



Legislative Update

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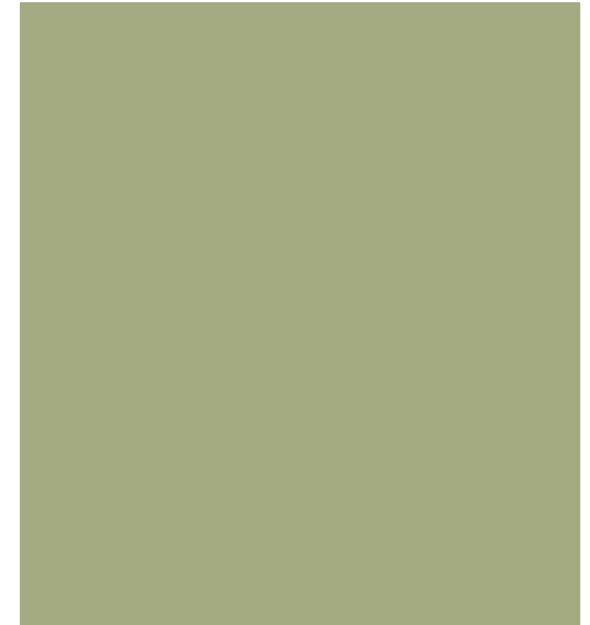
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Virtual Spring Forum 2022

Planning for Uninterrupted Crises



Congress





FY 2022 Appropriations

- Fiscal year that began on October 1, 2021
- Congress delayed in passing funding bills
- Continuing resolutions (CRs) passed on September 30th, December 3rd, February 17th
 - Kept government funded at FY 2021 levels through March 11th
- Final omnibus appropriations bill passed on March 10th



Federal Funding 101

- Federal fiscal year begins on October 1
- Appropriations usually delayed → CRs to keep government running
- 12 appropriations “accounts” - Education joined with Depts of Labor and Health and Human Services (Labor-HHS-ED)
- Sometimes, multiple bills packaged together = “minibus”
- If all 12 bills are passed together = “omnibus”



Omnibus Bill

- Funding that States will receive on July 1
- Generally, minor increases to formula-funded education programs
- Some aid for Ukraine (\$14 billion)
- Additional aid for COVID-19 (research and response) ultimately cut from bill



Omnibus Bill - School Nutrition

- Push to extend school nutrition waivers offered in response to COVID-19
 - Current waivers expire in June
- Some lawmakers strongly opposed extension
 - “emergency measure”
 - Desire to rein in spending - costs \$11 billion for one year of waivers





FY 2022 Appropriations Levels

Program	FY 2021 Appropriation (in thousands)	FY 2022 Appropriation	Difference	% Difference
Title I, Part A	\$16,536,802	\$17,536,802	\$1,000,000	6.05%
IDEA Part B	\$12,937,457	\$13,343,704	\$406,247	3.14%
Title II, Part A	\$2,143,080	\$2,170,080	\$27,000	1.26%
Title IV, Part A	\$1,220,000	\$1,280,000	\$60,000	4.92%
Title IV, Part B	\$1,259,673	\$1,289,673	\$30,000	2.38%
McKinney-Vento	\$106,500	\$114,000	\$7,500	7.04%
Career and Technical Education	\$1,342,269	\$1,379,848	\$37,579	2.80%
AEFLA	\$674,955	\$690,455	\$15,500	2.30%
Impact Aid	\$1,501,112	\$1,557,112	\$56,000	3.73%

SCOTUS Confirmation



- Justice Steven Breyer retiring
- Ketanji Brown Jackson confirmed as replacement
- Has some experience ruling on education-related cases, including IDEA FAPE determinations
- Will recuse herself from upcoming Harvard affirmative action case next term due to ties to the university
 - With conservative majority and Jackson recusal, affirmative action policies likely to be struck down



What's Next for Congress?

- FY 2023 appropriations
- Revised version of Build Back Better Act?
- Additional COVID aid?
- COVID aid oversight action?
- WIOA reauthorization?
- Child Nutrition programs reauthorization?
- Midterm elections in November!!





