

# **LEGISLATION**

**BIDEN TRANSITION**



Legislative, Regulatory,  
Administrative, and Policy  
Recommendations for  
the President-elect Biden  
Education Transition Team

# Legislative, Regulatory, Administrative, and Policy Recommendations for the President-elect Biden Education Transition Team

## Introduction

The Council of the Great City Schools, the nation's primary coalition of large city public school districts, congratulates President-elect Joe Biden and Vice President-elect Kamala Harris on their election, and pledges its collaboration in developing the best possible federal policies on behalf of the nation's schoolchildren, particularly those attending public schools in our major cities. Public schools in America's big cities, whose residents voted overwhelmingly for the Biden-Harris ticket, have unique assets and special challenges that have historically made them the focus of the federal government's major education initiatives and reform efforts.

The immediate needs of the nation's urban public schools fall into three broad categories: substantial financial shortfalls from the country's weakening economy; the safety and health of students and staff due to the pandemic; and racial and ethnic equity and justice. To address these challenges, the Council of the Great City Schools offers the following proposals and recommendations to the incoming administration. These proposals are centered around three main priorities: (a) short- and long-term financial investments to address immediate operational issues, instructional issues such as unfinished learning and learning loss, universal broadband and technology access, and infrastructure; (b) coordination of COVID-19 related assistance, programming, and regulatory relief to address health issues and economic challenges; and (c) programming and policies aimed at achieving progress in the nation's ongoing struggle to achieve greater equity.

## 5th COVID Relief Legislation:

- Appropriate the \$200 billion that national education groups recommended for K-12 schools, including Education Stabilization funds, emergency Title I and IDEA categorical funds, E-Rate funds, K-12 Infrastructure funds, and access for school districts and other state and local governments to the payroll tax credits already provided to private sector employers.
- Continue the CARES Act Title I-based equitable services methodology used in the original legislation.
- Follow up with Education Jobs legislation like the original 2010 \$10 billion Great Recession program with a 100 percent pass-through of funds to local school districts.
- Include a 55 percent hold-harmless provision for school meal reimbursements to underwrite ongoing fixed costs of school food service programs.
- Clarify that the Federal Emergency Management Agency (FEMA) is required to process and fund pending applications and reimburse the costs of personal protective equipment for schools beyond CARES funding.

## COVID Related Administrative Actions:

- Prioritize public school staff, students, and families for COVID-19 vaccines when they are available.
- Appoint a big-city school superintendent, and possibly leaders from other critical sectors, to the White House Coronavirus Task Force.
- Charge the White House Coronavirus Task Force with prioritizing the distribution of high-quality PPE equipment, testing kits, and contact tracing efforts to public schools and public-school personnel. Set up a SWAT team in the U.S. Department of Education, reporting to the new Secretary, to coordinate the distribution of COVID-19 equipment to schools.
- Review—and reissue for accuracy and completeness if necessary—all CDC guidance to schools issued over the last eight months.

## Ongoing Federal K-12-Related Assistance and Policies on Learning Loss, ESEA Testing and Accountability, and NAEP:

- Acknowledge that the unfinished learning from COVID-19 related to interrupted schooling will have multi-year implications and will be felt most significantly by schools and school districts with the largest numbers of poor students, students of color, English learners, and students with disabilities.
- Reestablish ESEA-required state testing once on-site assessments can be safely administered, including in spring 2021—if possible.
- Waive ESSA accountability requirements on spring 2021 state summative examinations while states and districts recalibrate general and subgroup goals, objectives, and indicators based on current performance levels. Consider creating or using alternative indicators that assess district ability to address unfinished learning.
- Authorize interim screening and diagnostic measures to guide remote, hybrid, and phased-in instructional activities and support services.
- Postpone through congressional action the National Assessment of Educational Progress (NAEP) until either 2022 or 2023, depending on testing conditions.

**Triple Annual ESEA Title I Funding:** The Council strongly supports the Biden K-12 plan to triple annual Title I funding to ensure learning loss is addressed in communities with high numbers and percentages of low-income students. Following the federal COVID-19 recovery efforts, utilize Title I as the primary mechanism for assisting school districts in targeted academic improvement activities for our most vulnerable students, while retaining critical program requirements of supplement-not-supplant, comparability, and maintenance of effort.

- Administratively waive the Title I carryover limit due to necessary pandemic-related adjustments in program services
- Provide local flexibility in grandfathering Title I school-level eligibility and rank-order allocation requirements due to inconsistent low-income data from household FRPL surveys and other measures of poverty, either administratively or by statute if necessary

**Pre-K School-Based Expanded Funding:** Move aggressively to universal pre-K programming. Also, establish early transitions for young children to school-based learning environments to improve the academic performance of children in high-poverty communities. Review and revise

as necessary existing federal preschool assistance programs to support early literacy initiatives, transitions of pre-kindergarten children to school-based programs, early childhood professional development, and high-quality instructional resources.

**Full Funding for IDEA over 10 years:** The Council strongly supports the long-promised full funding of the IDEA Part B program to optimize academic and support services for large segments of students with disabilities. Provide further clarification that students with disabilities will receive equitable access to services during COVID-related interrupted schooling comparable to the services provided for all students in the LEA during the national emergency. Authorize a local maintenance of effort waiver analogous to the current state maintenance of effort waiver for “exceptional or uncontrollable circumstances” [IDEA section 612(a)(18)] to provide flexibility in the allocation of school resources at the local level comparable to the existing state-level statutory flexibility.

**ESEA Title II Expanded Funding:** Following the immediate federal COVID recovery efforts, utilize ESEA Title II as the primary mechanism for assisting school districts in supporting staffing enhancements (including class size reductions), leadership and career ladder initiatives, recruitment of minority teachers and specialized staff, professional development, and augmented pay for high-need programs. Additionally, reestablishing the Education Jobs Program would provide a mechanism for expanded staff and pay for school employees.

**ESEA Title III Expanded Funding:** Increase Title III funding for English language learners to help mitigate learning loss and expand effective virtual instructional designs, clarify the use of multiple measures for program entry and exit, and continue to allow the use of provisional measures until traditional K-12 operations resume.

**ESEA Title IV Expanded Funding:** Utilize ESEA Title IV Part A as the primary mechanism to assist school districts in health, mental health and trauma, and school safety and security activities along with the coordination and expansion of wrap-around services and dual credit opportunities. Expand funding for the Community School program, community-college supports, and initiatives for incarcerated youth transitioning back to public schools. Also, simplify and facilitate school-based Medicaid reimbursements for medical/health services, including mental health services for eligible students.

**ESEA Title V Funding:** Increase funding for voluntary desegregation under the Title V Part D Magnet Schools Program and underscore the continuing “compelling governmental interest” in the use of race. Ensure that any

School Diversity Legislation does not undercut federal desegregation efforts. Add a severability provision to the ESEA general provisions in case future court decisions affect current precedents.

