# Legislative Committee Meeting

**Monday, August 3, 2020**

10:00 a.m. – Noon

Teleconference Meeting

Julie Hummer, Chair
Mavis Ellis, Vice Chair

## Agenda

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td><strong>Welcome</strong></td>
<td>Opening Remarks</td>
<td>Julie Hummer</td>
</tr>
<tr>
<td>2.</td>
<td>Introductions &amp; Brief Reports from Members on the Status of Reopening Plans</td>
<td>Information</td>
<td>Julie Hummer/All</td>
</tr>
<tr>
<td>3.</td>
<td>State Board &amp; MSDE Updates</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Recovery &amp; Reopening Plan Status</td>
<td></td>
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<td></td>
<td>• MEC Letter on Recovery Planning</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Charter School Funding Regulations</td>
<td>Information &amp; Discussion</td>
<td>Julie Hummer/John Woolums/All</td>
</tr>
<tr>
<td>4.</td>
<td>State Funding &amp; Policy Updates</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• Board of Public Works</td>
<td></td>
<td></td>
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<td></td>
<td>• Casinos &amp; Education Trust Fund</td>
<td></td>
<td></td>
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<td></td>
<td>• Student Attendance Policies</td>
<td></td>
<td></td>
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<td>• COVID Liability Protection Legislation</td>
<td></td>
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<td></td>
<td>• Police Reform &amp; SROs</td>
<td>Information &amp; Discussion</td>
<td>Julie Hummer/John Woolums/All</td>
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<tr>
<td>5.</td>
<td>Federal Funding &amp; Policy Updates</td>
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<td></td>
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<td></td>
<td>• The Health, Economic Assistance, Liability Protection and Schools (HEALS) Act</td>
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<td>• The Coronavirus Child Care and Education Relief Act (CCCERA)</td>
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<td></td>
<td>• Equitable Services Funding &amp; Nonpublics</td>
<td>Information &amp; Discussion</td>
<td>Julie Hummer/John Woolums/All</td>
</tr>
<tr>
<td>6.</td>
<td>Additional Issues for Discussion</td>
<td>Discussion</td>
<td>Julie Hummer/John Woolums/All</td>
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<tr>
<td>7.</td>
<td>Legislative Committee Calendar</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>• August 31, 2020, 10-Noon</td>
<td>Information</td>
<td>Julie Hummer/All</td>
</tr>
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<td>8.</td>
<td>Adjournment</td>
<td>Closing Remarks</td>
<td>Julie Hummer</td>
</tr>
</tbody>
</table>
Meeting Materials for August 3, 2020

State Board/MSDE Updates

MABE Monitor for July 28th State Board Meeting
- MABE Monitor (7/28/2020)
- State Board Member Bios

Maryland Education Coalition (MEC) Letter
- MEC’s July Letter to Dr. Salmon “Equity Principles to Anchor Return/Recovery Plan”
- Sun Article (7/29/20)

Charter School Funding Regulations
- MSDE Memo & PSSAM Letter; and MABE Letter

State Funding & Policy Updates

Board of Public Works
- July 22, 2020 Meeting – Discussion of Budget Cuts (Excerpt)

Gaming Revenue & The Education Trust Fund
- FY 2019 Gaming Revenue & Distribution, FY 2011-2018 Distribution

Student Attendance Policy Regulations
- COMAR on Student Attendance Policies

COVID Liability Protection Legislation
- States Enacting COVID Related Liability Protection Bills (Natl. Law Rev. Article featuring Georgia bill)
- Louisiana Bill Text (HB 59) and Article

Police Reform & SROs
- EdWeek Article on Local Actions and Proposals
- Sun Article on Howard County’s SROs

Federal Funding & Policy Updates

Federal Legislation
- HEALS Act: NSBA Summary (7/27/2020); EdWeek Article (7/27/2020)
- CCCERA Act Summary
Agenda

Opening of Meeting

Board President Warner Sumpter convened the teleconference meeting and was joined by all members, including: Vice President Jean Halle, Rose Li, Joan Mele-McCarthy, Gail Bates, Vermelle Greene, Clarence Crawford, Charles Dashiell, Jr., Rachael McCusker, Lori Morrow, new board members Shawn Bartley, Susan Getty, and Holly Wilcox, and new student board member Jason Wu. President Sumpter welcomed the new members.

