The Washington Post Democracy Dies in Darkness

Biden administration proposes tougher rules for charter school grants

By Laura Meckler

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Charter schools looking for federal start-up grants would face stricter requirements under new rules proposed by the Biden administration.

As a presidential candidate, Joe Biden proposed eliminating federal funding to support for-profit charter schools, and the proposed new rules go a long way to fulfilling that vow.

At the same time, the spending bill that cleared Congress this month keeps overall funding for the charter school program level at $440 million, as Biden requested in his budget. Grants are typically about $500,000 per school, and they have benefited about half of the existing charter schools.

The result is a middle position of sorts, reflecting Biden's ambivalence on the subject. Biden, like many centrist Democrats, was once a supporter of charter schools, but he shifted his rhetoric on the matter as they fell from favor with the party's liberal wing. Teacher unions, which hold significant sway in the party, are among the movement's fiercest critics.

Charter schools are publicly funded but privately run enterprises. They were meant to serve as laboratories of innovation as well as provide alternatives for families unhappy with their local public schools. They were once seen as a popular middle ground in the school-choice debate. But Democrats have soured on them, and Republicans have focused their efforts on private school choice, such as taxpayer-funded vouchers and scholarships for children to attend parochial and private schools.

The National Alliance for Public Charter Schools was unhappy with several provisions of the proposal. "It's unclear why the department and the administration are trying to limit charter school opportunities," said spokeswoman Jennifer Diaz.

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The biggest proposed change would affect the for-profit management companies that often run charter schools. To qualify for grants, charter schools must, by law, be run by nonprofit groups. Many, however, outsource the operation to for-profit companies, and those arrangements have been eligible for the federal start-up money.

That would change. Nonprofits could outsource particular tasks — such as payroll, for instance — to for-profit companies. But arrangements in which for-profit companies run the entire operation under contracts known as "sweeps" would be ineligible for the start-up grants. The proposal specifically bars arrangements under which a for-profit management company "exercises full or substantial administrative control over the charter school … or over programmatic decisions."

Michael Petrilli, president of the conservative Thomas B. Fordham Institute and a supporter of charter schools, said some new limits on for-profit arrangements are welcome. He decried, for instance, situations where the nonprofit board cannot fire the management company because the entire school would collapse. But he said the rules could wind up so sweeping as to pull in more arm's-length arrangements that work well.

"It looks like an aggressive attempt to keep schools managed by for-profit companies from receiving these funds," he said.

Carol Burris, a longtime charter school critic who is executive director of the Network for Public Education, welcomed the change as overdue but predicted limited impact.

"The for-profit operators who are creating these schools don't need this money to open up schools. They'll continue to open schools. They just won't get (federal) grants to do it."

About 10 percent of approximately 7,500 charter schools are fully managed by for-profit companies, according to the National Alliance for Public Charter Schools. It was not clear how many of them use these "sweeps" contracts.

The proposed requirements also would toughen rules for nonprofit operators to qualify for the program.

Applicants must submit a community impact analysis demonstrating there is "sufficient demand" for the new school and that the project would meet the needs of students and families in the community. They would also have to detail how the applicant would create racially and socioeconomically diverse student and staff populations, though if this is not possible given the community demographics, applications could still be funded.

To show "unmet demand," applicants are asked to cite data about any over-enrolled existing public schools.

That will be difficult for many applicants, Petrilli predicted, because enrollments are dropping all over the country.

“The language in here about the community impact and this notion we shouldn’t start charter schools in areas with steady or declining enrollment is a brutal attack on charters. It would stop the charter movement in its tracks,” he said.

Burris noted that the proposal does not say it will refuse to fund charters in areas with falling enrollment, just that it will be considered.

“And doesn’t that make sense from the standpoint of the taxpayer?” she asked. “Wouldn’t you rather see a charter school in an area where it’s needed? For the first time, the department is requiring the applicant to talk about the impact the new charter school will have on the community.”

The notice of proposed requirements and selection criteria for the Charter Schools Program grants was published last week. The proposal is open for public comment until April 14.

By Laura Meckler

Laura Meckler is national education writer for The Washington Post, where she covers education across the country as well as federal education policy and politics. She is writing a book about her hometown of Shaker Heights, Ohio, and its long-term relationship with issues of race. Twitter

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April 5, 2022

Dr. Curtis Culwell
Executive Director
Texas School Alliance

Via email: curtis@texasschoolalliance.org

Re: TSA Federal Update

Dear Dr. Culwell:

The following information is provided relative to the federal activities of the TSA.