**Establish New 21st Century Civics and Social Justice Initiative:** Support new resources to augment school academic programs that address current social justice issues and updated Civics content on rights and responsibilities in American society, equal justice under law, and the proper functioning of fundamental constitutional principles and the nation's legal system.

**Teacher Loan Forgiveness:** Implement existing teacher loan forgiveness programs, including review of previously rejected applications and any statutory revisions, as necessary.

**Expand E-Rate Authority and Funding:** Expand the FCC E-Rate program's allowable uses to cover home internet connections and applicant cybersecurity activities administratively or by statute.

**Enact Federal School Infrastructure Legislation:** Provide substantial federal assistance to improve school facilities through grants and through tax subsidies analogous with the ARRA legislation. Allow uses of funds for technology, air and water quality, and other construction, renovation, repair, and site-acquisition and preparation costs.

**Expand National Broadband Infrastructure:** Include improvements to the national broadband infrastructure to cover urban dead spots and rural areas in any national infrastructure legislation.

**Reestablish DACA Extensions and New Applications:** Administratively reestablish DACA operations and codify DACA in statute.

**Review and Revise Selected Regulations, Guidance and Policy Issues with appropriate public comment:**

- Reopen and revise August 2020 Title IX regulations
- Reestablish prior joint Education and Justice Departments' school desegregation guidance
- Reopen and revise school discipline/disproportionality regulations
- Withdraw October 9th CARES Act private school equitable services guidance, as well as the 2019 Title I equitable services guidance and regulations allowing third-party, religiously affiliated contractors to deliver services in private schools
- Reopen and revise restrictions on categorical eligibility for SNAP benefits and limiting student school meal eligibility

➤ Reopen and repeal revisions to DHS public charge regulations

➤ Update ESEA Title III guidance to include provisional EL identification and use of multiple measures for the exiting of English Learners.

**School and Community Safety:** Reestablish an assault weapons ban, institute comprehensive background checks, establish federal reporting requirements and national data collection on gun-related violence, and require gun registration.

**Ensure No Direct and Indirect Federal Subsidies of Private Schools:** Oppose direct and indirect federal subsidy initiatives, including 529 plans, private K-12 schools or for-profit K-12 schools.

**Other Administrative Actions:** Finally, consider the following actions—

➤ Reinstigate the White House My Brother's Keeper Initiative or a similar program with like goals to improve life outcomes for Black and Latino boys and young men. Recommend adding a parallel program for Black and Latina girls and young women.

➤ Charge the U.S. Department of Education with publishing research on what works and does not work in on-line instruction and collect and disseminate best programmatic strategies from school districts across the nation.

Finally, the Council of the Great City Schools stands ready to recommend leaders with experience running large urban school districts, given their unique experience and expertise, to be considered as Secretary of Education.



**Contact**

**Michael Casserly**, Executive Director  
Council of the Great City Schools  
mcasserly@cgcgs.org | (202) 421-8578 (cell)

# Council of the Great City Schools

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School Committee Vice President,  
Boston Public Schools



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School Board Member, Fort Worth  
Independent School District



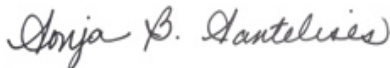
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Public Schools



**Eric Gordon**  
Immediate-Past Chair, and  
Chief Executive Officer, Cleveland  
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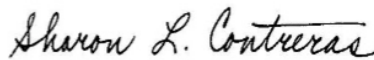
**Robert Runcie**  
Superintendent,  
Broward County Public Schools



**Michael Hinojosa**  
Superintendent,  
Dallas Independent School District



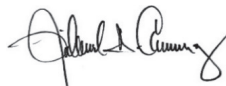
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Superintendent, Des Moines Public Schools



**Sharon Contreras**  
Superintendent,  
Guilford County Schools



**Kelly Gonez**  
School Board Member,  
Los Angeles Unified School District



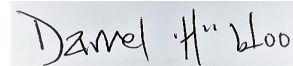
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New York City Department of Education



**William R. Hite, Jr.**  
Superintendent,  
School District of Philadelphia



**Guadalupe Guerrero**  
Superintendent, Portland (OR) Public Schools



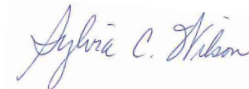
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School Board Member,  
Sacramento City Unified School District



**Siad Ali**  
School Board Member,  
Minneapolis Public Schools



**Marcia Andrews**  
School Board Member,  
School District of Palm Beach County



**Sylvia Wilson**  
School Board Member,  
Pittsburgh Public Schools



**Van White**  
School Board Member,  
Rochester City School District



**Michael Casserly**  
Executive Director  
Council of the Great City Schools

**LETTER TO PRESIDENT BIDEN**





**Council of the  
Great City Schools®  
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- Toronto
- Tulsa
- Washington, D.C.
- Washoe County
- Wichita

**Council of the Great City Schools®**

1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004  
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

January 22, 2021

The Honorable Joseph R. Biden Jr.  
President of the United States  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC

Dear President Biden:

Congratulations from the nation’s Great City Schools on your election and inauguration as America’s 46<sup>th</sup> President. Our urban public-school systems pledge their collaboration and resources in helping you meet your goals to reopen and improve the nation’s schools. We are writing to offer our help with two goals that are central to the success of your Administration: vaccinating some 100 million citizens within your first 100 days in office and reopening the nation’s schools within 100 days. We support both goals and are in a unique position to help you attain those twin objectives in ways that most others cannot.

Our organization, the Council of the Great City Schools, is composed of 76 of the nation’s largest urban public-school systems, including New York City, Los Angeles, and Chicago. Our members range geographically from Anchorage to Miami and from Boston to San Diego. And we serve the very communities you will need to work the hardest to engage. Approximately 81 percent of our students are African American or Hispanic, some 72 percent are poor, and about 20 percent are learning English. In other words, as large urban centers, we are located precisely where your goals of greater equity and access can best be met. Public schools are one of the most trusted institutions in our communities and can help shape confidence that the vaccines are safe and worthwhile. Given trepidation around the vaccine and past mistreatment of people of color by the medical system, this is a critical asset.

We were heartened to read the nationwide vaccination plan that you put out last week, but we think we can augment your strategy and accelerate the attainment of your goals by enlisting the nation’s big city public school systems. We have the following assets that we can enlist—

- Some 12,000 school buildings in every major city in the nation that could be utilized as vaccination sites, rather than relying on centralized sites or hospitals that are sparsely located. Our schools are in every corner of our communities, including our poorest communities, and they are often used now for COVID-19 testing purposes. Most of these facilities have all-purpose rooms that could be used for vaccinations, smaller rooms that could be used as observation sites for those just receiving their shots, and bathrooms for those having to wait in line.
- Tens of thousands of school buses and drivers that could be deployed to transport individuals to vaccination sites or that might be able to be retrofitted to serve as mobile vaccination facilities. We have been able to effectively use our very large transportation systems throughout the pandemic to deliver millions of meals to children and families. With adequate support, we might be able to add refrigeration units to some vehicles for those vaccines that can be stored at moderate temperatures.