Public Comments

The State Board heard public comments from the following individuals: Cheryl Bost, President of the Maryland State Education Association, voicing the concerns raised regarding adequate educator and other stakeholder input into the State’s education recovery plan, concerns which were outlined in her recent letter to the State Board. Lisa VanBuskirk, with Start Schools Later in Anne Arundel County, outlining her concerns with the student health and educational rationale for local school systems adopting later school start times in the context of the State’s education recovery plan. A parent raising concerns about the burdens on parents of providing home instruction while also working from home. An individual raising concerns about the mental health needs of students. A Montgomery County parent supporting consensus-based risk mitigation strategies to address the 6 months of learning loss, mental health issues, and parents’ abilities to return to work by requiring more in-person instruction based on student need and parent choice. Courtney Cass, Executive Director of Teach For America Baltimore, opposing the department’s interpretation of its new basic skills assessment policy for new teachers, which sets different standards for alternative teacher preparation programs. A Frederick County resident, Tom Warner, advocating for enforcement of the state regulation requiring substance abuse education.

Elections of Officers

The State Board unanimously elected Clarence Crawford as President and re-elected Jean Halle as Vice President. Board members thanked General Warner Sumpter for his service as President. General Sumpter noted that he will continue to serve on the Board until his term ends on June 30, 2021.

Oral Argument

The State Board heard oral arguments in the case: Monarch Academy Public Charter School v. Baltimore City Board of School Commissioners.
State Superintendent Updates

Maryland Report Card Updates on Teacher Qualifications and Graduation Rates

Dr. Salmon introduced Chandra Haislet, MSDE’s Director Accountability and Data Systems, who presented the Maryland Report Card data for teacher qualifications and numbers of students receiving instruction from inexperienced teachers, disaggregated by race, for high- and low-poverty schools, and other factors. She also reviewed data on high school graduation rates, and numbers of students completing rigorous high school programs.

Board member Wilcox raised her concern with disproportionate impacts reflected in these reports, including on student discipline and arrests on students of color. Superintendent Salmon agreed and shared that work is ongoing to address these issues.

Board President Crawford asked about the assignment of teachers, which shows a disproportionate share of inexperienced teachers in schools with higher percentages of minority students and students in poverty. Dr. Salmon responded that teacher assignments are made by local superintendents and her message has been to address this inequity at the local level.

Presentation

Maryland Education Recovery Plan Update

State Superintendent Salmon reviewed the work of the Recovery Plan Stakeholder Committee to provide feedback from the on Maryland's Recovery Plan for Education, including the recent scenario exercise conducted on July 16th. Dr. Salmon shared that 59 individuals participated representing parents, students, state and local school system staff, teachers and principals, business leaders, and high education.

Dr. Salmon provided a detailed overview of the department’s new constituent inquiry and input tracking system and reviewed the results showing the numbers and categories of communications received to voice opinions and preferences pertaining to school closings, child care, virtual learning, and other issues relating to the pending recovery and reopening plans. She emphasized that the data is not the results of a survey, but rather is the result of the staff intensive process of reading and categorizing the thousands of pieces of correspondence received since the closure of schools this spring.

Handout

Local School Reopening Plan Presentations: Calvert, Cecil, and Frederick Counties

The State Board received presentations from three local school systems on their recovery and reopening plans, including a presentation on one school system’s implementation of summer learning during the COVID-19 pandemic. The presentations highlighted how the education recovery plan requirements were addressed.
Dr. Dan Curry, Calvert County Superintendent, presented on his school system’s approach to summer school in 2020. He described the K-5 in-person instruction provided through the summer school program, with higher grades receiving summer school exclusively online. The program focused on students scoring in the lower 10 percent of the mid-winter performance test and students who had not engaged in the online learning opportunities provided before the end of the school year. However, the program was not limited based on Title I eligibility.

