Federal Education Update

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THE SCHOOL SUPERINTENDENTS ASSOCIATION

Framing the Moment

- Take a breath.
- We take things seriously, not literally.
- Intentionality of ‘flood the field’ or ‘shock and awe’.
- The difference between activity and productivity.
- Pay attention to what is said, and what is covered, and what actually gets done.

What's Happening Now & Why?

- **In the White House** : So. Many. Executive Orders.
- **On the Hill** : Last Congress was least productive Congress since the Great Depression. New Congress is here but not promising much of a different experience.
- **In the Courts** : Flurry of far-reaching decisions in the final weeks of session are both contributing to election year tensions and potentially reversing decades of precedent. This session is shaping up to be just as impactful.
- **Putting It All Together** : Our path is forward. Schools will still open. Kids will still show up. Federal policy will still need to be implemented. At the end of the day, Congress can only do better if they know better, and that's what your advocacy are all about.
- **Looking Ahead** : We keep in mind that often times, our wins are the bills that don't become law. We look to make sure the big bills that do move —like approps —aren't used as a Trojan Horse for other bills. We expect Congress to focus on reconciliation (tax cuts!) and funding, but aren't certain what else could meaningfully move.

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Executive Orders 101

- Executive orders do not create new laws, amend existing laws, or offer binding legal interpretations for schools to follow.
- Instead, they direct federal agencies on how the President intends to enforce existing laws. Federal agencies, including the Department of Education's Office for Civil Rights (OCR), will undoubtedly align their enforcement actions with these directives.
- However, their authority remains constrained by the text of existing statutes and regulations, as well as by court interpretations of those laws.
- Without action from Congress or the judiciary, many of the more aggressive interpretations reflected in these executive orders cannot, on their own, alter the legal landscape.
- **The orders, as currently drafted, are broad and sweeping, and at the same time lack detail to help reasonably anticipate actual next steps or impact.**

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Executive Orders

- Executive Order on School Choice
- Executive Order on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- Executive Order on Ending Illegal Discrimination and Restoring Merit-Based Opportunity
- Executive Order on Ending Radical Indoctrination in K-12 Schooling
- Keeping Men Out of Women's Sports
- *Possible EO*: Dismantling the U.S. Department of Education

Department of Education: RIF Impacts

- On 3/11, USED announced a major reduction in force (RIF) that, together with other recent employment actions, reduces the agency's workforce by nearly 50%.
- Last week, 22 State Attorney Generals filed a lawsuit arguing the RIF is illegal in Massachusetts federal court. The lawsuit states that the RIF usurps Congressional authority and violates the Administrative Procedure Act because it is contrary to law and arbitrary and capricious.
- Congress established the Department of Education and added to its responsibilities through subsequent federal laws, only Congress can officially eliminate USED or relieve them of those mandated responsibilities. It remains uncertain whether USED can continue operations without causing delays and policy or funding gaps at the local and state levels until it actually happens.

Immigration & Schools

- **WHAT'S GOING ON**
- Plyler vs Doe
- FERPA is your friend.
- Professional development on and communication about responding to on-site enforcement is key.

Immigration & Schools

- **RESOURCES**
- AASA BLOG: Trump Administration Rescinds Protected Areas Designation for Schools
- Education Leader's Checklist in Preparation for Potential Immigration Enforcement
- Communication Templates: Immigration Concerns
- Immigration Support for School Leaders
- Immigrations Facts for School Leaders
- WEBINAR RECORDING (Jan 16)
- Immigration Policy and Enforcement in 2025: What Superintendents Should Understand

In the Courts: What's Next?