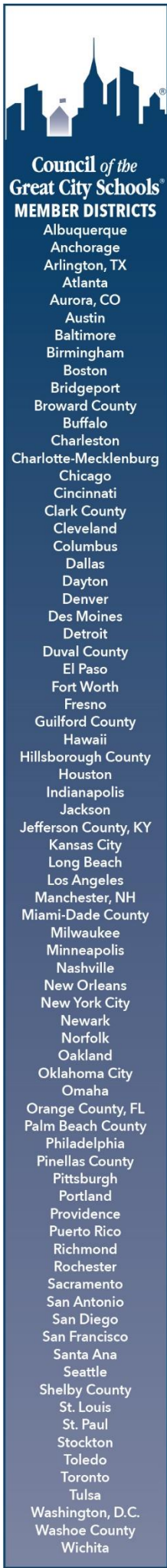
- Sophisticated communications systems that can reach out to tens of thousands of people at one time. These include robocalling capacity and PBS television and radio stations that many big city public school systems own and/or operate. These might be deployed to better inform the public about vaccination sites and dates.
- About ten thousand school nurses who, with some modest training from their local hospitals, could be enlisted to administer vaccines.
- Thousands of school custodians who could be used to prepare and clean vaccination sites; security staff who might be deployed to ensure safety; human resources staff who might be used to keep track of who is receiving the vaccinations, and information technology (IT) staff who might be used to create data bases or to coordinate with other local officials who have already developed tracking systems.

Many of our urban school systems have already taken the first steps to help. The Anchorage School District, for instance, is currently supporting the state's vaccine efforts by providing 1,000 vaccinations per day for Alaska healthcare workers and community members 65 and older. The Jefferson County (Louisville) Public Schools has developed a video for the community on what the vaccination process will look like. The Dallas Independent School District is working with Dallas County Health and Human Services, Parkland Hospital, and other community organizations to secure vaccines for staff. The Los Angeles Unified School District has sought permission from state and local authorities to vaccinate staff and community members. The Miami-Dade County Public Schools (M-DCPS) has partnered with Jackson Health System (JHS) to provide COVID-19 vaccines to all district employees age 65 and older. Many, many others are stepping forward and would like to be asked to volunteer.

We encourage you to build our big city schools and educators into your nationwide vaccination strategy and planning—not only as front-line workers who should have priority access to vaccines and other resources, but as partners in the work of getting students back into classrooms and citizens back to work. And we urge you and your excellent team to set some clear and realistic expectations for the work that lies ahead for the nation's schools, who would very much like to help you meet these critical national goals. We are confident that we can help you meet your critical goals of vaccinating 100 million people in your first 100 days and reopening our schools. Thank you for your consideration.

Sincerely,

**LETTER TO INCOMING EDUCATION SECRETARY**



# Council of the Great City Schools®

1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004  
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

January 6, 2021

Dear Mr. Secretary-designate Cardona:

Congratulations on your appointment by President-elect Joseph Biden to be our next U.S. Secretary of Education. We are very pleased that a public-school educator will be leading the nation's education efforts, and we will do everything we can to help you be successful.

We would like to ask if you would be willing to join a brief introductory ZOOM call with our leadership at your convenience sometime over the next couple of weeks. In addition, every Education Secretary has addressed our group at our annual spring Legislative Conference in Washington DC. We would be honored if you could continue this tradition and meet with us sometime during this convening on either March 21 or March 22 in Washington, DC—or virtually if we must remain remote.

By way of introduction, we are the officers and staff of the Council of the Great City Schools, the nation's primary coalition of large urban public school districts. Our board of directors is composed of the superintendent and one school-board member from each of 76 major city school systems nationwide, including Bridgeport, Connecticut.

Together, we educate over 8.2 million urban school children. Roughly 44 percent of these students are Hispanic, 26 percent are African American, 8 percent are Asian American or Pacific Islander, and 1 percent are Native American or Alaskan Native. In addition, 16 percent of our students are English learners, 14 percent are students with disabilities, and 71 percent are eligible for a free or reduced-price lunch.

Our goals as a coalition are to improve the educational outcomes of our students; bolster our governance, management, and operations; and to strengthen the public's confidence in public education. The nation's major urban school districts are working to deliver the highest quality education we can in the middle of the pandemic, to meet the needs of vulnerable and marginalized students, to feed our students and families, and provide the technology and internet access required to sustain teaching and learning during the current crisis and beyond. To this end, our urban school systems are recipients of multiple billions of dollars of federal aid, and we run the largest and most complex Title I, IDEA, Title II, and Title III programs in the country, along with huge federal meals and E-Rate programs. There is little that the federal government does—legislatively, administratively, or judicially—that does not affect us.

Supporting our most vulnerable students during this time and ensuring that we make up the instructional ground that has been lost should be the shared mission of public-school systems and the U.S. Department of Education, and we welcome our work together over the coming months and years.

We have prided ourselves over the decades in being a high-impact organization with strong bipartisan relations with the Secretary of Education and the President. In fact, two past members of our executive committee have themselves been named Secretary of Education—Arne Duncan (Chicago) and Rod Paige (Houston). We have served as critical friend, political and technical advisor, and conduit to the nation’s big-city school superintendents, school boards, and line officers. We have also developed a strong working relationship over the years with the Council of Chief State School Officers.

We look forward to establishing a strong relationship in short order with you as well. Congratulations again, and we look forward to working together to improve the educational outcomes for our nation’s youth. We are confident that our shared sense of urgency will lead to great results! Thank you for your consideration.

Sincerely,



Michael O’Neill  
School Committee  
Boston Public Schools  
And  
Chair, Council of the Great City Schools



Barbara Jenkins  
Superintendent  
Orange County (Orlando) Public Schools  
And  
Chair-elect, Council of the Great City Schools



Ashley Paz  
School Board  
Fort Worth Independent School District  
And  
Secretary-Treasurer, Council of the Great City Schools



Eric Gordon  
Chief Executive Officer  
Cleveland Municipal School District  
And  
Immediate-Past Chair, Council of the Great City Schools