Dr. Jeff Lawson, Cecil County Superintendent, presented on his school system’s approach to returning to school in the 2020-2021 school year. He described the challenges experienced through the close of the school year and the concerted efforts to ensure a more robust approach to providing access and accountability for all students through online learning. Dr. Lawson noted that the plan is to review the recovery plan every 30 days and to hold weekly community engagement meetings as the academic year begins.

Dr. Terry Alban, Frederick County Superintendent, presented on her school system’s approach to reopening schools in the fall. Dr. Alban described the process of assessing what worked, and did not work, in the spring. Similarly, the draft reopening plan was made available for comment early in July to provide ample opportunity for input. Dr. Alban reviewed the extensive parent and community engagement process, and her board’s focus on the safety of students and staff relative to the hybrid and online models being presented.

Handouts: Memo & MSDE Presentation (Local presentations not uploaded at this time.)

Charter School Funding Formula Regulations

The State Board rescinded the proposed regulations under COMAR 13A.19.01, Commensurate Funding for Charter Schools. Board member, and past-President, Warner Sumpter, described the original intent to assist local school systems in encapsulating state board decisions defining the requirements for charter school funding provided by local school systems. General Sumpter made the motion to rescind the regulations based on the comments received from local school systems and others, and the Board agreed.

Memo & PSSAM Letter; MABE Letter

Social Studies Regulations

The State Board granted final approval to regulations governing programs for social studies instruction under COMAR 13A.04.08. Bruce Lesh, MSDE’s Director of Social Studies, Science, and Disciplinary Literacy, described the regulations as being the byproduct of extensive consultation with the public, teachers, content supervisors, and nonprofit social studies advocacy organizations. The standards were published in the Maryland Register from May 22, 2020 until June 22, 2020, and staff briefly described the comments received and recommendation to adopt the regulations without the revisions requested in the comments.

Handouts: Memo & Presentation and Social Studies Program
State Board Committee Updates

Board Vice President Jean Halle provided a detailed update on the State Board’s Digital Learning Committee, which she chairs, sharing that a presentation would be made at the next meeting.

Board member Vermelle Greene provided a presentation on the work plan for the State Board’s recently established Task Force on Achieving Academic Equity and Excellence for Black Boys, which she chairs.

The Board also discussed their intention to hold two meetings in August with one devoted to reviewing the local school systems’ education recovery and reopening plans, which are to be submitted by August 14th.

State Board Decisions

The State Board issued decisions and orders in the following cases:

- Darryl Baccus v. Prince George’s County Board of Education, affirming the local board’s employee termination decision.
- Susan C. v. Montgomery County Board of Education, affirming the local board’s denial of a request to recalculate grades.
- Keith H. v. Montgomery County Board of Education, affirming the local board’s denial of a request to recalculate grades.
- In the Matter of Baltimore Collegiate School for Boys, denying the waiver request from certification requirements for school counselors.
- In the Matter of Baltimore Montessori Public Charter School, denying the waiver requests from certification requirements for school counselors and grading records requirements.
- In the Matter of KIPP Harmony Academy, denying the waiver request from certification requirements for school counselors.
- In the Matter of Lillie May Carroll Jackson Charter School, denying the waiver request from certification requirements for school counselors.
- In the Matter of Southwest Baltimore Charter School, denying the waiver request from certification requirements for school counselors.
Clarence C. Crawford, President of the Maryland State Board of Education

Clarence C. Crawford (President) an adjunct professor in the American University’s Master of Public Administration (MPA) Program where he teaches Federal budgeting, ethical leadership, and enterprise risk management (ERM). He was appointed by Gov. Hogan to serve as a Member of the Maryland State Board of Education. Clarence is the founder and president of the Teach ‘em to Fish CDC whose God-given call is to be the best in world at battling poverty, hopeless, and violence by creating a generation of successful business owners and outstanding employees who will transform their world. Finally, he is a member of GAO’s Center for Audit Excellence Advisory Board and OPM’s Presidential Rank Review Panel.

