

## Washington Update March 27, 2020

Dear Colleagues –

Like you, my heart is broken watching and hearing about the human tragedy which is COVID-19. Staying at home and self-isolating does not feel like much of a contribution to the crisis, but I am working on believing that it is. I am in awe of the incredible work of our colleague educators who are managing their ever-changing personal situations, while still stepping up to creatively deliver for our students. And hats off to Hill staff who have worked relentlessly and around the clock to put this third COVID-19 response package. Drinking out of a firehouse doesn't begin to capture the challenges we face. We are indeed all in this together.

### **1. Congress Will Pass Third COVID-19 Stimulus Bill with a Boost for Education**

The frenzied activity on Capitol Hill has yielded the single largest funding bill in our nation's history – at \$2 trillion. The 888 page bill -- H.R. 748, the CARES Act-- passed the Senate late Wednesday night with a vote of 96-0. (Four Senators were absent due to the virus, including Sen. Rand. Paul (R-KY) who has tested positive, and 3 others who are self-quarantining.) The House is looking to pass the bill today, hoping that a voice vote will work – meaning that no Member of the House would object. President Trump has indicated that he will sign the bill.

The bill includes \$30.75 billion in an Education Stabilization Fund. The funding, which goes to the governors through formula grants, breaks down this way:

- \$13.5 Billion for K-12
- \$14.25 Billion for higher education
- \$3 billion for governor's discretion to assist K-12 and higher ed in relation to addressing the epidemic

States have 30 days to apply for funds to the Department of Education. Funds will be distributed based on formulas detailed in the bill – one for K-12 and another for higher education. The bill indicates that states and school districts should – to the greatest extent possible – continue to pay employees and contractors during the disruptions caused by the virus. In order to receive the funding states must agree to providing funding for fiscal years 2021 and 2022 at least at the same level as the average of the prior three fiscal years. However, Sec. DeVos is granted the authority to waive this requirement. The bill also gives the Secretary of Education new waiver authority for both K-12 and higher education.

#### **What is in the bill for K-12 education?**

Of the \$30.5 billion, \$13.5 billion has been set aside for K-12 education. The funds can be used for any activity authorized under ESSA, IDEA, the Career and Technical Education Act and the Homeless Assistance Act. Other uses of funds detailed in the bill include:

- Coordination of preparedness with public health and other agencies
- Resources for principals and other school leaders
- Activities to address the unique needs of low-income students, students with disabilities, English learners, homeless students, racial and ethnic minorities and foster care youth
- Training and professional development on minimizing the spread of infectious diseases
- Purchasing cleaning supplies
- Planning for long-term closures including how to provide guidance for implementing IDEA
- Purchasing educational technology, which may include assistive technology or adaptive technology
- Providing mental health services
- Planning for summer learning and supplemental after-school programs

### **What waiver authority is provided?**

State education agencies, local school districts and Indian tribes may request waivers from a range of ESSA provisions. The Secretary has 30 days to act on the waiver request. To date most states have requested and been provided waivers for the testing and accountability requirements under ESSA. Waivers may not exceed the 2019-2020 school year.

Within thirty days of the enactment of the law, the Secretary is required to submit a report to Congress with recommendations for additional waivers under IDEA, the Rehabilitation Act of 1973, ESSA, and the Perkins Career and Technical Education Act. The Congress would then need to amend those laws if they agree that waivers are needed.

### **What is in the bill for higher education?**

Of the \$30.75 billion in the Education Stabilization Fund, \$14.25 billion is directed to higher education. The funds will be allocated to institutions on the basis of the existing financial aid distribution system which distributes 75% of funds based on full-time equivalent enrollment of Pell grant recipients. The bill directs 7.5% of the funds to minority serving institutions. Temporary relief is provided for federal student loan borrowers. Payments on direct loans are suspended through September 2020

A number of provisions provide for flexibility in the Higher Education Act, including for the administration of Supplementary Educational Opportunity Grants and Federal Work Study programs.

The bill includes a provision allowing the Secretary of Education to modify requirements of TEACH grants. A TEACH grant recipient who is unable to fulfill all or part of the service obligation because of the COVID-19 epidemic is excused from that portion of the obligation.

### **What other funding is available related to education?**

Additional funding in the bill which is related to education includes the following:

- \$15.5 billion for the Supplemental Nutritional Assistance Program
- \$8.8 billion for Child Nutrition Programs
- \$3.5 billion for Child Care and Development Block Grants
- \$750 million for early-education head start
- \$945 million to the National Institutes of Health
- \$75 million to the National Science Foundation

### **How are education organizations responding to the bill?**

Both K-12 and higher education organizations believe this bill represents a good start, however multiple unmet needs remain. A number of K-12 organizations had asked for \$75 billion in the bill while the higher education sector had requested \$50 billion. The provision of \$30 billion falls well below this \$125 billion desire. A particular need that has been identified is the lack of access to the internet for many students in their homes. It is thought that an additional \$2 billion is needed to ensure that all students have devices and internet access to carry on with remote learning.

The education sector is also concerned about the impact of the virus on future state budgets. Since both K-12 and higher education rely on state funding, and as state budgets are starved, further challenges are likely to occur.