Michael Casserly  
Executive Director  
Council of the Great City Schools

## **APPROPRIATIONS**

**Final FY 2021 Funding Levels for Federal Education Programs:  
School Year 2021-22 (in thousands)**

<b>Federal Education Program</b>	<b>FY 2020 Final</b>	<b>FY 2021 Trump Budget</b>	<b>FY 2021 Final</b>	<b>Difference</b>
<i>Proposed: K-12 Block Grant *</i>	<i>NA</i>	<i>19,363,430</i>	<i>0</i>	<i>NA</i>
Title I - Grants to LEAs	16,309,802	0*	16,536,802	227,000
Migrant Education	374,751	0*	375,651	900
Neglected and delinquent	47,614	0*	48,214	600
Homeless children and youth	101,500	0*	106,500	5,000
Impact Aid	1,486,112	1,410,799	1,501,112	15,000
Comprehensive Literacy Dev. Grant	192,000	0*	192,000	0
Title IV - Support & Academic Grant	1,210,000	0*	1,220,000	10,000
State assessments	378,000	369,100	378,000	0
Rural education	185,840	0*	187,840	2,000
Education for Native Hawaiians	36,897	0*	37,397	500
Alaska Native Education Equity	35,953	0*	36,453	500
Promise Neighborhoods	80,000	0*	81,000	1,000
21st century learning centers	1,249,673	0*	1,259,673	10,000
Indian Education	180,739	180,739	181,239	500
Education Innovation and Research	190,000	0*	194,000	4,000
Title II - Effective Instruction	2,131,830	0*	2,142,830	11,000
Teacher quality partnership (HEA)	50,092	0*	52,092	2,000
Teacher and Leader Incentive Fund	200,000	0*	200,000	0
Charter schools grants	440,000	0*	440,000	0
Magnet schools assistance	107,000	0*	109,000	2,000
English Language Acquisition	787,400	0*	797,400	10,000
IDEA - Part B	12,764,392	12,864,392	12,937,392	173,000
IDEA Preschool	394,120	394,120	397,120	3,000
IDEA Infants and Families	477,000	477,000	482,000	5,000
Perkins CTE	1,282,598	1,962,598	1,334,598	52,000
Adult Education	670,667	670,667	688,667	18,000
GEAR UP	365,000	0	368,000	3,000
Research, dev., and dissemination	195,877	195,877	197,877	2,000
Statistics	110,500	113,500	111,500	1,000
Regional educational laboratories	56,022	0	57,022	1,000
National assessment (NAEP)	153,000	181,000	165,000	12,000
National Assessment Governing Board	7,745	7,745	7,745	0
Statewide data systems	33,000	0	33,500	500
<b>Department of Education Discretionary Appropriations total</b>	<b>72,701,214</b>	<b>66,560,692</b>	<b>73,037,000</b>	<b>335,786</b>

Funding Cuts in RED | Funding Increases in GREEN

\* Program funding is included in the Administration's proposed K-12 Block Grant

**COVID RELIEF BILLS**



**With COVID-19 Worsening, Schools Need Federal Aid Now More Than Ever**  
*National Organizations Call on Congress to Invest in Schools During Lame Duck*

November 16, 2020

**Organizations representing state and local officials, education leaders and other educators released the following statement regarding federal COVID-19 relief for educators:**

“As the U.S. breaks domestic and international records for new COVID-19 cases each day, schools continue to deliver education in virtual and in-person settings. States and school districts are expending significant resources to protect students and educators as state and local revenues continue to decline precipitously.

School districts are working diligently to re-open and stay open for in-person instruction where public health guidelines allow. Parents continue to sacrifice as they balance providing for their families and helping their children learn from home.

Educators continue to strive to deliver a high-quality education to students across all grades. They are putting their health at risk to reach students who cannot learn in an online setting. Meanwhile, declines in state and local revenues that are outpacing the Great Recession a decade ago, have made educator job loss among the hardest-hit sectors during the COVID-fueled economic crisis.

Yet, despite the sacrifices of schools, parents, and educators, Congress continues to fail to reach an agreement to help.

It has been seven months since Congress passed a stop-gap solution for education funding in the CARES Act. In letters sent in early April, late April, June, July and October, our organizations implored Congress to help students and educators through additional COVID-19 relief for education. Congress has yet to deliver.

Even when additional aid is passed for schools, it will take weeks for funding to reach school districts. Every day and week that Congress continues to delay passage means multi-week delays for schools to receive funding and relief. Investments are urgently needed to meet the growing academic and social-emotional needs of students, and to ensure the nation’s economic recovery and future competitiveness.

At a time when the nation agrees on very little, everyone agrees on the importance of ensuring all of our students have what they need to learn during this pandemic, and helping schools open— and stay open—safely for staff and students. This important work is dependent upon federal support. Congress must act now to provide aid to states and schools during the lame duck period. Educators, students and communities cannot wait any longer.”

Supporting Groups

AASA, The School Superintendents Association  
American Federation of School Administrators  
American Federation of Teachers  
Association of Educational Service Agencies  
Association of School Business Officials, International  
Council of Administrators of Special Education  
Council of Chief State School Officers  
Council of Great City Schools  
National Association of Elementary School Principals

National Association of School Psychologists  
National Association of Secondary School Principals  
National Association of State Boards of Education  
National Assoc. of State Directors of Special Education  
National Education Association  
National PTA  
National Rural Education Advocacy Consortium  
National Rural Education Association  
National School Boards Association

## Key Provisions of the Year-End COVID Relief and Consolidated Appropriations Bill (H.R. 133)

*December 21, 2020*

The legislative language for the latest Congressional coronavirus compromise relief bill was released in conjunction with the FY 2021 consolidated appropriations (H.R. 133) and passed quickly by the House and Senate. \$82 billion in education funding has been maintained in the final recovery package with \$54 billion for K-12 schools. No liability protection for business or other entities has been included in the bill, nor any direct general aid for state and local governments, although the deadline for States to spend their CARES Act Coronavirus Relief Fund (CRF) grants is extended through 2021. \$429 billion of unexpended CARES Act funds are reallocated from the Treasury Department and \$138 billion of unexpended Paycheck Protection Program funds are also repurposed as part of the \$900 billion year-end relief measure. The Biden Administration is expected to request additional stimulus funding in 2021.

### **K-12 Highlights:**

- \$54 billion for Elementary and Secondary Education (with no private school equitable services requirements) and \$22 billion for higher education; school districts can expect roughly about 4X the amount they received under the CARES Act
- \$4.1 billion for the Governor's Emergency Education Relief Fund (with \$2.75 billion designated for nonpublic schools including prohibitions on use for vouchers or tuition scholarship programs as well as requirements for secular use and public agency control of funds)
- 55% coverage of "lost" school meals revenue based on the prior year's monthly revenue from 2019 (minus the covered month's reimbursements) for April through June 2020 and half of March 2020
- \$10 billion for childcare and \$250 million for Head Start
- FCC funding will reimburse internet service providers for home internet discounts for low-income households, but does not provide school districts with E-Rate funding for student connectivity and distance learning

## **Summary of Emergency Coronavirus Relief**

### **Education Stabilization Fund**

\$82 billion in education recovery funding is included in the final stimulus package of which \$54 billion is dedicated to K-12 schools, \$22 billion for higher education, and \$4.1 billion for the Governor's Fund.

**Governor's Emergency Education Relief Fund:** \$4.1 billion, which comprises 5% of the Education Stabilization Fund and would be allocated by the Secretary within 30 days of bill enactment based on the state's relative age 5 to 24 population (60%) and the state's relative number of ESEA Title I formula students (40%). The Governor's Funds may be used for emergency support of K-12 schools, higher education institutions including community colleges and adult, career, job training and technical programs, childcare and early childhood programs, and other education entities deemed to be essential for emergency education services, social and emotional support services, and job-protection services.