Beginning as a GS-1, Clarence learned how to progress through the ranks and how to become a strong leader, enabling him to become a senior executive, ES-6 (i.e., four-star general equivalent) chief operating officer and chief financial officer. He used innovative approaches to lead successful transformations. Clarence specialized in starting up new functions, creating high performance organizations, and turning around less than stellar ones. His senior executive career included positions at the General Accounting Office, Office of Management and Budget, U.S. Patent and Trademark Office, and the Office of Personnel Management where he oversaw the $1.8 trillion Federal employee pension and benefits fund programs, and he implemented an ERM program. Clarence’s career also included assignments as a Metropolitan Police Officer, Presidential Management Intern, and numerous assignments at the Internal Revenue Service.

Upon retirement from the Federal government with 39 years of service in 2006, Clarence was recruited as a managing director to create a Deloitte presence among Federal CFOs and establish the Deloitte Federal Financial Management Solutions Center. He created and hosted the Federal CFO Insights Radio Show on WTOP’s FEDNEWS Radio. Clarence hosted the quarterly CFO Roundtable series. He helped create and/or tailored solutions to address many of the major challenges facing the Federal government. He grew his account into one of the Federal practice’s best performing accounts. Clarence retired from Deloitte Consulting, LLP in April 2014. He later served as the Senior Vice President for Corporate Solutions for the Addx Corporation where he helped his clients develop and execute transformative strategies needed in this fast-paced, ever-evolving Federal environment. Clarence co-moderated the National Academy of Public Administration’s (NAPA) quarterly Federal CFO Forum. Finally, he completed his appointment as a Principal Director (Maryland) and 1st Vice Chair of the Washington Metropolitan Area Transit Authority (WMATA) Board.

Clarence was a Meritorious Presidential Rank Award recipient, elected as a NAPA Fellow, and received the African American Federal Executive Association’s Ebenezer Bassett Award. He earned his MPA in Finance and Bachelor of Science in Administration of Justice from the American University, and he has taken classes at the Capital Bible Seminary.
Reopening Maryland Schools
PreK-12 Decision Matrix

STEP ONE: The Governor’s Office, in coordination with members of the coronavirus recovery team and experts at the Maryland Department of Health (MDH), monitor key health metrics and identify the appropriate stage within Maryland’s Roadmap to Recovery. The State Superintendent of Schools, in consultation with the State Board of Education, subsequently determines the operational status of schools within each stage.

Impacts on School System Decisions

When the State is in Stage 1:
All school activities are to be conducted online and through distance learning platforms.

When the State is in Stage 2:
Some in-person school activities may commence, in accordance with the Governor’s gating and social distancing measures.

When the State is in Stage 3:
In-person activities may fully resume, and schools must comply with any State and/or local restrictions in place.

STEP TWO: When the State is in Stage 2, each local school system must meet the Requirements for Opening Schools as outlined in the Maryland Together: Maryland’s Recovery Plan for Education.

- Develop and submit local education plans with a plan for communication
- Incorporate equity as a component in the local recovery plan
- Establish local education recovery stakeholder groups
- Identify learning gaps and instructional placement of students
- Follow and maintain curricular frameworks and MD College and Career Ready Standards
- Adhere to components of IDEA, Section 504 of the Rehabilitation Act, and ADA
- Adopt and follow health procedures outlined by the MSDE, MDH, and CDC
- Ensure safe transportation for all students
- Develop system for tracking attendance

STEP THREE: Local school systems make determinations regarding which groups of students and staff will be able to re-enter buildings. Specific schedules, calendar modifications, and delivery of instruction are at the discretion of the local school system. Depending on conditions in their locality, school systems may be more restrictive than the requirements outlined in the State Recovery Plan, and the health and safety measures outlined by the Governor and MDH.
Maryland Education Coalition

INSPIRES ACTION & POSITIVE CHANGE SO MARYLAND’S STUDENTS SUCCEED

Web site - www.marylandeducationcoalition.org   ***   Email – md.education.coalititon@gmail.com

July 2020

Via Electronic Mail

Karen Salmon, Ed.D.
State Superintendent
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Re: Equity Principles to Anchor Return/Recovery Plan

Dear Dr. Salmon:

Events of the past four months have laid bare a number of truths, some perhaps inconvenient, about the state of education in Maryland. Distance learning has revealed the extent of the digital divide as well as the difficulty of consistently engaging many students with disabilities, students who are homeless, students whose first language is not English and others in online learning. The killings of George Floyd, Breonna Taylor, and countless others have forced many to confront, some for the first time, the racism inherent in the structures of American society, including the education system. The veto of the Blueprint for Maryland’s Future creates the likelihood that, unless overridden, the funding structure for education in Maryland will remain problematic, the achievement gaps identified by MSDE itself will not only continue but will grow larger, and vulnerable students will, as they always have, pay the price. However, as is often the case, challenges also present opportunities. Amidst the confusion and chaos, the Maryland State Department of Education (MSDE) and local school systems have an opportunity to reshape what education looks like for all students and to engage in that process in a way that puts equity squarely at the center of the rebuilding process.

