

Washington Update July 31, 2020

Dear Colleagues:

1. Senate Republicans Reveal Proposal for Next COVID Relief Package – a Nonstarter for Democrats

We end the week with the [chasm](#) between Democrats and Republicans looming as the clock ticks toward recess and campaigning, not to mention expiring unemployment benefits, expired eviction prohibitions and schools and higher education struggling with reopening plans. Leader McConnell revealed the [HEALS Act](#) – the Senate Republican response to the House Democratic [HEROES Act](#) – as the opener for negotiations on the next COVID relief package. A third proposal, [CCERA](#), was put forward by Senate Democrats. A comparison of education spending in the three bills reveals the following:

	Total Education	K-12	Higher Education
HEROES Act – House Dem Bill	\$90 B for Education + \$915 B for states, which could be used for education	\$58 B	\$29 B
CCERA – Senate Dem Bill	\$345 B	\$175 B	\$132 B + \$33 B for Governor’s fund
HEALS Act – Senate Republican Bill	\$105 B	\$ 70 B	\$29 B + \$5.2 B for Governor’s fund

The HEALS Act includes three education provisions that are non-starters for Democrats. The bill distributes K-12 funding to private as well as public schools; it ties most of the funding to the degree to which schools are open in-person; and it creates a new voucher program, Education Freedom Scholarships. [Multiple education groups](#) have weighed in opposing the HEALS Act noting it “misses the mark and falls far short of the needs facing our nation’s schools.” The American Council on Education issued a [statement](#) calling the \$29 billion for higher education inadequate. The higher education sector has estimated that it will take at least \$120 billion to deal with lost revenues and increased costs resulting from the pandemic. Chair of the House Education and Labor Committee Bobby Scott (D-VA) and Ranking Member of the Senate Committee on Health, Education, Labor and Pensions, Sen. Patty Murray (D-WA) issued a [statement](#) blasting the HEALS Act.

“This is not a plan to help schools reopen safely; it is a recipe for more chaos and illness...It is also shameful Senate Republicans are using this pandemic as an excuse to advance Secretary DeVos’ ideological school privatization agenda by taking critical funding from public schools. Not only does this proposal send money directly to private schools, but this ‘freedom scholarship’ is just a re-packaged version of same unacceptable voucher program that Congress has repeatedly rejected.”

A fourth matter that has increasingly becoming a concern for Democrats and advocates is the liability shield provisions included in the HEALS Act. While ostensibly intended to prevent against COVID related lawsuits except in cases of gross negligence, they appear to go well beyond that potentially nullifying some civil rights protections in a number of laws, including the Americans with Disabilities Act. Analysis is underway.

Many Senate Republicans blasted the HEALS Act too, calling it too expensive and feeling that they had little input into the bill. Several objected to the inclusion of \$2 billion for a new FBI building in Washington, which is next to Trump hotel. This was a priority of the White House; however, the White House has not come out in support of the HEALS Act.

The expiration of federal unemployment insurance supplements, as well as the moratorium on evictions, increasingly pressures Republicans and Democrats to act. There is a possibility that those two matters could be addressed in a “quick fix” bill and then Congress could recess for August, leaving the heavy lifting for September. If this happens, the momentum for a significant COVID package will be muted. Stay tuned.

2. House Passes FY 2021 Education Spending Bill

Despite a [veto threat](#) from the Trump Administration, the House today passed its final group of 6 spending bills for FY 2021, including the Labor/HHS/Education bill. The House [bill](#) includes a modest 1.7% increase for education, bringing total federal investment to \$73.5 billion. The House has now passed all but 2 funding bills, while the Senate has not begun action on any of the 12 bills. The fiscal year ends September 30, making it all but certain that a continuing resolution – or simple extension of existing appropriations levels – will be adopted for a period of time.

3. New International Students Barred from 100% Online Programs/ DACA Under Attack Again

The U.S. Immigration office issued [new guidance](#) clarifying that new international students – unlike current international students – cannot come to the U.S. and participate in 100% online courses. Previously, the office had issued guidance prohibiting continuing international students from taking all classes online; however, the government agreed to withdraw that guidance in response to litigation. Higher education advocates were disappointed by this guidance, having sought policy that would allow current and new international students to participate in fully online programs.

Six weeks ago the U.S. Supreme Court upheld the Obama-era Deferred Action for Childhood Arrivals (DACA) program and overruled the Trump Administration’s effort to end it. The Court called the Administration’s reversal “arbitrary and capricious.” This week the Department of Homeland Security [announced](#) that it will scale back the program as it reviews it for further action. Any new requests for DACA will be rejected and the renewal period for existing protections will be reduced from two years to one year. The DACA program protects from deportation those who were brought to this

country as children and enables them to work and attend school. Over 2% of higher education enrollment is by unauthorized students.

4. Update on NAEP Assessment

Every year the National Assessment of Education Progress (NAEP) is administered to students to provide a snapshot of academic learning for our nation's youth. The NAEP for 17 year-olds was [cancelled](#) in the spring of 2020 because of the COVID pandemic. The National Governing Board is meeting to consider whether to proceed with next year's assessments in math and reading. The Board may seek a waiver from Congress until 2022 or continue preparing for 2021. Proceeding with the test will cost additional funds because of the pandemic. The Republican COVID relief proposal, the HEALS Act, includes \$65 million for IES, which would presumably be used for these expenses.

5. Webinar Next Week on Students with Disabilities Returning to School

The Office of Special Education Programs is sponsoring a webinar on Tuesday, August 4 from 2 -3 ET titled *Resources and Practices to Support Back to School and Continuity of Learning During COVID-19 for Children with Disabilities* Register for the event [HERE](#).

6. New Resources for Educators

- **Americans United** released a report documenting the amount of COVID relief funds that have been directed to private schools, [The Paycheck Protection Program Has Provided Billions in Federal Funds to Private and Religious Schools](#) . It concludes that they have received between \$2.67 billion and \$6.47 Billion from the CARES Act. The report provides examples of schools receiving these funds that blatantly discriminate against students with disabilities, among other marginalized groups.
- **The United Nations** issued [Education: From Disruption to Discovery](#) estimating that over 1 billion primary and secondary students in 107 countries are subject to nationwide school closures because of the pandemic. An additional 548 million are subject to local closures, for a total of 98% of the world's school students.
- **Politico** reports [For HBCU's the Coronavirus Pandemic Hits Especially Close to Home](#) underscoring the disproportionate impact of the virus on Black Americans.
- **NPR** reports [Schools Face Shortages of Nurses as Districts Consider Reopening](#).
- **The Consortium for Policy Research in Education** and colleagues are out with a survey [Teaching Experiences and Working Conditions in the Wake of COVID 19](#).

- **The U.S. Government Accounting Office** reports [*School Districts Need Better Information to Help Improve Access for People with Disabilities*](#) that two thirds of schools report inadequate access for students and staff with disabilities.

Washington Update will be taking August off. We will pick this up in September. Be well and take good care.

Best,

Jane