Fiscal year 2022 began on October 1 and none of the 12 appropriation bills for the year were enacted yet. As a result, a continuing resolution (CR) was enacted on September 30 to avoid a partial shutdown and provide temporary funding for government operations through December 3. A second CR was used to extend temporary funding through February 18. Because legislators still had not reached an agreement, a third CR was enacted on February 18 to avoid a partial shutdown and provide temporary funding through March 11. A 4-day CR was put in place through March 15 to give the Congress time to finalize the omnibus appropriations bill. On March 15, appropriations were enacted for the rest of the fiscal year.

Federal FY22 education dollars will be in schools for the 2022-23 school year. Congress did not complete its annual appropriations work on time and exercised a series of continuing resolutions to buy more time to complete their funding work. This memo is a summary of the FY22 process and an overview of education-related provisions in the omnibus.

The final FY22 numbers are drastically different than the numbers advanced by both the House and Senate appropriations committee, as well as the President, in their respective FY22 work. The final package represents a negotiation between Democrats and Republicans and is decidedly muted, relative to the initial bills, as it relates to education funding. TSA strongly supported the initial bills, which included a doubling of Title I, a $2.5 billion increase to IDEA, and extension of critical school nutrition waivers through the 2022-23 school year, among other investments.

FY22 Education Funding

Overview: The final FY22 LHHS appropriations bill includes $220.8B in base non-defense discretionary funding. Despite the bold, proposed investments in Title I and in K-12 education programs by President Biden, Congress only chose to increase investments in a few select programs. Specific to education, the bill allocates $42.6 billion, an increase of $2 billion compared to the prior year, for K-12, which is the largest overall investment in K-12 programs in a decade.

- Title I is funded at $17.5B ($1B increase over FY21, but below the $20B increase proposed by the President and the House, and the $16.5B increase in the Senate). The increased Title I funding would be allocated across all four funding formulae: $6.4B for Basic; $1.36B for Concentrated; $4.86B for Targeted; and $4.86B for EFIG).
- IDEA is funded at $13.6B ($406M increase over FY21, but $2B below current ARP levels, $2.5B below the levels proposed by the President, Senate and House). IDEA federal funding share would fall from 15.5% to approx. 13.6% of the authorized 40%.
- Title II Part A (Educator Professional Development) is funded at $2.2B ($27M increase over FY21).
- Title IV Part A is funded at $1.28B (increase of $60M over FY21).
- Title IV Part B (21st Century Community Learning Centers) is funded at $1.29B ($30M increase over FY21).
- Community Schools is funded at $75M (increase of $45M over FY21).
- Mental Health includes $111M for mental health professionals in schools via Title IV-F School Safety National Activities): $55M for Mental Health Services Professional Demonstration Grants (increase of $45M over FY21) and $56M for School-Based Mental Health Services Grants (increase of $45M over FY21).
- Rural Education Achievement Program is funded at $195M ($7.16M increase over FY21).
- McKinney Vento Homeless Children and Youth is funded at $114M ($7.5M increase over FY21).
- English Language Acquisition is funded at $831.4M ($34M increase over FY21).
- Career and Technical Education is funded at $1.38B ($45M increase over FY21).
- Head Start is funded at $11.037B ($289M increase over FY21).
- Impact Aid is funded at $1.557B ($56M increase over FY21).
- Educator Pipeline Programs are funded at $162.1 million ($20M more than FY21, but $270M less than the President’s proposal). This includes $8 million for Hawkins Centers of Excellence; $59.1M for Teacher Quality Partnership Program; and $95M for IDEA-D-PP.
- School Nutrition waivers are not extended.

What will this mean for schools?

- Summer Food Service Reimbursement Rate Waivers:
    - Ending this means school meal programs will receive substantially less reimbursements while the cost of food, labor and supplies continue to increase.
- Meal Pattern Waivers:
    - Ending this waiver means school programs will once again face significant challenges in getting the food they need to meet meal pattern requirements, including sodium, whole-grain, milk variety, vegetable subgroups, and planned menus for age/grade spans. A November 2021 survey from the School Nutrition Association found that more than 96% of school meal programs cited challenges with suppliers not carrying sufficient menu items needed to meet nutrition standards, such as whole-grain, low-sodium and low-fat options.
- Congregate Setting Waivers:
    - Ending this waiver means schools will no longer be able to provide meals to students outside of school, even if schools close or a student must quarantine due to COVID-19. Meal programs will no longer have the regulatory flexibility they need to serve all their students safely and quickly adapt operations.
- Seamless Summer Option Waiver:
    - Ending this waiver means schools will now have to gather Free and Reduced Priced Lunch applications for the first time in two years, a significant administrative burden, rife with social stigma.
    - Food and Nutrition Service (USDA) is funded at $26.883B ($1.7B over FY21, $4M below the requested level). This includes $26.778B for child nutrition programs; $30M for school breakfast program equipment grants; $45M for Summer EBT demonstration grants; $6M for School Breakfast Expansion Grants; $12M for Farm to School; and $2M for Child Nutrition Training.