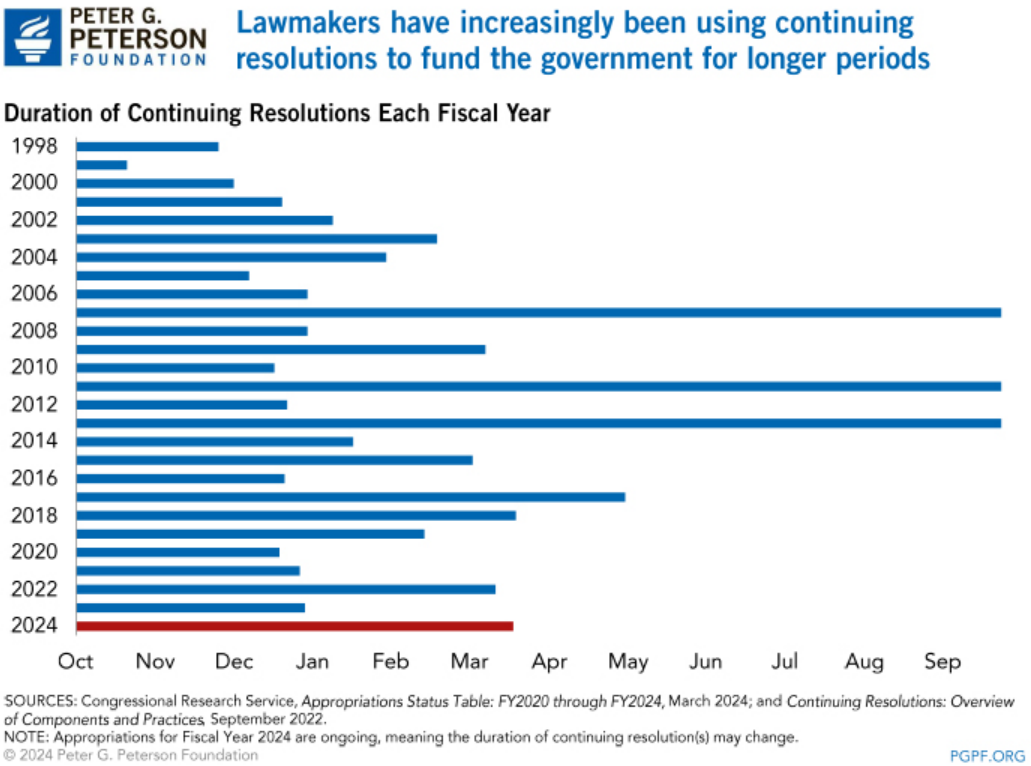
- *Consumers v. FCC:* Constitutionality of Universal Service Fund program funding mechanism
- *Oklahoma Statewide Virtual Charter School Board v. Drummond:* Do the academic and pedagogical decisions of a private school constitute state action merely because the school contracts with the state to provide free educational options to students? Does a state violate the Free Exercise Clause of the First Amendment by excluding privately run religious schools from its charter school program solely based on their religious nature?
- *Mahmoud v. Taylor:* Does a public school district's decision to eliminate opt-out options for parents objecting to curriculum materials on religious or moral grounds violate the constitutional rights of parents under the First Amendment's Free Exercise Clause
- *A.J.T. v. Osseo Area Schools:* This case that addresses the standard required for students with disabilities to seek relief under the Americans with Disabilities Act (ADA) in educational settings. The central issue is whether the ADA mandates that students demonstrate a "bad faith or gross misjudgment" standard when pursuing claims of discrimination related to their education. The Court's decision could significantly influence the legal thresholds for disability discrimination claims in schools.

ESSER Liquidation Issue

If you are counting on a reimbursement from the feds…..think again? Weigh your options.

- Stop contracted services today and for the remainder of the year/timeline allocated, and assume no more reimbursement from USED.
- Stop contracted services today and hope USED is found to have illegally acted and they will be able to resume contracted services post-litigation.
- Continue contracted services while litigation advances in the hopes that it will be reimbursable post-litigation.
- Continue their contracted services and plan to pay for these services with local funds.
- Urge the state to apply for a special extension and continue their contracted projects in the interim.
- Urge the state to appeal for a special extension and stop their contracted projects in the interim.

