



## Federal Advocacy & Public Policy Team

December 4, 2020

### NSBA Weekly Update

#### Congressional Update

##### **Congress Returns to Looming Funding Deadline**

Lawmakers returned to Capitol Hill this week following their annual Thanksgiving recess. Upon their return, they are faced with a December 11 deadline when current funding for the federal government and related programs is set to expire. Top appropriators in both chambers are working to find agreement on a nearly \$1.4 trillion omnibus spending package which would knit together all 12 regular appropriations bills into one piece of legislation. Agreement has yet to be reached and, with time running out, the likelihood that another short-term extension at the current funding levels increases as these negotiations continue. Such a move would provide lawmakers more time to reach agreement on this must-pass legislation.

Discussions regarding another tranche of emergency pandemic aid have also restarted after a bipartisan group of lawmakers from both Chambers released a new proposal to provide much-needed emergency relief. The \$908 billion [proposal](#) falls nearly midway between where Democrats and Republicans have remained for months after failing to reach consensus on a new aid package most of the year. The proposal would include \$82 billion for education. However, this proposed amount is below previous pandemic relief proposals from both Republicans and Democrats to date—most of which included at least \$100 billion or more in targeted relief for the education sector. The legislation also provides \$10 billion for broadband relief. However, NSBA is concerned that the funding for the homework gap is inadequate at only \$2 billion and there is not focus enough on the short-term emergency needs for purposes such as acquiring hotspots for students. Nonetheless, lawmakers remain optimistic regarding the prospects for both an omnibus and a pandemic relief package later this month. If agreement can be reached, both will most likely be tied together into one legislative vehicle to ensure passage before the end of the year and the conclusion of the 116<sup>th</sup> Congress.

##### **New House Appropriations Committee Chair Elected**

On Thursday December 3, House Democrats voted 148-79 to elect Rep. Rosa DeLauro (D-CT), defeating Rep. Wasserman Schultz (D-FL), to serve as the next Chair of the House Appropriations Committee. Rep. DeLauro will replace outgoing Chair Rep. Lowey (D-NY) who is set to retire at the end of this Congress. Currently, Rep. DeLauro serves as the Chair of the Labor-HHS-Education Subcommittee—the panel tasked with determining annual funding levels for education programs such as the Every Student Succeeds Act. During her time as Chair of the Labor-HHS-ED Subcommittee, Rep. DeLauro has been a strong advocate for education and health funding broadly and will now have an even wider appropriations portfolio as Chair of the full committee. It remains unclear who will replace Rep. DeLauro on the Labor-HHS-ED Subcommittee although several committee members—including Rep. Clark (D-CA) and Rep. Allard (D-CO)—are widely speculated as potential replacements though it is possible that Rep. DeLauro maintains her seat on the subcommittee.

## **Defense Department Education Scorecard**

The Senate version of the National Defense Authorization Act (NDAA), an annual bill that sets policy for the Defense Department, contained a provision that would have created a new scorecard for public schools. The results of that scorecard would then be considered when the military made decisions about basing troops. NSBA felt that this new accountability system, which did not have input from the education community, would be duplicative and would not fairly represent improvements schools have made under the Every Student Succeeds Act (ESSA), and we advocated for the removal of this provision. The conference report for the NDAA has been released and NSBA is pleased that the education scorecard provision was not included in the final version.

## **Administration Update**

### **Nation's Report Card Postponed**

On Wednesday, November 25, the U.S. Department of Education (USED) [formally moved](#) to cancel the upcoming National Assessment of Educational Progress (NAEP)—the national assessment of core academic subjects commonly known as the nation's report card. The assessments for fourth and eighth graders in reading and math, originally scheduled to begin January 2021, will be postponed until 2022 due to the ongoing COVID-19 pandemic. Citing school closures and other related restrictions, USED determined that administering NAEP next month would not be feasible. While USED has taken steps to cancel NAEP, Congress must still pass legislation providing the agency statutory permission to do so. Congressional education leaders in both Chambers [appear supportive](#). In a [letter to Congress](#), Secretary of Education DeVos made clear that her department firmly believes “. . . states should implement their own assessments on schedule in spring 2021, given that they do not face the same constraints as NAEP . . .” in an effort to fully capture students' learning loss as a result of the pandemic.