\$2.75 billion of the \$4.1 billion in the Governor’s Emergency Education Fund is authorized for Emergency Assistance to Nonpublic Schools to be administered by each state education agency. The allotment to the State for “services or assistance” to nonpublic schools is based on the relative number of school-age students below 185% of poverty enrolled in nonpublic schools. States must prioritize services or assistance to nonpublic schools that enroll low-income students and are the most impacted by the emergency. Funds for services or assistance related to the emergency may be used for: supplies for sanitation and cleaning; personal protective equipment; improved ventilation including windows or portable purification systems; training for staff in health protocols; physical barriers for social distancing; materials and supplies to implement public health protocols and guidelines; expanding capacity for testing, tracing and support services; educational technology to assist with remote and hybrid learning; redeveloping instructional plans including curriculum development for remote or hybrid learning and learning loss; leasing space for social distancing and following public health guidelines; reasonable transportation costs; maintaining education and support services or assistance for remote learning, hybrid learning, or learning loss; and reimbursement for authorized expenses incurred after emergency declaration (with limited exceptions). It is important to note that public control and supervision of funds for nonpublic school services or assistance is required to be provided by employees of a public agency, or through contract(s) by a public agency with an individual, association, agency, or organization that is independent of the nonpublic school. Services or assistance must be secular, neutral, and nonideological. Funds may not be used directly or indirectly for scholarship granting organizations, vouchers, tax credits, education savings accounts, etc. Nonpublic schools receiving services or assistance under the Governor’s Fund must assure and document that they have not applied for or received a “Second Draw” loan under the Paycheck Protection Program (PPP).

**Elementary and Secondary School Emergency Relief Fund:** \$54 billion, which comprises 67% of the Education Stabilization Fund and is allocated by the Secretary within 30 days of enactment based on the state’s relative proportion of the Title I Part A funding. Not less than 90% of the state allocation must be subgranted to school districts based on their relative share of Title I Part A funds in the most recent fiscal year. Funds may be used for any authorized activity under ESEA, IDEA, Perkins, Adult Education, or McKinney-Vento programs as well as for other authorized expenditures similar to those allowable under the CARES Act. The bill further expands on the use of funds for school repair and improvements to reduce risks of viral transmission, environment health hazards, and for student health needs. Maintenance, replacement, and upgrading indoor air quality systems is also expressly authorized. In an analogous provision to the CARES Act, continuing payments for employees and contractors is required “to the greatest extent practicable” for Education Stabilization Fund recipients. The state may reserve ½% for administration and use the remainder for emergency needs as determined by the state. The state is required to meet a maintenance of effort level for K-12 and higher education state funding support for FY22 at least for the average of fiscal years 2017, 2018, and 2019.

**Higher Education Emergency Relief Fund:** \$22 billion, which comprises 28% of the Education Stabilization Fund and is allocated by the Secretary primarily based on several formula calculations derived from Pell Grant allotments to higher education institutions. Student loan repayment forbearance in higher education not included in the bill but may be extended administratively by the Education Department.

### Other Education Related Assistance

- \$10 billion is provided for childcare and \$250 million for Head Start.
- No funding from the FCC is provided for school districts under the E-Rate program, although the FCC is authorized to make \$3 billion in payments to internet providers to subsidize internet services in low-income households.

### School Meals and Nutrition Assistance

A new USDA “Emergency Operational Cost Reimbursement Program” for CACFP and School Meal Programs is authorized, covering 55% of the program’s lost operational costs (calculated from the prior year’s monthly reimbursement minus the actual monthly reimbursements received) for the April through June 2020 and half of March 2020. USDA guidance for state applications is required within 30 days of enactment and the State must apply within 30 days. State administrative costs are limited to not more than 1%. This reimbursement will help to underwrite a portion of the financial shortfall experienced by school meal programs during the pandemic.

Multiple relief provisions increase funding for a variety of other federal nutrition programs. A 15% increase for SNAP payments anchors the USDA nutrition provisions. Funding is also provided for food banks, commodities, and senior nutrition services. The pandemic electronic benefits transfer program (P-EBT) is expanded to cover children under age 6 whose families are SNAP eligible and whose education or childcare programs are closed or operating with reduced hours.

### Health Assistance

\$23 billion is provided for vaccine development, therapeutics, and distribution, as well as \$8 billion for CDC support of public health systems. \$22 billion is provided for testing and tracing for state and local governments, including 10% for high-risk communities. Additional funds for various NIH programs are also provided including research, procurement, substance abuse, mental health, and personnel development. \$3 billion for healthcare providers is also included with 85% for a Healthcare Provider Relief Fund. The CDC’s eviction moratorium is extended through January 2021, although the Biden Administration may further extend the moratorium administratively. The pandemic emergency sick, family, and medical leave authorized under the Families First Coronavirus Relief Act in March apparently has not been extended, although tax credits remain available for business entities as if the mandate had been extended.

### Paycheck Protection Program and Business Assistance Programs

\$325 billion is directed to small business relief and recovery including another \$284 billion of the Paycheck Protection Program (PPP) “Second Draw” loans and loan forgiveness for small borrowers. There are new eligibility limits, forgiveness restrictions, and new allowable expenditures. Other small business development programs, minority investment programs, and community bank supports are provided. \$15 billion is provided for entertainment venues. \$45 billion is provided for targeted emergency transportation assistance for airlines, airports, buses and public transit, and Amtrak, of which \$2 billion is available for motorcoach and bus operators including school bus companies.

### Unemployment Compensation Extensions

The bill extends the expanded unemployment compensation payments from their end in December 2020 for 11 weeks. This would include both the pandemic unemployment assistance program (PUA) and the pandemic emergency unemployment compensation program (PEUC) at \$300 per week.

### Individual Relief Payments

The compromise bill includes \$600 payments for individuals and their dependents at a cost of \$166 billion. The payments phase-out for higher income individuals.

### **FY2021 Education Appropriations**

The consolidated FY 2021 appropriations bill has been packaged together with the year-end COVID assistance provisions. The appropriations track the two-year Bipartisan Budget Agreement from August 2019 which provides only small increases in defense and nondefense annual appropriations. The FY21 education appropriations provide federal funding for K-12 education programs in the upcoming school year 21-22 (with few exceptions). Overall, the Education Department receives a meager increase of 1.1% for FY21. While most federal education programs for FY21 remain static or receive exceedingly small increases in the new bill, the ESEA Title I program receives a \$227 million increase and the IDEA Part B formula grant program receives a \$173 million increase – neither keeping pace with inflation. Perkins CTE grants increase by \$52 million. And Head Start receives a \$135 million increase.

Please let us know if you have questions on this year-end legislation. There are innumerable provisions in the 5000+ page bill that are not addressed in this summary.

**FACT SHEET**  
**ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND II**  
**CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT, 2021**

This chart outlines the primary differences between the Elementary and Secondary School Emergency Relief (ESSER) Fund under the Coronavirus Aid, Relief, and Economic Security (CARES) Act enacted on March 27, 2020, and the ESSER II Fund under the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021, Public Law 116-260, enacted on December 27, 2020.