General Comments

The FY22 omnibus bill as it relates to education is, at best, a mixed bag. Democratic leaders are commended for going to bat for the increases that were realized; it is clear they heard the message from the field and pushed for prioritizing education funding. At the same time, the bill misses the mark on what could have been, especially in the context of what had been proposed across the administration, House, and Senate.

It is deeply troubling that there is a lack of an extension for the school nutrition waivers, a seeming failure to acknowledge that student hunger needs will continue into the 2022-23 school year, and a willingness to undo all the good that has been done – all the students that have been fed – under this initially bipartisan proposal. Complicating the meals piece even further, the end of these commonsense flexibilities comes at the exact time that schools are seeing increased prices and supply chain issues.

Specific to the IDEA funding level, this is a cut in comparison to current ARP levels. This omnibus was the first time that Congress had a true opportunity to redirect itself forward on the IDEA glidepath. TSA applauds them for the small increases included in the bill, while also holding them accountable for once again leaving IDEA severely underfunded. The proposed level puts schools on an IDEA funding cliff and all but ensures that ARP IDEA dollars will go to one-time expenditures instead of sustainable quality investments. We did this once under ARRA, and we had reasonable hope that Congress would prioritize this ARP funding level, given both the chronic underfunding of IDEA and the lessons learned from ARRA.

This significant shift away from proposed funding levels for K-12 education is the second time in less than a year that the nation's public schools were cut as part of broader negotiations. Last fall, K-12 schools saw the proposed infrastructure funding for schools pushed out of the Build Back Better negotiations. The bill shows, once again, the disconnect between education funding proposals and education funding realities.

As more information is obtained, we will share with TSA.

Very truly yours,

Thompson & Horton LLP

Christopher P. Borreca

CPB/bg

cc: Dee Carney — ***Via email: dcarney@hillcopartners.com***
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COVID-19 Resources

03.31.22

Chairwoman Stabenow and Senator Murkowski Lead Bill to Extend School and Summer Meal Flexibilities to Feed Children

Today, U.S. Senator Debbie Stabenow (D-MI), Chairwoman of the Senate Committee on Agriculture, Nutrition, and Forestry, and Senator Lisa Murkowski (R-AK) along with 50 of their colleagues introduced the Support Kids Not Red Tape Act.

The bill extends USDA school meal flexibilities from June 30, 2022 to September 30, 2023. These flexibilities have been crucial to feeding children throughout the COVID-19 pandemic. With 90% of our schools still facing many challenges as they return to normal operations, these flexibilities give our schools and summer meal programs much-needed support to deal with ongoing food service issues and keep kids fed. The bill will also help schools transition back to normal meal operations under the National School Lunch Program. USDA requested this authority be extended in the omnibus.

"We should make it easier for kids to get the meals they need – not harder. Our bill cuts red tape and keeps the priority on giving children the healthy meals they need and deserve," said Senator Stabenow. "As we come out of this pandemic, schools are doing their best - but it takes time for them to transition back to their operations before COVID. We can't let hungry kids get caught in the middle. Without this support, up to 30 million kids who get food at school will see their essential breakfast and lunch meals disrupted. And millions of hungry kids who rely on summer meals may have nowhere to go to get food."

"For far too many children in Alaska and across the nation, hunger is a daily reality. For many students, the meals served at school, and in summer or afterschool programs, may be the only meals they can count on," said Senator Murkowski. "Following the widespread disruptions caused by COVID, life is beginning to feel more 'normal' for some. However, many Alaskans are still working to overcome the economic fallout from the pandemic and many schools continue to struggle with supply shortages and higher prices. That's why I'm glad to join Senator Stabenow and my Senate colleagues in a push to allow USDA to extend vital support for school nutrition programs and preventing barriers that may prevent students from receiving a healthy meal."