Congressional Schedule

- House in Session Only
- Senate in Session Only
- House & Senate in Session
- Federal Holiday

January						
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25	26	27	28	29	30	31



FY 2023 Appropriations



- President's budget request sent to Congress end of March – kicks off appropriations process
- Appropriations Subcommittees/Committees will hold hearings for more info on President's request
- Subcommittees, then full committee approves bills for 12 accounts
- Full House votes on bills → sent to the Senate



FY 2023 Appropriations



- House most often passes all or most of 12 appropriations bills in July prior to summer recess
- Senate generally more delayed and does not take up legislation prior to August recess
- With mid-term elections in fall, passage of appropriations bills on time may be difficult



WIOA Reauthorization

- Last reauthorized in 2014 (expired in 2020 but continued through appropriations)
- Draft House bill released end of March
 - Marked up and approved by House Ed Labor Committee in early April
 - Democratic bill - no Republican support at committee-level
 - Concerns over expanding federal role, increasing authorized funding levels
 - Chances of passage as is in the Senate??

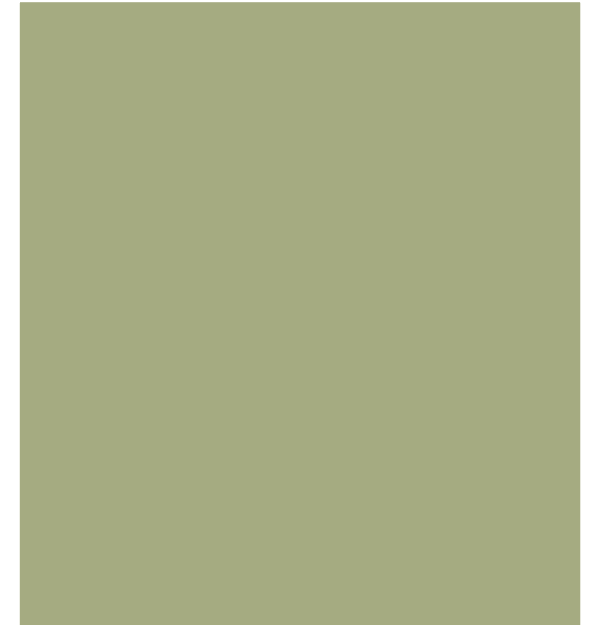


WIOA Reauthorization

- Highlights from House bill:
 - Requires Comprehensive Local Needs Assessment (similar to Perkins)
 - Alignment with Perkins, ESEA
 - Closer relationship between local boards and K-12 partners re: ESEA subgroups
 - Focus on equity
 - Demographic diversity on workforce boards
 - Modifies performance indicators for Titles I, II, and IV
 - Increases number of reserves and set-asides



Administrative Actions





Funding Proposal for FY 2023

Program	FY 2022 Appropriation (in thousands of dollars)	FY 2023 Proposal	Difference
Title I, Part A	\$18,230,000	\$36,537,000	104.5%
IDEA Part B	\$14,519,000	\$18,130,000	24.9%
Title II, Part A	\$2,170,000	\$2,149,000	-1.0%
Title IV, Part A	\$1,280,000	\$1,220,000	-4.7%
Title IV, Part B	\$1,290,000	\$1,310,000	1.6%
McKinney-Vento	\$114,000	\$110,000	-3.5%
Career & Technical Education	\$1,380,000	\$1,355,000	-1.8%
AEFLA	\$704,000	\$738,700	4.9%
Impact Aid	\$1,557,000	\$1,541,100	-1%
Maximum Pell Grant	\$6,895*	\$8,670*	25.7%



Back to Normal?

- ED Accountability Guidance
 - “All accountability and school identification requirements under ESEA section 1111 are in effect for the 2021-2022 school year”
 - Can modify State plan if not able to implement as written
 - Example provided: Other Academic indicator, school quality indicators, changing n-size
 - Can shift timelines
 - But: no more “COVID-19 State Plan Addendum” → must make State Plan Amendments
 - All indicators must be Statewide
- <https://oese.ed.gov/files/2022/02/Acct-FAQ-Final-2.11.22-1.pdf>



Back to Normal?

- ED Guidance: Look at long-term quality and reliability of data when choosing indicators
 - Are the data sufficiently complete?
 - Are the data sufficiently comparable across years considering student?
 - Are the data sufficiently comparable across years considering test forms and administration?
 - Are there significant inequities in the quality or completeness of the data?
- Do definitions within plan reflect context?
 - “An SEA may elect to modify its definition of attendance for an SQSS measure of chronic absenteeism so that the SQSS indicator best reflects the State’s context.”



