



**Updates as of April 5, 2023**

**Parents Bill of Rights:** On March 24<sup>th</sup>, House Republicans narrowly passed H.R. 5, the Parents Bill of Rights, by a vote of 213-208, with five Republicans—mostly members of the House Freedom Caucus—voting against it. It has little chance in the Democrat-run Senate and critics said it would propel a far-right movement that has led to book bans, restrictions aimed at transgender students, and raucous school board meetings across the country.

A number of amendments were offered during the floor debate including ones that would [abolish the U.S. Department of Education](#) and [turn the Title I program into a voucher program](#). These amendments failed as a number of Republicans voted with Democrats against them. It's worth taking a moment to see how your member of the House voted on these amendments.

An analysis of the bill and the impact, particularly on the use of education technology and the sharing of student data, can be found [here](#).

**President Biden Releases FY24 Budget Proposal** On March 11, President Biden released his FY24 budget proposal. FY 24 runs from October 1, 2023 through September 30, 2024; FY24 funding will be in schools for the 24-25 school year. Read an overview of his budget [here](#).

**McCarthy Asks Biden To Re-Start Debt Limit Talks** House Speaker Kevin McCarthy sent a letter to President Biden asking him to return to the negotiating table on the budget and the debt ceiling. In the [letter](#), McCarthy signaled his continued opposition to passing a debt ceiling increase without withouttying it to spending cuts in the budget. In particular, the letter highlights his desire to claw back unused ARP funding (including ESSER funding) and to return to pre-inflationary non-defense spending, which could be funding levels from FY22 or earlier. House Appropriations Ranking Member RosaDeLauro has said a return to FY22 levels would be a cut of at least 22% to other programs. She has been releasing [letters from cabinet secretaries](#) detailing what those cuts would look like.

**Votes coming on Transathletes Sports Ban:** House Republicans are preparing for a floor vote on legislation known as the Protection of Women and Girls Sports Act of 2023. The bill advanced through the House Education and the Workforce Committee earlier this month and now awaits for consideration on the House floor. The bill would amend Title IX to make it unlawful for recipients of federal funds who operate athletic programs to permit 'a person whose sex is male' to participate in an athletic program designated for women or girls. Sex would be recognized based only on a person's reproductive biology and genetics at birth. However, the measure would not prohibit males from participating in an athletic program designated for women or girls, as long as it does not interfere with a female's chance to participate or benefit from the program.

**CALL-TO-ACTION:** Submit comments on the proposed updates to the school nutrition standards!

On February 3, the U.S. Department of Agriculture (USDA) released a proposal to update the school nutrition standards to align with the 2020 Dietary Guidelines. Most notably, the standards propose changes to sodium, milk, whole grains and, for the first time ever, added sugars. See a full summary of the proposed changes [here](#).

It is critical that USDA hears from school boards on how these standards will impact their districts. Our friends at AASA have drafted a template letter for district leaders and boards to submit comments on the proposal. All the information on how to comment can be found [here](#).

**Proposed CEP Regulation:** On March 22, the U.S. Department of Agriculture (USDA) released a proposed rule to expand access to the Community Eligibility Provision (CEP) by lowering the minimum identified student percentage (ISP) participation threshold from 40 percent to 25 percent. The comment period will be open for 45 days. Then the Department will have to release a final rule before this change can take place.

It is important to note that the Department does not have the authority to change the multiplier, so it will remain 1.6 - meaning some districts will continue to face financial barriers to participation. Authority to increase the multiplier lies solely with Congress. Expanding CEP is top priority at the national level for school nutrition, and changing the multiplier is a critical change in enabling more districts to participate.

In addition to the proposed rule, USDA also announced grant opportunities for school meal programs:

- [\\$10 million for FY23 Team Nutrition Grants](#) – To extend nutrition education beyond the cafeteria. Deadline to apply is May 22, 2023.
- \$50 million for [School Food Transformation Challenge Sub-Grants](#) - To foster innovation in the school food marketplace to get a wider variety of healthy, appealing foods into the marketplace and onto kids' lunch trays. Schools and other eligible organizations can apply for the challenge sub-grants later this year and are encouraged to check the USDA's Healthy Meals Incentives website for updates.
- \$30 million for the [Healthy Meals Incentives Grants](#) for Small and/or Rural School Food Authorities to support their efforts to improve the nutritional quality of their school meals (up to \$150,000 per grant). Applications will open in Spring of 2023.