In addition to Sens. Stabenow and Murkowski, this legislation is cosponsored by Sens. Heinrich (D-NM), Collins (R-ME), Manchin (D-WV), Gillibrand (D-NY), Casey (D-PA), Van Hollen (D-MD), Smith (D-MN), Brown (D-OH), Baldwin (D-WI), Booker (D-NJ), Lujan (D-NM), Klobuchar (D-MN), Durbin (D-IL), Warnock (D-GA), Markey (D-MA), Hirono (D-HI), Duckworth (D-IL), Sanders (I-VT), Reed (D-RI), Leahy (D-VT), Wyden (D-OR), Shaheen (D-NH), Hassan (D-NH), Bennet (D-CO), Merkley (D-OR), Warren (D-MA), Padilla (D-CA), Warner (D-VA), Murray (D-WA), Cardin (D-MD), Coons (D-DE), Cortez Masto (D-NV), Carper (D-DE), Schatz (D-HI), Peters (D-MI), King (I-ME), Feinstein (D-CA), Rosen (D-NV), Menendez (D-NJ), Kaine (D-VA), Blumenthal (D-CT), Murphy (D-CT), Hickenlooper (D-CO), Whitehouse (D-RI), Kelly (D-AZ), Sinema (D-AZ), Ossoff (D-GA), Tester (D-MT), Schumer (D-NY), and Cantwell (D-WA).

Anti-hunger and nutrition advocates reiterated the importance of these flexibilities and applauded the Senators' bill to keep critical flexibilities for school nutrition programs to feed children.

"School meal programs, a crucial source of nutritional support for millions of families nationwide, face tremendous immediate and long-term challenges in the absence of these child nutrition waivers," said Beth Wallace, president of the School Nutrition Association. "Acute supply chain disruptions, persistent labor shortages and escalating costs make it impossible for these programs to return to normal operations next school year. This legislation is absolutely critical to sustaining school meal programs, ensuring children have access to nutritious school meals and preventing substantial financial losses for schools nationwide."

"Without Congressional action, the child nutrition waivers will end on June 30, 2022, causing millions of children to face a hunger cliff when they lose access to summer and school meals. Furthermore, schools and community-based organizations that feed our nation’s children need time to recover from the impact of the pandemic,” said Luis Guardia, president of the Food Research & Action Center. “We applaud Senator Stabenow for her leadership on this issue and strongly endorse this bill which would extend waiver authority through September 30, 2023. Hungry children can't wait."

"As our country continues to experience challenges due to the COVID-19 pandemic, including supply chain and labor shortages as well as increased food costs, access to healthful school meals remains of the utmost importance,” said Kevin L. Sauer, registered dietitian nutritionist and the 2021-2022 President of the Academy of Nutrition and Dietetics. “Without crucial waivers in place, more children will be at risk for food insecurity and schools will no longer have flexibilities they badly need to operate successful, financially solvent programs. The Academy thanks and supports Sen. Stabenow, who is championing the Support Kids Not Red Tape Act, which would ensure continued access to healthful meals for students.”

“The sooner the USDA is authorized to extend child nutrition waivers, the sooner schools and community organizations can plan meal programs for summer and next school year,” said Lisa Davis, senior vice president of Share Our Strength’s No Kid Hungry campaign. “Schools and community meal providers continue to face extreme pandemic-related challenges like supply chain disruptions, rising food prices and staffing shortages. Without waivers, they will have a difficult time responding to these challenges in real-time, impacting their ability to safely and effectively reach kids with the nutrition they need and stunting their ability to transition to normal operations as those challenges subside.”

“Nearly 12 million children struggle to know where their next meal will come from, disrupting their ability to reach their full potential. Fortunately, child nutrition waivers have helped provide year-round access to much-needed nutrition. If the waivers aren’t extended, millions of children will lose that access, with Black, Latino, and Native American children, and children in rural areas, being hit hardest,” said Vince Hall, chief government relations officer, Feeding America. “Because of the delay in extending the waivers, some site sponsors will have to close summer and after-school meal sites, translating to taking away meals that families are relying on to keep their kids nourished. Feeding America, the nation’s largest hunger-relief organization, applauds the introduction of this bill to extend child nutrition waivers, continuing this critical lifeline for children. We urge Congress to act immediately to ensure our children don’t face hunger this summer and beyond.”

A broad spectrum of groups sent in letters to Congress to extend the child nutrition waiver authority. Letters included:

- Nearly 2,000 anti-hunger, nutrition, education, children's, school, preschool, and out of school providers, faith groups and industry groups, among others, from all 50 states and the District of Columbia.
- Mayors Alliance to End Childhood Hunger, which includes representatives from 47 towns;
- General Mills, and
- 23 groups, including the School Nutrition Association, School Superintendents Association, National Education Association, National PTA, and American Commodity Distribution Alliance, among others.