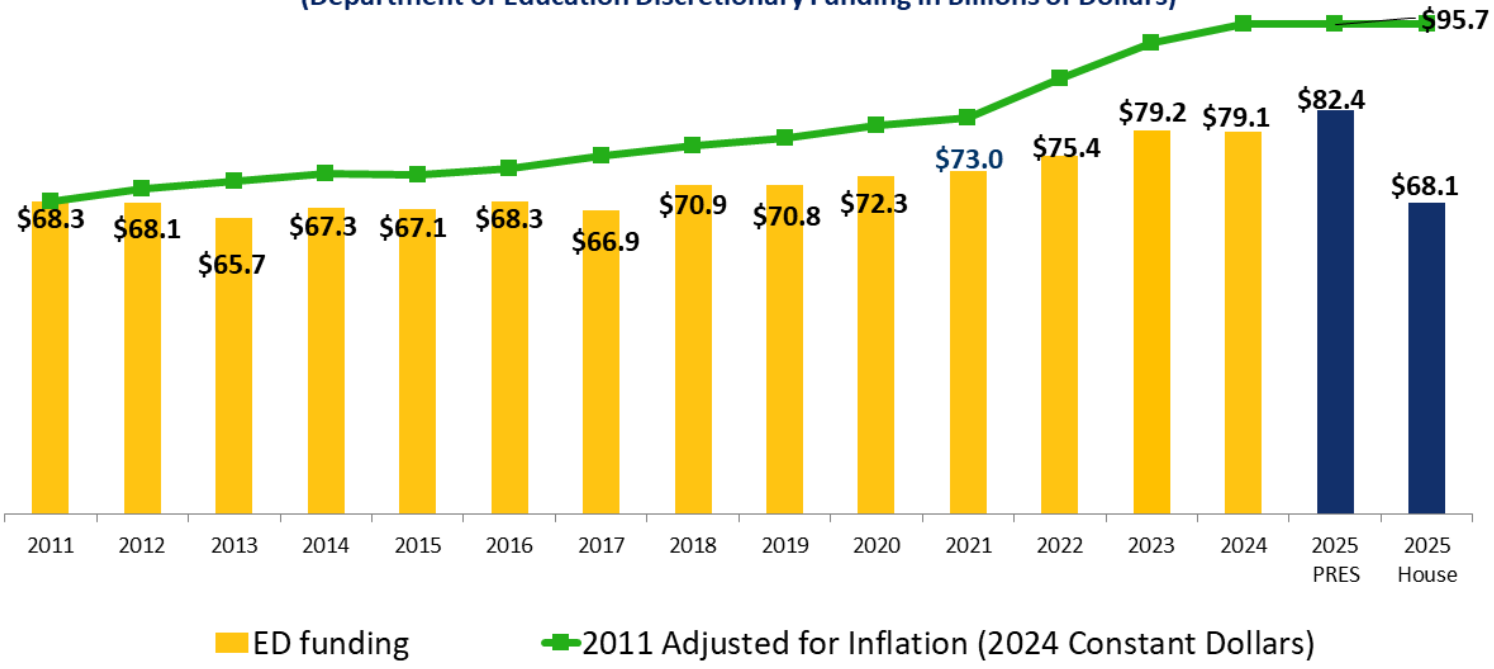
Increasing Reliance on CR



Source: https://www.pgpf.org/blog/2024/03/continuing-resolutions-were-designed-to-be-stopgap-measures-but-now-we-average-five-a-year

House Bill Cuts Education Funding for 2025 to Below 2011 Enacted Level ($28 billion Below Inflation-Adjusted Level)

(Department of Education Discretionary Funding in Billions of Dollars)



2017, 2019, 2020, 2021, 2022, & 2023 totals reflect rescissions of previously appropriated ED funding

C E F
COMMITTEE FOR EDUCATION FUNDING

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FY25 Appropriations Proposals