### **What's next? A fourth COVID-19 response bill**

Many members of Congress have already referenced the need for a fourth, and perhaps a fifth COVID-19 bill to address the impact of the epidemic as it continues to unfold. Education will most certainly be on the list for a continued infusion of funds. The Senate is in recess until April 20, and the House is likely to follow suit. However, both bodies could be called back into action if needed.

For the bill text:

[https://www.majorityleader.gov/sites/democraticwhip.house.gov/files/Senate%20Amendment%20to%20H.R.%20748\\_0.pdf](https://www.majorityleader.gov/sites/democraticwhip.house.gov/files/Senate%20Amendment%20to%20H.R.%20748_0.pdf)

<http://blogs.edweek.org/edweek/campaign-k-12/2020/03/senate-coronavirus-bill-passes-education-funding.html>

<https://www.educationdive.com/news/analysts-cares-acts-135b-for-k-12-amid-coronavirus-outbreak-not-enough/574873/>

## **2. Serving Students with Disabilities During the COVID-19 Epidemic**

This week Secretary DeVos issued a Supplemental Fact Sheet addressing what she described as “a serious misunderstanding that has recently circulated within the

educational community.” She noted that some educators “have been reluctant to provide any distance instruction because they believe that federal disability law presents insurmountable barriers to remote education. This is simply not true.”

The Supplemental Fact sheet notes that IDEA should not prevent any school from offering educational programs through distance instruction and that a Free Appropriate Public Education can be provided consistent with the need to protect the health and safety of students with disabilities and educators. The Department is determined to offer flexibility where possible. The provision of services through distance instruction virtually, online and by phone are possibilities. A list of information on IDEA timelines which may be extended is offered in the Fact Sheet.

This Fact Sheet was issued as Congress was considering authority for the Secretary to recommend statutory waivers to IDEA. As noted above, the bill just passed requires her to submit a report to Congress with recommendations for waivers to provisions of IDEA within thirty days.

Many education and related organizations have opposed waivers to IDEA, noting that they are not necessary and that waiving IDEA provisions could amount to waiving hard-won rights which are in place because of historic discrimination.

Department of Education Supplemental Fact Sheet on serving students with disabilities: <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

[https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/03/24/switch-to-remote-learning-could-leave-students-with-disabilities-behind?utm\\_campaign=2020-03-24+SD&utm\\_medium=email&utm\\_source=Pew&utm\\_source=ECS+Subscribers&utm\\_campaign=ac3c582c19-ED\\_CLIPS\\_03\\_25\\_2020&utm\\_medium=email&utm\\_term=0\\_1a2b00b930-ac3c582c19-63612847](https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/03/24/switch-to-remote-learning-could-leave-students-with-disabilities-behind?utm_campaign=2020-03-24+SD&utm_medium=email&utm_source=Pew&utm_source=ECS+Subscribers&utm_campaign=ac3c582c19-ED_CLIPS_03_25_2020&utm_medium=email&utm_term=0_1a2b00b930-ac3c582c19-63612847)

<https://www.concordmonitor.com/Remote-learning-33398509>

<http://blogs.edweek.org/edweek/campaign-k-12/2020/03/betsy-devos-limits-power-waive-education-law.html>

**The American Federation of Teachers** offers resources on delivering services to students with disabilities: <https://sharemylesson.com/collections/supporting-students-disabilities-during-covid-19-pandemic>

### 3. New Resources for Educators Related to the COVID-19 Epidemic

- **The American Association of Colleges for Teacher Education** has excellent resources related to the COVID-19 response: <https://aacte.org/resources/covid-19-resources/>
- **The International Society for Technology in Education (ISTE)** offers thoughts on *Addressing Pre-Service Capacity in Ed Tech: How Can States Reimagine Educator Preparation*: [https://ednote.ecs.org/addressing-pre-service-capacity-in-ed-tech-how-can-states-reimagine-educator-preparation/?utm\\_source=ECS+Subscribers&utm\\_campaign=3f5f1e82a4-Ed+Note+Daily&utm\\_medium=email&utm\\_term=0\\_1a2b00b930-3f5f1e82a4-62495287](https://ednote.ecs.org/addressing-pre-service-capacity-in-ed-tech-how-can-states-reimagine-educator-preparation/?utm_source=ECS+Subscribers&utm_campaign=3f5f1e82a4-Ed+Note+Daily&utm_medium=email&utm_term=0_1a2b00b930-3f5f1e82a4-62495287)
- **Inside Higher Education** reports *Clinical Training for Nursing Students Sideline*d. I'm wondering about implications for teacher preparation? [https://www.insidehighered.com/news/2020/03/23/obstacles-completing-clinical-education-hours-risk-delaying-graduation-nurses?utm\\_source=ECS+Subscribers&utm\\_campaign=ec2d91a45b-ED+CLIPS+03+24+2020&utm\\_medium=email&utm\\_term=0\\_1a2b00b930-ec2d91a45b-63595043](https://www.insidehighered.com/news/2020/03/23/obstacles-completing-clinical-education-hours-risk-delaying-graduation-nurses?utm_source=ECS+Subscribers&utm_campaign=ec2d91a45b-ED+CLIPS+03+24+2020&utm_medium=email&utm_term=0_1a2b00b930-ec2d91a45b-63595043)

Wishing you a healthy and peaceful weekend.

Stay in touch @janewestdc

Best,  
Jane