What's Next for school meals?

- USDA published new meal pattern standards for 2022-2023
 - Sodium reduction Target 1 (with transition to interim Target 1A in 2023-24)
 - 80% whole grain rich requirement
 - Flavored milk allowed if 1% milkfat
 - Plans to re-regulate new meal patterns for 2024-25
- Return to FRPL applications for 2022-23!



What's Next for school meals?

- But: supply chain issues still evident
 - Increased fuel charges
 - Small product lines, producer staffing/ transportation issues
 - Higher costs for food (consumer inflation plus competition)
 - Ukraine conflict-driven food shortages
- USDA has limits on what it can waive per 42 U.S.C. 1760(I)
 - No changes to eligibility
 - No increases in reimbursement
 - No amendments to nutritional content of meals
- Anticipate higher costs for SFAs, financial instability in food service accounts



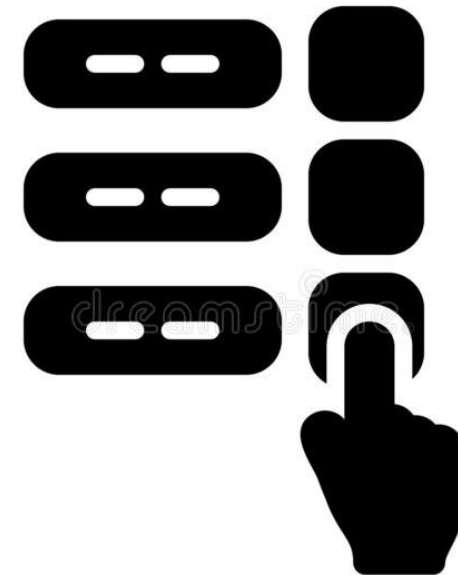
What's Next for school meals?

- Will Congress provide additional flexibility?
 - Probably not. Debate over omnibus failed to include school meal waivers because:
 - “not in the President’s 2022 budget”
 - Was designed as a temporary pandemic response measure, no longer needed
 - “too expensive” (estimated at between \$8 and \$11 billion for the school year)
 - Too broad
 - Rep. Foxx: “taxpayers’ unprecedented support of these programs over the last two years cannot be unlimited”
- Will USDA re-regulate or offer administrative waivers?



Poll Question

- Are rising meal program costs/ logistical issues a concern for you?
 - Yes
 - No
 - Not my department
 - Uh-oh, now I have to check...





Data Guidance from ED (January 2022)

- Accommodate lack of FRPL data given waivers for 2020-21 and 2021-22
 - Prefer to use NSLP data from 2020-21 to derive census poverty “if available”
 - If not, use one of suggested alternative data sources
 - Recognize this may lead to data sources being used multiple years and that’s ok
- Looks **almost** exactly like data guidance from last year
 - Some key differences





Data Guidance from ED (January 2022)

- For Special LEAs (Title I eligibility and allocations, Title II allocations, RLIS eligibility)
 - If NSLP data from 2020-21 or 2021-22 not available, SEA may use:
 - Poverty data other than NSLP data (e.g., Medicaid counts or other poverty data available to an SEA for State purposes);
 - “The best available NSLP data, *which may be from SY 2019-2020*”
 - NSLP data from SY 2020-2021 or 2021-22 that may be accessible (e.g., counts of children identified through direct certification);
 - **A combination of the best available NSLP data from SYs 2019-2020, 2020-2021, and 2021-2022** (NEW!); or
 - Data from *a poverty survey conducted by the SEA or LEA* that replicate NSLP or other poverty data



Data Guidance from ED (January 2022)

- For small LEAs
 - If NSLP data from 2020-21 not available, *SEA may seek ED approval to use:*
 - The best available NSLP data, *which may be from SY 2019-2020;*
 - NSLP data from SY 2020-2021 or 2021-22 that may be accessible (e.g., counts of children identified through direct certification);
 - **A combination of the best available NSLP data from SYs 2019-2020, 2020-2021, and 2021-2022 (NEW!);**
or
 - Data from *a poverty survey conducted by the SEA or LEA that replicate NSLP or other poverty data.*