Program	FY24 Final	FY25 House	FY25 Senate
Title I	$18.407 billion	$14.626 billion (-4.7b)	$18.687 billion (+280 m)
IDEA	$14.214 billion	$14.239 billion (+25 m)	$14.509 billion (+295 m)
Title II	$2.19 billion	$0 (-2.19 billion)	$2.19 billion (level)
Title III	$890 million	$0 (-890 m)	$895 million (+5 m)
Title IV, Part A	$1.39 billion	$1.39 billion (level)	$1.39 billion (level)
Impact Aid	$1.625 billion	$1.630 billion (+5 m)	$1.645 billion (+20 m)
REAP	$220 million	$225 million (+5 m)	$230 million (+10 m)

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Final FY 25 Appropriations

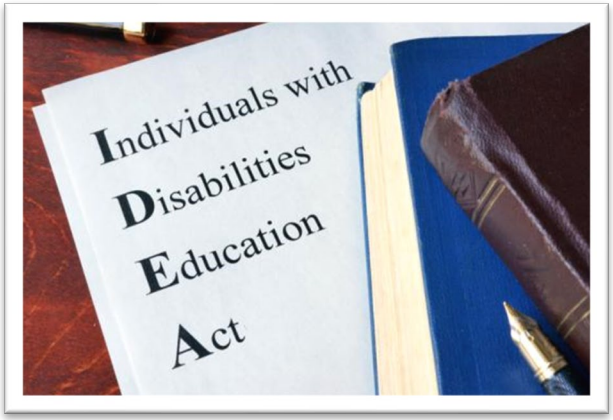
- Congress averted a shutdown with a last-minute funding package
- Year-long CR provides level-funding for most of the key K-12 formula programs, including IDEA, Title I, Title IV-A and REAP.
- Congress did not include what is known as an “explanatory statement” – which provides detailed explanations of specific funding levels and priorities that Congress intends.
- The Administration will have more discretion in allocating funds for the programs that did not receive a specific funding level. Title II falls under this category, meaning the Administration could provide less than the FY24 funding levels.
- IDEA, Title I, Title IV-A and REAP all *did* receive specified funding levels and the Administration does not have discretion to allocate differently.
- President’s FY26 proposal is expected in May.

We Need Help With These Priorities

- IDEA Full Funding
- Annual Appropriations
- School Meals
- Vouchers
- Medicaid

IDEA Full Funding

IDEA Full Funding Act (TBD)



- HAPPY 50th, IDEA!!!
- AASA is proud to co-chair the IDEA Full Funding Coalition
- We held our first in-person IDEA Funding hill briefing in more than 5 years
- Looking to build on success of last Congress, with bipartisan bills in both chambers.
- Currently working on a bill that provides a ten-year glide path to help Congress realize its funding commitment
- IDEA currently at ~ 10%

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Annual Appropriations

- The most recent bipartisan appropriations bill approved by the Senate Appropriations Committee includes $12 billion more for the Department of Education programs than the Republican bill approved by the House Appropriations Committee. President Trump has a history of supporting draconian funding cuts for Title I and other critical formula programs and we should expect he will be much more supportive of the House's proposals to eliminate Title II and Title III and reduce Title I spending by 25%

- **Advocate for why formula funding is so important!**

School Meals

- Proposal to cut $3 billion in school meals funding by:
  - Requiring independent documentation of eligibility for free and reduced-priced lunch
  - Raising the CEP eligibility threshold to 60 ISP

Vouchers

- *Especially ECCA (HR 833 / S 292)*
- Creates a national voucher program
- Thune and Johnson both co-sponsor the ECCA
- Available to families up to 300% of median gross income (different than poverty line– 400k in Scottsdale, AZ) for any K-12 expense including full tuition at ANY private school and for expenses related to homeschooling
- Tax credit would be for individuals (up to 5k) or corporations (up to 5% of the taxable income of the corporation for such taxable year)
- $10 billion for 10 years
- 30 co-sponsors in Senate and 160 in the House

Medicaid

- Multiple proposals to block-grant/cap Medicaid funding
- Medicaid is the 4th largest funding stream for schools (7.5b)
- 25+ states have expanded Medicaid programs to include students w/out IEPs and help cover/pay for a variety of healthcare services including MH services
- They need to pay for tax cuts and border/security and this is their biggest target
- School based Medicaid programs are among the smallest Medicaid programs in a state, when Medicaid funding is squeezed what state will prioritize schools being reimbursed over clinics, hospitals, and other primary-health providers?