<b>Topic</b>	<b>ESSER Fund (CARES Act)</b>	<b>ESSER II Fund (CRRSA Act)</b>
Authorizing Legislation	Section 18003 of Division B of the Coronavirus Aid, Relief, and Economic Security (CARES) Act	Section 313 of the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, 2021
Period of Funds Availability	May be used for pre-award costs dating back to March 13, 2020, when the national emergency was declared.  Available for obligation by State educational agencies (SEAs) and subrecipients through September 30, 2022.	Same as ESSER Fund (CARES Act): May be used for pre-award costs dating back to March 13, 2020, when the national emergency was declared.  Available for obligation by SEAs and subrecipients through September 30, 2023.
SEA Deadline for Awarding Funds	SEA must award the funds within one year of receiving them, which will be April through June 2021, depending on an SEA's award date.	SEA must award the funds within one year of receiving them, which will be January 2022.
Definition of "Awarded"	For the 90 percent of funds for local educational agencies (LEAs), funds are generally considered "awarded" when the SEA subgrants the funds to an LEA.  For the SEA reserve (see section 18003(e) of the CARES Act), funds are "awarded" when the SEA awards a contract or subgrant, or when it retains funds to provide direct services.	Same as ESSER Fund (CARES Act): For the 90 percent of funds for LEAs, funds are generally considered "awarded" when the SEA subgrants the funds to an LEA.  For the SEA reserve (see section 313(e) of the CRRSA Act), funds are "awarded" when the SEA awards a contract or subgrant, or when it retains funds to provide direct services.
Uses of Funds	The CARES Act includes allowable uses of funds related to preventing, preparing for, and responding to COVID-19.  Note that the "additional" LEA allowable uses of funds under the CRRSA Act already were permitted under the CARES Act.	Same as ESSER Fund (CARES Act): Note that the "additional" LEA allowable uses of funds under the CRRSA Act (addressing learning loss, preparing schools for reopening, and testing, repairing, and upgrading projects to improve air quality in school buildings) already are permitted under the CARES Act.
Equitable Services	An LEA that receives ESSER funds under the CARES Act (Section 18005) must provide equitable services to non-public school	The CRRSA Act includes a separate program of Emergency Assistance for Non-Public Schools for which eligible non-public

Topic	ESSER Fund (CARES Act)	ESSER II Fund (CRRSA Act)
	students and teachers in the same manner as provided under section 1117 of Title I, Part A of the ESEA.	schools may apply to an SEA to receive services or assistance. Consequently, LEAs are not required to provide equitable services under ESSER II.
Maintenance of Effort (MOE)	Under the CARES Act, a State that receives ESSER funds must maintain support for elementary and secondary education and State support for higher education in each of fiscal years (FY) 2020 and 2021 at least at the level of such support that is the average of the support for elementary and secondary education and higher education provided in the three fiscal years preceding the date of enactment of the CARES Act (FYs 2017, 2018, 2019).	Under the CRRSA Act, a State that receives ESSER II funds must maintain support for elementary and secondary education and higher education in FY 2022 based on the proportional share of the State’s support for elementary and secondary education and higher education relative to the State’s overall spending averaged over FYs 2017, 2018, and 2019.
Reporting	Under the CARES Act, each SEA that receives ESSER funds must meet the reporting requirements of section 15011 of the CARES Act, which are satisfied through the Federal Funding Accountability and Transparency Act (FFATA) reporting, and other reporting as the Secretary may require (Annual Reporting).	Under the CRRSA Act, each SEA that receives ESSER II funds must meet the CARES Act reporting requirements that apply to ESSER funds and submit a report to the Secretary within six months of award that contains a detailed accounting of the use of ESSER II funds, that includes how the State is using funds to measure and address learning loss among students disproportionately affected by the coronavirus and school closures, including: low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and children and youth in foster care.
Tracking of Funds	ESSER funds must be tracked separately from ESSER II funds.	ESSER II funds must be tracked separately from ESSER funds.

## Estimating CGCS Allocations Under ESSER II

STATE	Your LEA's Title I Allocation - 2020-21 School Year*	State Title I - 2020-21 School Year	LEA Share of State Title I	State ESSER II Total	State ESSER II - 90% Available for LEAs
ALABAMA		266,627,990	0.00%	899,464,932	809,518,439
ALASKA		47,422,202	0.00%	159,719,422	143,747,480
ARIZONA		345,803,861	0.00%	1,149,715,947	1,034,744,352
ARKANSAS		166,871,094	0.00%	558,017,409	502,215,668
CALIFORNIA		1,997,324,847	0.00%	6,709,633,866	6,038,670,479
COLORADO		153,689,821	0.00%	519,324,311	467,391,880
CONNECTICUT		144,530,319	0.00%	492,426,458	443,183,812
DELAWARE		54,529,983	0.00%	182,885,104	164,596,594
DISTRICT OF COLUMBIA		50,469,315	0.00%	172,013,174	154,811,857
FLORIDA		920,949,977	0.00%	3,133,878,723	2,820,490,851
GEORGIA		557,816,518	0.00%	1,892,092,618	1,702,883,356
HAWAII		54,184,472	0.00%	183,595,211	165,235,690
IDAHO		58,907,462	0.00%	195,890,413	176,301,372
ILLINOIS		668,210,980	0.00%	2,250,804,891	2,025,724,402
INDIANA		263,698,594	0.00%	888,183,537	799,365,183
IOWA		102,444,791	0.00%	344,864,294	310,377,865
KANSAS		109,281,217	0.00%	369,829,794	332,846,815
KENTUCKY		272,207,970	0.00%	928,274,720	835,447,248
LOUISIANA		344,703,850	0.00%	1,160,119,378	1,044,107,440
MAINE		55,318,472	0.00%	183,138,601	164,824,741
MARYLAND		253,988,459	0.00%	868,771,243	781,894,119
MASSACHUSETTS		242,991,073	0.00%	814,890,396	733,401,356
MICHIGAN		492,431,421	0.00%	1,656,308,286	1,490,677,457
MINNESOTA		174,600,577	0.00%	588,036,257	529,232,631
MISSISSIPPI		215,747,658	0.00%	724,532,847	652,079,562
MISSOURI		259,608,789	0.00%	871,172,291	784,055,062
MONTANA		50,504,135	0.00%	170,099,465	153,089,519
NEBRASKA		74,442,680	0.00%	243,073,530	218,766,177
NEVADA		139,244,964	0.00%	477,322,438	429,590,194