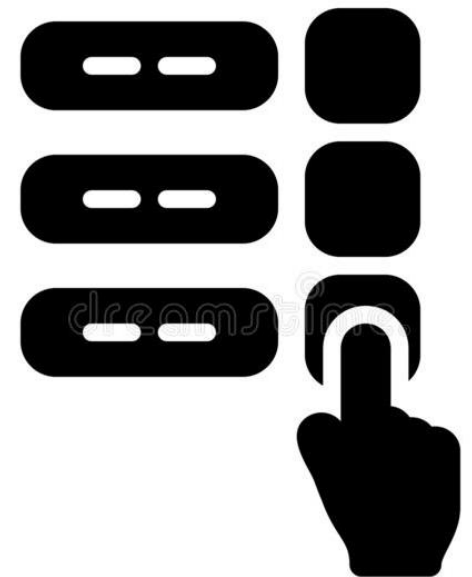
Data Guidance from ED (January 2022)

- Within-LEA Title I allocations (rank and serve)
 - If NSLP data from 2020-21 or 2021-22 not available, *LEA may use*:
 - Medicaid or TANF data or a composite of data of these two sources from SY 2021-2022
 - The best available NSLP data, which may be from SY 2019-2020
 - NSLP data from SY 2020-2021 or 2021-22 that may be accessible (e.g., counts of children identified through direct certification) **which may be adjusted by 1.6**
 - **A combination of the best available NSLP data from SYs 2019-2020, 2020-2021, and 2021-2022** (NEW!); or
 - A composite of NSLP, Medicaid, and TANF data listed in these options; or
 - Data from a *poverty survey conducted by the SEA or LEA* that replicate NSLP, Medicaid, or TANF data



Poll Question

- What does “a combination of the best available NSLP data from SYs 2019-2020, 2020-2021, and 2021-2022” mean?
 - An average of those years
 - The best data out of those years
 - Not clear





Data Guidance from ED (January 2022)

- Equitable Services
 - LEA may choose from the following data sources, *in consultation with private schools*:
 - The same measure of poverty used to count public school children
 - Comparable poverty data from a survey and allowing such survey results to be extrapolated if complete actual data are unavailable
 - Comparable poverty data from a different source
 - The application of the low-income percentage of each participating public school attendance area to the number of private school children who reside in that school attendance area; or
 - An equated measure
 - ED notes: this may mean relying on NSLP data!
 - Need to choose new data after two-year cycle



Data guidance from ED (January 2022)

- Reporting and Accountability
 - If NSLP data from 2020-21 or 2021-22 not available, SEA may use to identify “economically disadvantaged” students:
 - Poverty data other than NSLP data
 - The best available NSLP data, which may be from SY 2019-2020
 - NSLP data from SY 2020-21 or 2021-22 that may be accessible (e.g., counts of children identified through direct certification)
 - **A combination of the best available NSLP data from SYs 2019-2020, 2020-2021, and 2021-2022** (NEW!); or
 - Data from a poverty survey conducted by the SEA or LEA that replicate NSLP or other poverty data.



Pandemic Relief Oversight

“Because of the American Rescue Plan, we provided the states \$130 billion – \$130 billion to keep our students and educators safe and schools open: funding for ventilation systems in schools, social distancing, hygiene for classrooms and the school buses. ...

And many states and school districts have spent this money very well. Unfortunately, some haven't.”