The Maryland Education Coalition (MEC), joined by a broad-based group of additional signatories, remains concerned, however, that so far, MSDE has not seized this opportunity. Although the July 16, 2020 Stakeholder group meeting addressed scenario planning with equity issues in mind, local school systems are already well along in their recovery/return planning efforts, and MSDE’s “Maryland Together: Maryland’s Recovery Plan for Education,” fails to provide a strong foundation of equity upon which the local school systems can build their plans. The plan simply requires local school systems to develop their plans with equity in mind and references COMAR 13A.01.06, the 2019 equity regulations; the document will do little to prevent the current wave of crises from widening existing gaps in education outcomes into unbridgeable chasms. As it stands, “Maryland Together” is an invitation to local school systems to talk about equity without actually providing equity. MSDE should rise to the demands of this moment by announcing clear principles of equity and requiring local school systems to adhere to them. Although local school systems must, of course, retain the autonomy to determine how to implement these principles in accordance with the strengths and needs of their students, families and staff, it is essential that the State provide the framework.
We urge MSDE to adopt the following principles in its plan and require the local school systems to expressly incorporate them into their local return/recovery plans, specifying how the school system will address each principle under each model of education under consideration, whether all distance learning, a hybrid model of distance and in-person, or all in-person:

1) Solicit and include input on district level return/recovery plan from students, parents and organizations representing homeless students, low-income students, English learners and their families, students with disabilities, and students and families facing elevated health risks because of COVID-19, and ensure that the plan identifies strategies to support these groups in accordance with the input received.

2) Conduct an academic assessment of each student at the beginning of the 2020-21 school year and, for any student who has experienced learning loss, provide additional instruction, tutoring or other academic supports to help the student reach grade level. With respect to students with disabilities, this should include the provision of different or additional special education services and/or compensatory education and related services if required to address regression or failure to make progress towards IEP goals.

3) Until schools return to a fully in-person instructional model, prioritize students who did not successfully participate in distance learning during the spring of 2020 and students who are unlikely to be successful with distance learning during the 2020-21 school year for in-person learning opportunities offered by the school system.

4) Assess and meet each student’s need for wraparound supports including food, access to healthcare, assistance securing public benefits, child care (including for periods of distance learning), and job training and placement for caregivers, including through partnerships with community organizations and agencies.

5) Develop and implement a plan for a restorative approach that fosters positive relationships among students, staff and parents, educates staff on childhood trauma and how to identify and address student’s social-emotional needs and teaches social-emotional skills, provides mental health services to students who require them, and eliminates the use of disciplinary exclusion as a response to behavior challenges.

6) Develop a standardized system for tracking accurate contact information, attendance, participation and engagement in distance learning sessions, and continuously assess student engagement in both distance and in-person learning to rapidly identify, connect with, and support students at risk of or not making academic progress.

7) Assess the need and provide electronic devices, software, internet, and IT and computer literacy support for each student and caretaker as needed for distance learning and homework.

8) Ensure access to grade level curriculum for all students with the provision of needed supports and assistance.

9) Ensure that all aspects of the return to school meet health and safety standards to minimize risk to students and their families and to school staff, while ensuring that no group of students is denied services. This includes, but is not limited to, ensuring the safety of all forms of transportation by which students get to and from school, classroom layout, determining how to facilitate participation by students with and without disabilities in activities together when traditional inclusive activities may be restricted, and making individualized decisions with families about whether students are able to return to school.

10) Provide teachers and other school staff with the training, mentorship, planning time and support they need to meet the needs of students in accordance with these equity principles.