NEW HAMPSHIRE		46,337,409	0.00%	156,065,807	140,459,226
NEW JERSEY		368,431,755	0.00%	1,230,971,757	1,107,874,581
NEW MEXICO		130,745,187	0.00%	435,938,638	392,344,774
NEW YORK		1,196,038,769	0.00%	4,002,381,738	3,602,143,564
NORTH CAROLINA		476,487,314	0.00%	1,602,590,987	1,442,331,888
NORTH DAKOTA		40,357,234	0.00%	135,924,393	122,331,954
OHIO		593,748,975	0.00%	1,991,251,095	1,792,125,986
OKLAHOMA		199,914,390	0.00%	665,038,753	598,534,878
OREGON		150,327,702	0.00%	499,153,891	449,238,502
PENNSYLVANIA		662,524,546	0.00%	2,224,964,030	2,002,467,627
PUERTO RICO		391,343,301	0.00%	1,320,626,161	1,188,563,545
RHODE ISLAND		55,156,584	0.00%	184,791,567	166,312,410
SOUTH CAROLINA		276,489,982	0.00%	940,420,782	846,378,704
SOUTH DAKOTA		50,504,135	0.00%	170,099,465	153,089,519
TENNESSEE		328,541,302	0.00%	1,107,656,022	996,890,420
TEXAS		1,625,608,275	0.00%	5,529,552,209	4,976,596,988
UTAH		82,296,493	0.00%	274,071,684	246,664,516
VERMONT		37,699,588	0.00%	126,973,363	114,276,027
VIRGINIA		277,072,567	0.00%	939,280,578	845,352,520
WASHINGTON		250,340,359	0.00%	824,852,290	742,367,061
WEST VIRGINIA		101,239,474	0.00%	339,032,096	305,128,886
WISCONSIN		205,539,017	0.00%	686,056,238	617,450,614
WYOMING		40,151,329	0.00%	135,230,900	121,707,810

\* This amount should be the total Title I allocation the LEA received from the State PRIOR to an Equitable Services set-aside for non-pub the CARES Act, there is no Equitable Services set-aside from the LEA ESSER II allocation.





## Elementary and Secondary School Emergency Relief Fund (ESSER II)

**Authorized by the Coronavirus Response and Relief Supplemental Appropriations Act, 2021**

### Methodology for Calculating Allocations

Section 311(b) of the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA) Act, 2021 ) requires the U.S. Department of Education (Department), after reserving 1 percent of the \$81.88 billion appropriated for the Education Stabilization Fund for the Outlying Areas (1/2 of 1 percent) and the Bureau of Indian Education at the Department of the Interior (1/2 of 1 percent), to reserve 67 percent of remaining funds, or \$54,311,004,000, for the Elementary and Secondary School Emergency Relief Fund (ESSER II Fund) authorized under section 313 of the CRRSA Act.

Section 313(b) of the CRRSA Act requires the Department to allocate the ESSER II Fund based on the proportion that each State received under Title I, Part A of the Elementary and Secondary Education Act of 1965 (ESEA) in the most recent fiscal year. However, section 1122(c)(3) of the ESEA prohibits the Department from considering the Title I, Part A hold harmless provisions in ESEA section 1122 in calculating State or local allocations for any other program administered by the Secretary, including the ESSER II Fund. Therefore, to determine the ESSER II Fund allocations, the Department used the fiscal year 2020 State shares of Title I, Part A allocations without the application of the hold harmless provisions in ESEA section 1122.

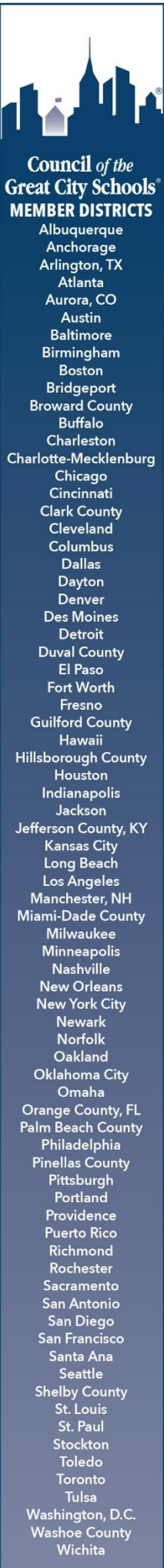
		Minimum local educational agency (LEA) Distribution <sup>1</sup>	Maximum State educational agency (SEA) Reservation <sup>1</sup>	Maximum for SEA Administration <sup>1,2</sup>
-	-			
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<b>TOTAL</b>	<b>54,311,004,000</b>	<b>48,879,903,600</b>	<b>5,431,100,400</b>	<b>271,555,020</b>
ALABAMA	899,464,932	809,518,439	89,946,493	4,497,325
ALASKA	159,719,422	143,747,480	15,971,942	798,597
ARIZONA	1,149,715,947	1,034,744,352	114,971,595	5,748,580
ARKANSAS	558,017,409	502,215,668	55,801,741	2,790,087
CALIFORNIA	6,709,633,866	6,038,670,479	670,963,387	33,548,169
COLORADO	519,324,311	467,391,880	51,932,431	2,596,622
CONNECTICUT	492,426,458	443,183,812	49,242,646	2,462,132
DELAWARE	182,885,104	164,596,594	18,288,510	914,426
DISTRICT OF COLUMBIA	172,013,174	154,811,857	17,201,317	860,066
FLORIDA	3,133,878,723	2,820,490,851	313,387,872	15,669,394
GEORGIA	1,892,092,618	1,702,883,356	189,209,262	9,460,463
HAWAII	183,595,211	165,235,690	18,359,521	917,976
IDAHO	195,890,413	176,301,372	19,589,041	979,452
ILLINOIS	2,250,804,891	2,025,724,402	225,080,489	11,254,024
INDIANA	888,183,537	799,365,183	88,818,354	4,440,918
IOWA	344,864,294	310,377,865	34,486,429	1,724,321
KANSAS	369,829,794	332,846,815	36,982,979	1,849,149
KENTUCKY	928,274,720	835,447,248	92,827,472	4,641,374
LOUISIANA	1,160,119,378	1,044,107,440	116,011,938	5,800,597
MAINE	183,138,601	164,824,741	18,313,860	915,693
MARYLAND	868,771,243	781,894,119	86,877,124	4,343,856

