

Washington Update May 8, 2020

Dear Colleagues:

Members of Congress dribbled back to town this week, while the city and surrounding areas continue on stay-at-home orders.

1. Senate Reconvenes in Person; House Next Week?

The Senate reconvened in person this week despite warnings from medical experts and despite the fact that the DC area remains a COVID-19 hot spot. In order to enable this convening without it violating emergency limitations on large gatherings, the Mayor of DC -- Muriel Bowser -- anointed members of Congress as "essential workers," bringing them into the ranks of grocery store workers and front line health care personnel.

The frustration in the nation's greatest deliberative body was palpable. "I don't think we should have to come back. If we had something serious to do, COVID-19 four, or whatever, I'm here. That's what I was elected to do. Coming back for Mitch McConnell's former intern to be promoted to second-highest court in the land doesn't fit the description of a national emergency," Sen. Dick Durbin (D-IL) said.

The first roll call vote since March 25 was held on May 4. Thirteen Senators did not show up. About half of the members of the Senate are 65 or older -- the age group considered most vulnerable to COVID-19 disease. Though most Senators were reported to follow protocol of wearing masks and social distancing, Sen. Rand Paul (R-KY) and Sen. Ron Johnson (R-WI) were reported to have walked on to the Senate floor without masks.

New to the Capitol were plexiglass shields, boxes of masks and hand sanitizer. COVID-19 testing for all Members was made available by President Trump, but in a rare bipartisan move declined by both House Speaker Pelosi (D-CA) and Senate Majority Leader McConnell (R-KY). They recommended that the tests be prioritized for front line workers.

The House, which had also originally planned to reconvene this week, backed off after concerns raised by the Capitol physician. Some Committee work did proceed -- notably the Labor/HHS/Education Appropriations Subcommittee held an oversight hearing on the federal response to the COVID-19 epidemic. Few members were physically present, yet the intrepid chair Rosa DeLauro (D-CT) and Ranking Member Tom Cole (R-OK) held a remarkably bipartisan event, despite NIH expert Tony Fauci's absence -- having been prevented from testifying by President Trump.

<https://www.npr.org/2020/05/04/849109954/despite-coronavirus-risks-the-u-s-senate-returns-for-normal-business>

2. Fifth COVID-13 Relief Package Expected Next Week from the House

The House is expected to physically convene next week, though that has not been confirmed. Speaker Nancy Pelosi (D-CA) has been aggressively working with Democratic members to shape

the next COVID-13 relief package, which may be introduced as early as next week. Abandoning a bipartisan effort, she has worked exclusively with Democrats sending them the message to “think big” in putting the package together. It is expected to carry a price tag of over \$1 trillion.

Education organizations and others are aggressively weighing in with recommendations for what is needed in the bill. Among the requests:

- \$500 billion for state and local government relief
- \$250 billion for education, including \$25 billion for IDEA and ESSA, \$50 billion for higher education and \$4 billion for the e-rate to expand internet access for K-12 students

Alarming estimates of what it will take to get the K-12 education system up to speed have fueled the requests, and provide increasing urgency to act. The Learning Policy Institute estimated that as many as 697,000 teaching jobs could be lost in the next two years unless meaningful intervention is provided. They also estimate that the cost of recovery over a two-year period could be as high as \$229 billion.

The bipartisan spirit that characterized the passage of the first four COVID-19 relief bills seems to have dissipated. Majority Leader Sen. Mitch McConnell (R-KY) and Minority Leader Rep. Kevin McCarthy (R-CA) have sided with business groups who are demanding liability protections for businesses if any new bill is to move. They fear lawsuits related to the risks they might take in opening up during the epidemic. Some Republicans have also voiced the position that it is too soon to act on another relief bill, when the last one has not yet been fully deployed.

<http://blogs.edweek.org/edweek/campaign-k-12/Education-Groups-COVID-19-Final-Letter.pdf>

<https://learningpolicyinstitute.org/blog/what-will-it-take-stabilize-schools-time-covid-19>

3. Continued Implementation of CARES Act -- \$2.2 Trillion COVID-19 Relief Funding Package

The Department of Education continues to administer the distribution of the \$30.75 billion in the CARES Act which is targeted to education. This week the Department announced \$1 billion in relief for HBCU’s and minority serving institutions. At least 32 states have applied for their share of the \$13.2 billion targeted to K-12 schools. The deadline for applications is July 1. Only eight states have applied for the \$3 billion governor’s fund. The application deadline is June 1.

