technology.

The legislation passed in a 91-3 vote in the Senate and now heads to the House. It is unclear whether the House will take up the legislation when lawmakers return from their summer recess.

Resources:

Anna Merod, “Senate passes bipartisan bills to protect children, teens online,” *K-12 Dive,* July 31, 2024.

Author: KSC

## News

### Title IX Rules Roll Out in Some States Amid Legal Challenges

The April 2024 rules on nondiscrimination on the basis of sex took effect Thursday in some States amid a host of legal challenges in others. Twenty-six States now have preliminary injunctions blocking the implementation of the rule regarding Title IX of the Education Amendments of 1972 while arguments proceed.

A win for the administration this week in Alabama – where a federal judge refused to block the rules temporarily because of what she called “conclusory and underdeveloped” arguments – was short lived as the 11th Circuit overturned the ruling late Wednesday. The U.S. Department of Education (ED) is now prohibited from enforcing its 2024 rule in: Alabama, Alaska, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming. In these States, ED says it will continue to apply the 2020 regulations.

Still, the administration has said it intends to enforce the new rule in the remaining States and has asked the U.S. Supreme Court to allow it to implement portions of the rule that are not being challenged – for example, changes to the grievance process, protections for pregnant and parenting students, and training and notification requirements.

If the administration prevails in the Supreme Court, or one of the higher courts overrules the preliminary injunction currently in place, the new rules will go into effect immediately in the plaintiff States, leaving little time for recipient entities to conduct the required training or make changes to their policies and procedures if they have not already started. ED has developed [a list of “key points”](https://www2.ed.gov/about/offices/list/ocr/docs/pointers-for-implementation-2024-title-ix-regulations.pdf) for the new Title IX rule that can serve as a checklist for recipients to make sure they are ready to implement, whenever it takes effect for them.

Author: JCM

## Reports

### Moody’s Predicts Challenges for Districts as ESSER Funds Expire

Moody’s Ratings, a financial services company, recently released a report that predicts difficulties for school districts in the coming years as COVID-19 relief funds, including Elementary and Secondary School Emergency Relief (ESSER) funds, expire on September 30.

Stimulus funds authorized amid the COVID-19 pandemic provided districts across the country with an unprecedented amount of federal funding for education, allowing for new programs to be established and additional staff to be hired. As those funds are set to run out on September 30, schools are working to find other funding sources to maintain those programs and staff. An added challenge for school districts, according to the Moody’s report, is a downward trend in public school enrollment as school voucher programs expand across the country. Fewer children enrolled in public schools means fewer funds generated for education. The Moody’s report predicts that districts that rely more on State funding than local funding, which is most often generated by property taxes, are likely to fare better over the next couple of years, as long as regular increases are approved in State budgets. Districts that have financial reserves will face fewer challenges, but many districts across the country do not have those types of reserves available.

In addition to State and local funding challenges, school districts are unlikely to see significant increases in federal funding for the upcoming fiscal year, which will force many districts to make difficult decisions regarding cutting programs and staff.

Resources:

Naaz Modan, “Moody’s weighs school district budget resilience as ESSER ends,” *K-12 Dive,* July 24, 2024.

Author: KSC

### GAO Publishes Report on Obstacles to Special Education

This week the Government Accountability Office (GAO) published a report on barriers to providing special education and how resources for students vary among States and districts. For the study, GAO interviewed officials from four States – California, Georgia, Kansas, and New Hampshire. Those interviewed included State education officials, district officials, and special education organization representatives.

Interviewees noted that the critical barrier to providing special education is personnel shortages, which was exacerbated by the COVID-19 pandemic. The shortages are in all types of professions which educate and provide services for students, including special education teachers, speech language pathologists, and bus drivers. The shortages are coupled with a growing number of students needing special education services. GAO reports that many of these students do not have access to sufficient resources.

Other noted barriers were communicating with parents and time for professional development. This report also includes ways that the entities interviewed have attempted to address and mitigate any barriers, including providing financial incentives to students studying to be teachers and for paraeducators to transition to special education teaching. States and districts have also addressed barriers by providing additional parent resources, offering mentorship programs, offering free professional development, and hiring outside providers to fill vacancies.

GAO stated that while research suggests that district special education resources may be unequal across schools, the relevant data is not available to determine if this is accurate. Officials from the U.S. Department of Education (ED) said that they do not have the authority to collect this data. Therefore, GAO recommends that Congress should consider providing that authority to ED, which will allow them to address any inequalities.

[The full report can be viewed here](https://www.gao.gov/products/gao-24-106264).

Author: BTW

***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, Brandi Tennant Wills

Posted by the California Department of Education, August 2024