**Significant SCOTUS Decision on Perez v. Sturgis:** In January, the U.S. Supreme Court heard oral argument in a special education case out of Michigan known as Perez v. Sturgis Public Schools. This week the Court decided that individuals who have entered into a settlement resolving their IDEA claims can also pursue monetary damages against school districts under the Americans with Disabilities Act without exhausting the administrative process under IDEA. The decision reverses one from the 6th U.S. Circuit Court of Appeals. However, the 9-0 decision in Perez v. Sturgis Public Schools did not address whether IDEA's requirement to exhaust its administrative process can be sidestepped in cases where completing the process would be "futile" and whether ADA should provide financial compensation to the student. An analysis of the decision from Thompson & Horton can be found [here](#)

# Republicans raise specter of ESSER audits, refunds over ‘misspending’

Republican lawmakers are considering auditing states’ spending of federal pandemic aid and requiring them to return any funds found to be misspent, per discussions with witnesses in a Tuesday hearing of the House Committee on Oversight and Accountability.

Schools’ spending on diversity, equity and inclusion initiatives, teacher training, and athletic programs are just some investments right-leaning lawmakers and witnesses questioned during the hearing.

“I don’t know what that stuff has to do with COVID. I don’t know what it has to do with reopening schools, either,” said Rep. Nicole Malliotakis, R-N.Y., who raised the issue during the hearing.

Witnesses brought in to testify by Republicans agreed with the lawmakers.

**School spending “obviously reveals their priorities,” said Virginia Gentles, director of the Education Freedom Center, about school spending decisions. The Education Freedom Center is a school choice advocacy arm of the nonprofit Independent Women’s Forum. “We’re dealing with a once in a lifetime academic crisis ... the funds need to be focused on academic recovery.”**

## Republicans question union involvement

The idea to audit state spending and scrutiny of district reopening decisions came alongside additional claims from right-leaning lawmakers and witnesses that teachers unions had undue influence on school reopening and funding decisions.

Specifically, they said, unions leveraged their return to the classroom for the American Rescue Plan, which passed in March 2021 and invested \$122.8 billion for K-12.

“The teachers unions had made a decision that they needed to control the instructional hours that were offered and whether or not schools were open and teachers were going to teach in the classroom,” said Gentles. “They were waiting until that final \$122 billion ARP funding came through, and then schools could open up, and the unionized teachers could return to classrooms fully that fall.”

When teachers unions agreed to return to the classroom for in-person instruction, “it wasn’t really until the science changed, it was until they got money passed,” said Rep. Michael Cloud, R-Texas.

“We see this a lot here in the federal government ... We create a problem and then we march in to be the white knight in shining armor to allegedly fix the problem we created,” he said. “And here, we had the government locking down the schools but then trying to ride in.”

The National Education Association and American Federation of Teachers, two of the largest teachers unions in the nation, refused to comment on the issue.

**However, both unions and additional national education organizations advocated for and eventually applauded the American Rescue Plan's passage, which included funding for academic recovery as well as general school needs during the pandemic like purchasing sanitization and cleaning products and improving indoor air quality and facilities.**

Upon its passage, the NEA said it would provide “desperately needed relief in response to the COVID-19 pandemic and economic crisis” and “provides the resources to help every school building put in place the effective measures needed to keep students and educators safe.”

### **Democrats say investments were necessary**

Democrats on the committee disagreed, saying the investments were critical and allowed for schools to safely reopen by funding personal protective equipment, vaccination clinics and academic recovery efforts.

“It’s so easy after the fact to assign blame and talk about what should’ve, could’ve or did not happen, but we run the risk of failing our jobs, and we run the risk also of tainting history,” said Rep. Kweisi Mfume, D-Md.

Donna Mazyck, executive director for the National Association of School Nurses, who was invited to speak by the Democrats, said the investments helped students maintain COVID-19 health and safety precautions as they returned to school.

“I believe that one of the lessons we learned is that keeping children in school is important ... in order to do that, we need to bolster the support that they need for learning,” said Mazyck.

Rep. Jill Tokuda, D-Hawaii, said federal investments — that Republicans have considered making states return if found to be misspent — made a significant impact on the reopening and recovery efforts of schools in her state. A report released last week by the National Center for Improvement of Educational Assessments found that Hawaii’s academic recovery following the pandemic was “exceptional” compared to other states.

That’s “thanks to smart and targeted ESSER funds,” Tokuda said.