### **USED Unveils CARES Act Spending Data Portal**

Recently, USED released an [online portal](#) that shares how states are using Coronavirus Aid, Relief, and Economic Security (CARES) Act funding to ensure learning continuity for students as they continue to contend with the pandemic. The resource contains profiles for each state and territory and provides high-level information on how much eligible recipients, such as school districts and institutions of higher education among others, received as part of their state's CARES allocation. This information is based on data reported as of September 30, 2020 and USED plans to regularly update this website as states continue to report how the funds are used. The website has received some criticism for using outdated information more than two months old. In a related statement, the department has also expressed interest in streamlining this portal in the future to serve as the location for states to submit statutorily required CARES Act spending reports to USED for oversight purposes.

### **USDA Moves to Weaken School Meal Standards**

The U.S. Department of Agriculture (USDA) has, for the second time since 2017, taken steps to roll-back national school meal nutritional standards this week. Under the [proposed rule](#), meal providers would have permanent flexibility to serve students flavored low-fat milk, it would reduce by half the amount of weekly whole grains required to be included in an eligible meal, and would provide more time for schools to meet lower sodium levels in provided meals. A largely similar proposal was put forward by USDA in 2017, but that proposed rule was struck down by a U.S. District Court due to procedural errors during the initial federal rulemaking process. [Public comments](#) on this proposal are due by December 28, 2020.

### **FCC Commissioner Announced Resignation in 2021**

Federal Communications Commission (FCC) Chair Ajit Pai formally announced his resignation effective January 20, 2021. His departure, though not unexpected due to the ongoing Presidential Administration

transition, will leave the Commission with an even 2-2 split between Republicans and Democrats—one member short of a full Commission. It remains unclear who will ultimately serve as the permanent Chair of the Commission. However, we expect current Commissioner Jessica Rosenworcel to be named Acting Chair when President-Elect Biden takes office. Commissioner Rosenworcel was a keynote speaker at this year's NSBA Advocacy Institute in February and is a champion for public schools. She coined the term "homework gap" that refers to the digital divide in education.

## Bills

- [S.4936](#) A bill to prohibit the use of corporal punishment in schools, and for other purposes. **Sponsor:** [Sen. Murphy, Christopher \[D-CT\]](#)
- [H.R.8294](#) National Apprenticeship Act of 2020 **Sponsor:** [Rep. Davis, Susan A. \[D-CA-53\]](#)
- [S.4930](#) A bill to amend the Elementary and Secondary Education Act of 1965 to improve mental health services for students, and for other purposes. **Sponsor:** [Sen. Kennedy, John \[R-LA\]](#)
- [S.4928](#) A bill to authorize the Secretary of Education to make grants to support educational programs in civics and history, and for other purposes. **Sponsor:** [Sen. Coons, Christopher A. \[D-DE\]](#)
- [S.4924](#) A bill to prohibit and prevent seclusion, mechanical restraint, chemical restraint, and dangerous restraints that restrict breathing, and to prevent and reduce the use of physical restraint in schools, and for other purposes. **Sponsor:** [Sen. Murphy, Christopher \[D-CT\]](#)

## NSBA Update

**NSBA's Biden/Harris Transition Recommendations:** NSBA is publicly releasing its advocacy priorities for the Biden/Harris transition team next week. The document outlines the key advocacy issues we want the new Administration to focus on. We look forward to sharing the transition document with you so that you can use it in your advocacy communications.

**CSALS Call on Monday, December 14, 2020 at 4:00 pm eastern:** There will be a final CSALS call on Monday, December 14 at 4:00 pm eastern. Logistics for that call will be in next week's federal update. However, due to the rapidly moving issues concerning the budget and emergency supplemental it is possible another meeting could be scheduled next week. We will be sure to let you know if we decide to schedule a special meeting.