- Remarks by President Joe Biden, January 19, 2022

Concerns

- Propriety of spending
- Responsiveness to community needs
- Speed of spending

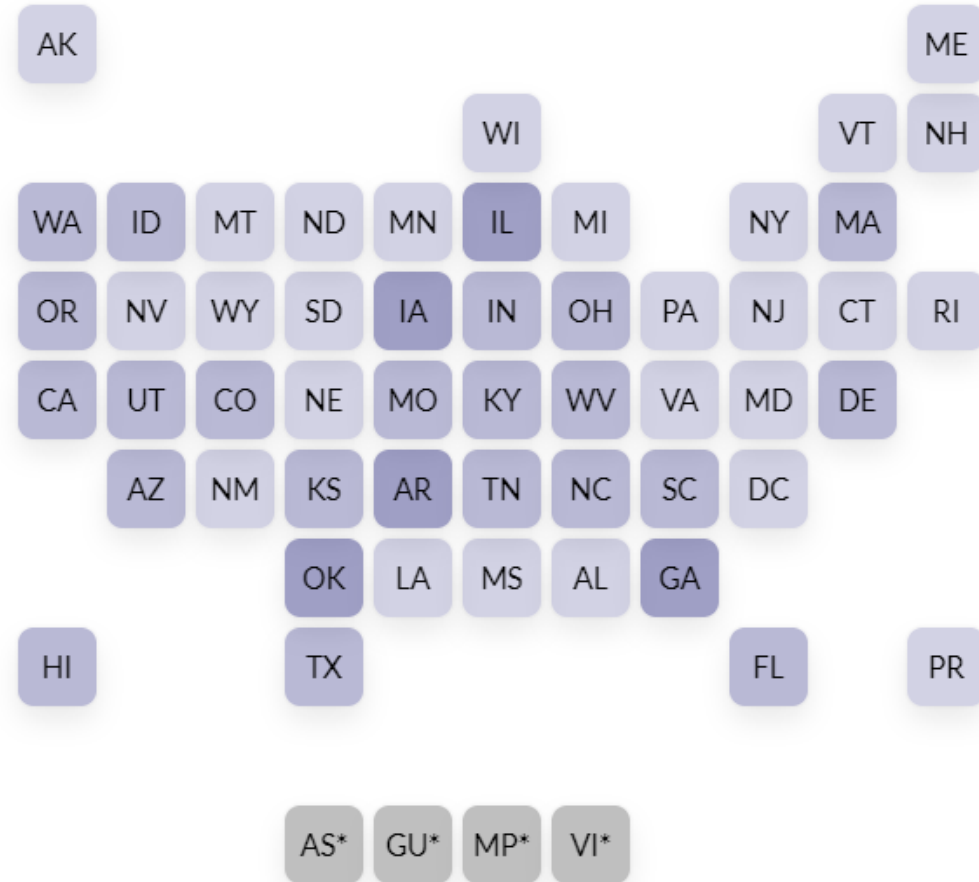
For the reporting period ending January 31, 2022

View Funds by Program

Awarded % Spent

Total **ESSER** GEER EANS HEER

Includes Outlying Area ESF-SEA and ESF-Governor funds



0%

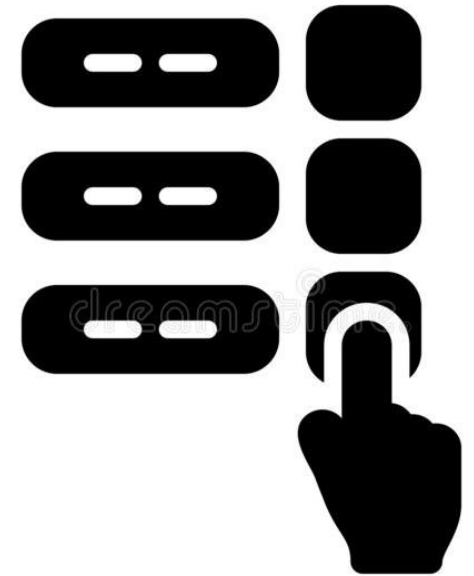
100.0%

Highest % spent by State



Poll Question

- Speed of spending – is this properly represented?
 - ED data only focuses on liquidations, not obligations
- Poll: How much of your ESSER/HEERF funds (I, II, and III) have you obligated?
 - 0-20%
 - 20-40%
 - 40-60%
 - 60-80%
 - 80-100%



Coming Soon:



U.S. Department of Education
Office of Inspector General

Coronavirus Relief Oversight Plan

- Focus on ED internal operations but.....
- ESSER:
 - Use of Elementary and Secondary School Emergency Relief Fund
 - Processes for awarding and monitoring Governor's Emergency Education Relief Fund
- HEERF:
 - Review the extent of schools' use of the CARES Act's flexibilities for the campus-based programs
 - Reallocation of Federal Work Study to Federal Supplemental Educational Opportunity Grant
 - Emergency grants from Federal Supplemental Educational Opportunity Grant funds
 - Payments to affected Federal Work Study students who are unable to fulfill all or part of their work study obligation
 - Review schools' use of the Higher Education Emergency Relief Fund, particularly the obligation to use 50 percent of funds for grants to students



Questions?





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