		Minimum local educational agency (LEA) Distribution <sup>1</sup>	Maximum State educational agency (SEA) Reservation <sup>1</sup>	Maximum for SEA Administration <sup>1,2</sup>
<b>TOTAL</b>	<b>54,311,004,000</b>	<b>48,879,903,600</b>	<b>5,431,100,400</b>	<b>271,555,020</b>
MASSACHUSETTS	814,890,396	733,401,356	81,489,040	4,074,452
MICHIGAN	1,656,308,286	1,490,677,457	165,630,829	8,281,541
MINNESOTA	588,036,257	529,232,631	58,803,626	2,940,181
MISSISSIPPI	724,532,847	652,079,562	72,453,285	3,622,664
MISSOURI	871,172,291	784,055,062	87,117,229	4,355,861
MONTANA	170,099,465	153,089,519	17,009,947	850,497
NEBRASKA	243,073,530	218,766,177	24,307,353	1,215,368
NEVADA	477,322,438	429,590,194	47,732,244	2,386,612
NEW HAMPSHIRE	156,065,807	140,459,226	15,606,581	780,329
NEW JERSEY	1,230,971,757	1,107,874,581	123,097,176	6,154,859
NEW MEXICO	435,938,638	392,344,774	43,593,864	2,179,693
NEW YORK	4,002,381,738	3,602,143,564	400,238,174	20,011,909
NORTH CAROLINA	1,602,590,987	1,442,331,888	160,259,099	8,012,955
NORTH DAKOTA	135,924,393	122,331,954	13,592,439	679,622
OHIO	1,991,251,095	1,792,125,986	199,125,110	9,956,255
OKLAHOMA	665,038,753	598,534,878	66,503,875	3,325,194
OREGON	499,153,891	449,238,502	49,915,389	2,495,769
PENNSYLVANIA	2,224,964,030	2,002,467,627	222,496,403	11,124,820
PUERTO RICO	1,320,626,161	1,188,563,545	132,062,616	6,603,131
RHODE ISLAND	184,791,567	166,312,410	18,479,157	923,958
SOUTH CAROLINA	940,420,782	846,378,704	94,042,078	4,702,104
SOUTH DAKOTA	170,099,465	153,089,519	17,009,947	850,497
TENNESSEE	1,107,656,022	996,890,420	110,765,602	5,538,280
TEXAS	5,529,552,209	4,976,596,988	552,955,221	27,647,761
UTAH	274,071,684	246,664,516	27,407,168	1,370,358
VERMONT	126,973,363	114,276,027	12,697,336	634,867
VIRGINIA	939,280,578	845,352,520	93,928,058	4,696,403
WASHINGTON	824,852,290	742,367,061	82,485,229	4,124,261
WEST VIRGINIA	339,032,096	305,128,886	33,903,210	1,695,160
WISCONSIN	686,056,238	617,450,614	68,605,624	3,430,281
WYOMING	135,230,900	121,707,810	13,523,090	676,155

<sup>1</sup> The totals in the Minimum LEA Distribution, Maximum SEA Reservation, and Maximum for SEA Administration columns have been rounded to the nearest whole dollar. The Minimum LEA Distribution and Maximum SEA Reservation amounts assume the SEA subgrants the minimum required amount of 90 percent of its ESSER II award to its LEAs.

<sup>2</sup> The SEA may reserve up to an amount equal to ½ of 1 percent of the total allocation for administrative costs, which must come from the SEA Reservation.

## **SCHOOL MEALS**



**Council of the Great City Schools®**

1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004  
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

December 16, 2020

**FNS 2020-0038: Comments on NPRM for Restoration of Milk, Whole Grains, and Sodium Flexibilities**

**RIN 0084-AE81**

U.S. Department of Agriculture  
Food and Nutrition Service  
School Programs Branch  
Policy and Program Development Division  
1320 Braddock Place, 4<sup>th</sup> Floor  
Alexandria, Virginia 22314

[Attention: Tina Namian or Shawn Martin]

The Council of the Great City Schools, the coalition of the nation’s largest central city school districts, submits the following comments in support of the November 25, 2020 Notice of Proposed Rulemaking (NPRM) providing for flexibility to serve low-fat flavored milk, 50 percent whole grain-rich products, and to modify the excessive sodium restrictions from the 2012 regulations. The Council similarly supported the 2017 Interim Final Rule and the 2018 Final Rule, as well as recommended similar flexibilities in our original April 2011 comments to the Department of Agriculture. The Council reiterates here our prior comments in support of this new proposed rule.

**Regulatory Process:** The Council traditionally has been wary of “end-of-term” regulatory revisions. Nonetheless, the regulatory positions of the Great City Schools remain consistent from administration to administration and do not vary based on time of year. More importantly, the Council consistently opposes the overregulation of school-meal programs that this proposed rule seeks to correct. And, though the Council would have preferred more expeditious regulatory action in late 2019 to remedy the procedural issues cited by a federal district court, we note that the current pandemic-related school-meal waivers authorized by Congress and implemented by the Department already allow for more extensive program flexibilities in school year 2020-2021 than would be codified under this proposed rule.

**Continuing Misleading Assertions:** The Great City Schools again notes the assertions of harm to student health by advocacy groups in opposition to these three minor areas of school-meal regulatory flexibility, including thousands of boilerplate comments over the years that are overblown, impractical, and counterproductive to providing palatable and appealing meals for millions of school children every day. The Council finds nothing in the proposed regulations allowing low-fat, flavored milk, 50 percent grain-rich products, and maintaining existing sodium requirements (that have been in place for many years) that suggest harm to the health of students.

Reasonable Flexibility: The Great City Schools have notably opposed allowing junk food in our school-meal programs and continue to support virtually all the nutrition standards for school meals with the notable exception of unrealistic sodium targets. There is little justification for imposing on healthy school children the sodium restrictions equivalent to the diet of a cardiac patient. And while quality whole grain products are more available in 2020 than in 2012, many of the available products remain unappealing to students and negatively affect program participation, consumption, and plate waste. Further, offering low-fat, flavored milk provides an inviting incentive for students to participate in school meal programs. These very reasonable regulatory revisions contained in the proposed rule provide a better balance between prescriptiveness and flexibility.

Context: Ever since the passage of the Healthy and Hunger-Free Kids Act (HHFKA), the Council has repeatedly highlighted the overly prescriptive, costly, and unnecessary regulatory requirements imposed on the National School Lunch Program (NSLP) and the School Breakfast Program (SBP). The HHFKA regulations add over \$1 billion in annual unreimbursed costs to school meals and complicate the ability of school nutritionists and food service staff to provide attractive food options for students.

The pandemic and associated forced closure of the nation’s public schools has underscored the critical role of school food service programs in the lives of millions of students. Yet, school meal programs are in operational and financial crisis. Federal reimbursements are not covering program costs; labor-intensive grab-and-go meals strain operational capacity; front-line staff are often more at risk than other school staff; and program participation rates remain low. It is likely to take years for school meal programs to recover from this financial crisis and achieve program sustainability. While recent program waivers have helped in maintaining grab-and-go site operations, delivery options, ever-changing schedules, and hybrid and other school configurations, these short-term flexibilities have highlighted the need for less rigid federally imposed program requirements, including the three minor areas of flexibility proposed in the November 25<sup>th</sup> NPRM. Further relief from federal regulatory micromanagement of school food programs, particularly for meal pattern flexibility, is still warranted.

School food service programs have stepped up to fulfill an essential role in helping mitigate the hunger and economic crisis facing so many communities during this pandemic – in the same manner as school-based food programs have done locally in so many previous natural disasters. It is beyond time for federal policymakers to stop micromanaging local school meal programs and start allowing our front-line nutrition, management, and service staff to meet their students’ multiple meal needs in an appealing, efficient, cost-effective, and localized manner. The Council of the Great City Schools supports finalizing these proposed regulatory revisions expeditiously.

Please let us know if there are questions regarding these comments at [mcasserly@cgcs.org](mailto:mcasserly@cgcs.org).

Sincerely,



Michael Casserly  
Executive Director