Break It Down For Me: What's At Stake?

- $3.2b in **E-Rate** funding is on the chopping block at SCOTUS
- $7.5 billion of **Medicaid** dollars are at risk with Medicaid cap proposal by House GOP
- $14.3 billion in **IDEA**- no increase/no decrease.
- $14.6b for **school meals** could decrease considerably as House GOP proposal would require every family to document household income when applying for FRLP
- $16.5b in **Title I** could go down to $12.5b re House GOP proposal

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- The Leading Edge (blog)
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  - X: @AASAdvocacy
  - Threads: aasadvocacy

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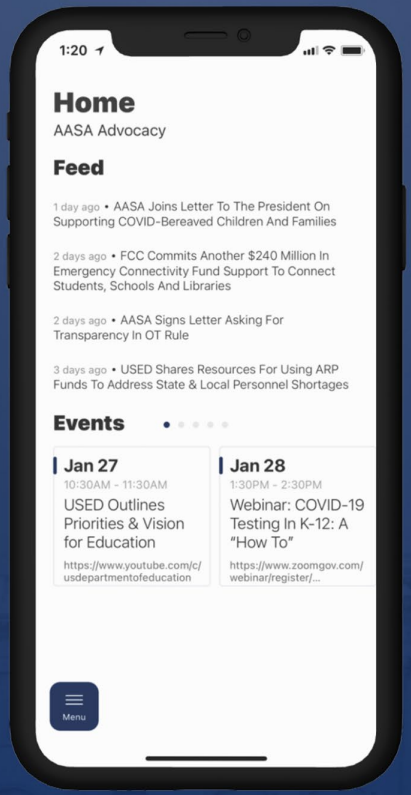

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A RESOLUTION CALLING FOR FULL, PERMANENT FUNDING OF IDEA

WHEREAS, public education is the cornerstone of our democracy, providing fundamental skills and opportunity to nearly 90% - 50 million - to children across the United States; and,

WHEREAS, In the decade following the Great Recession, students across the U.S. lost nearly $600 billion from the states' disinvestment in their public schools; and

WHEREAS, prior to the COVID-19 pandemic, both state and federal funding for public schools failed to meet the critical needs of students across the country; and,

WHEREAS, the federal government provided nearly $200 billion through three issuances of the Elementary and Secondary School Emergency Relief Act (ESSER) to states and school districts, including [$$$] to the [SCHOOL DISTRICT]; and,

WHEREAS, the realized impact of ESSER funding is that it has benefited students' academic, social, emotional, and mental health needs through targeted programming and additional personnel, enhanced professional development opportunities, new technology as well as critical updates to school facilities; and

WHEREAS, research has consistently shown that increased education funding positively affects academic performance, increases graduation rates, and impacts future earnings; and,

WHEREAS, without an infusion of federal public education funding by Congress, it is estimated that districts will have to cut an average of $1,200 per student from their budget; and,

WHEREAS, the systematic and chronic underfunding of public schools is a strategy by those who want to dismantle the public education system to decimate the quality of education that public schools can provide;

WHEREAS, when Individuals with Disabilities Education Act (IDEA) was passed in 1975, the federal government committed to pay 40 percent of the average per pupil expenditure for special education to ensure that every child with a disability has access to a high quality education; and,

School Board Resolutions

AASA is sharing two template school board resolutions that your district could consider passing:

1. Urging full federal funding for IDEA
2. Opposing state and federal funding for private school vouchers

Find them here: https://www.aasa.org/resources/resource/template-resolution-fund-idea

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