The Department’s actions have not been without controversy. Higher education groups have raised multiple concerns about questionable restrictions on the allowable use of funds. Last week’s announcement of the creation of programs to promote microgrants (vouchers) to families of K-12 students continues to be met with alarm by some education organizations and Democratic lawmakers. The Chief State School Officers have weighed in with concerns about guidance the Department issued which would boost funding directed to private schools. (Current law requires school districts to set aside funds to provide equitable services to low-income children in participating private schools.) By changing the formula for distribution, non-public schools would receive an inequitable amount of funding – far more than Congress intended, they said. In the letter Carissa Moffat Miller, CCSSO’s executive director, noted that

private schools in Louisiana, for example, would receive 267% more funding that they would have if the current distribution formula was used. Furthermore, “In Orleans Parish, Louisiana, at least 77% of its CARES formula allocation would be directed to non-public schools in the area,” she wrote.

The CARES Act provided \$7 million for the Department of Education’s Inspector General to conduct oversight on the education portion of the law. This week the IG’s office issued the coronavirus relief oversight plan which will serve as a watchdog on how the Department is administering the law, as well as how recipients of the funds are using those funds. In addition, the IG will keep tabs on how states are complying with certain requirements of IDEA.

<https://www.educationdive.com/news/ed-dept-gives-1b-more-in-relief-aid-to-minority-serving-institutions/577178/>

CCSSO letter: <https://ccsso.org/sites/default/files/2020-05/DeVosESLetter050520.pdf>

Dept. of Ed guidance on non-public schools funding in CARES Act:

<https://oese.ed.gov/files/2020/04/FAQs-Equitable-Services.pdf>

Department of Education Coronavirus Relief Oversight Plan:

<https://subscriber.politicopro.com/f/?id=00000171-e508-d177-ad7b-e72dee490000>

4. Department of Education Issues Final Controversial Title IX Regulations

Despite urgings from multiple organizations to delay the issuance of controversial Title IX regulations in the midst of a national emergency, the Department went ahead to unveil rules that govern how schools and colleges handle allegations of sexual harassment and assault – and requires them to go into effect August 14. The Administration has marketed this rule as a strategy to bolster the rights of accused students and restore fairness to due process which is often stacked against the accused. Opponents say the rule gives a green light to ignore sexual harassment and assault. Sen. Patty Murray (D-WA), said that “Democrats will not stand silently as the Trump Administration attacks the civil rights of students and will fight to ensure that every college campus is free from the fear and threat of discrimination, harassment or violence.” The issue of Title IX was a sticking point for the reauthorization of the Higher Education Act and one of the reasons its progress was stalled in the Senate. These regulations will only add fuel to the disagreement and one more element of further delay to that effort.

<https://www.insidehighered.com/news/2020/05/07/education-department-releases-final-title-ix-regulations>

5. New Resources for Educators

- **Ed Week** provides a regularly updated map of states and their decisions about school closures *Coronavirus and School Closures*: <https://www.edweek.org/ew/section/multimedia/map->

[coronavirus-and-school-closures.html?cmp=eml-enl-eu-news2&M=59566830&U=1595124&UUID=048db4853d88ca82835a9e9198cad282](https://www.aei.org/research-products/report/a-blueprint-for-back-to-school/)

- **The American Enterprise Institute** has issued ***A Blueprint for Back to School***: <https://www.aei.org/research-products/report/a-blueprint-for-back-to-school/>
- **Council of Chief State School Officers** has issued ***Framework to Assist State Education Leaders in Planning for Restart of Schools***: <https://ccsso.org/blog/ccsso-releases-framework-assist-state-education-leaders-planning-restart-schools>
- **The Tennessean** reports ***Judge Rules Governor Bill Lee's Education Savings Account Program Unconstitutional***: <https://www.tennessean.com/story/news/education/2020/05/04/judge-rules-gov-bill-lees-education-savings-account-program-unconstitutional/3068998001/>
- **The Economist** argues that ***Closing Schools for COVID-19 Does Lifelong Harm and Widens Inequality***: https://www.economist.com/international/2020/04/30/closing-schools-for-covid-19-does-lifelong-harm-and-widens-inequality?utm_medium=pr&utm_source=inf-a
- **The State Higher Education Executive Officers Association** notes ***New Report Finds State Funding Remains Below Historic Levels as Public Colleges Brace for a Recession and Expected Budget Cuts***: https://shef.sheeo.org/wpcontent/uploads/2020/04/SHEEO_SHEF_FY19_Press_Release.pdf

Stay safe and be well. See you on twitter @janewestdc

Best, Jane