We firmly believe that these principles offer the pillars upon which a more equitable education system can be constructed. Other states already have shown leadership in these areas in their respective recovery plans.
For example:

*Minnesota, Oregon and Washington’s plans define “equity” in public education as the result of a transformative process in which schools acknowledge that their historical and present policies and practices have disadvantaged certain student groups and invest resources in repairing the harm done. The plans specifically identify those students who have faced oppression and suffer disproportionate harm related to COVID-19: Black, Latinx, Indigenous, and Asian students, students with disabilities, immigrant and migrant students, homeless students, students in foster care, English Language Learners, LGBTQIA students, and students living in poverty.

*Minnesota’s plan articulates the specific actions school districts should take to support homeless students, English Language Learners, and students with disabilities during and after the COVID-19 pandemic.

*Arizona and Virginia’s plans call on school districts to dramatically reduce or eliminate the use of out-of-school suspension to avoid exacerbating the damage resulting from months-long school closures.

*New Jersey and Virginia’s plans outline concrete actions school districts must take to adopt a trauma-informed approach to re-engage students that prioritizes and supports social-emotional learning and well-being.

*Oregon, Washington, Minnesota, and Virginia’s plans set forth strategies by which districts can identify students who suffered the greatest learning loss and support those students to enable them to access grade-level curriculum.

*Minnesota and New Jersey’s plans direct school districts to bridge the digital divide by ensuring technology access for students who do not have it, and by prioritizing limited in-person learning opportunities for students who cannot participate meaningfully in distance learning.

*Rhode Island’s plan goes beyond offering guidance to school districts, directing them to “provide assurance” or “submit evidence” that they have met critical benchmarks, including in the areas of identifying and supporting vulnerable students, repairing learning loss, and supporting student mental health.

Although no state plan is perfect, many are far stronger than the document developed by MSDE. If Maryland expects to place its students on equal footing with their peers around the nation, it must offer them more.

We recognize that building an equitable education system will require a significant investment and believe that the Blueprint legislation—legislation that came out of work you did as a member of the Kirwan Commission—would have given Maryland the opportunity to begin this process. Whether or not the Blueprint eventually becomes law, Maryland must find a way to redirect revenue to meet the pressing needs of those students whom our education system has traditionally left behind and has now pushed to the brink.

We urge you to make “Maryland Together: Maryland’s Recovery Plan for Education” truly a model for the nation by incorporating these equity principles and, as always, stand ready to work with you to make education truly equitable for every child in Maryland.

Thank you for your consideration of this letter.

Sincerely,

Rick Tyler, Jr., Chair
Maryland Education Coalition (MEC)

cc: Carol A. Williamson, Ed.D; Sylvia A. Lawson, Ph.D.; Mary Gable
Maryland State Board of Education
MEC Member Organizations or Individuals (* MSDE Recovery Plan Stakeholders)

- ACLU of Maryland
- Advocates for Children and Youth
- Arts Education in Maryland Schools
- Arts Every Day
- Attendance Works
- CASA
- Decoding Dyslexia of Maryland
- Disability Rights Maryland *
- League of Women Voters of Maryland
- Let Them See Clearly
- Maryland Coalition for Community Schools
- Maryland Out of School Time Network
- Maryland PTA *
- Maryland State Conference-NAACP *
- Parent Advocacy Consortium
- Public Justice Center
- Right to Read MD
- School Social Workers of MD
- Dave Hornbeck
- Kalman (Buzzy) R. Hettleman
- Sharon Rubinstein

Additional Organizations or Individuals Signatories

- Abilities Network
- ABCs for Life Success
- Alliance Against Seclusion and Restraint
- Atlantic Seaboard Dyslexia Education Center
- Bright Futures, LLC
- Decaro Doran Siciliano Gallagher and DeBlasis, LLP
- Education Advocacy Coalition
- Education Due Process Solutions, LLC
- Holly Parker, Esq.
- Howard County Autism Society
- Janna Parker
- Law Offices of Brian K. Gruber, P.A.
- Law Offices of Ellen A. Callegary, P.A.
- Law Offices of Mark B. Martin, P.A.
- Law Office of Nicole Joseph
- Learning Disabilities Association of Maryland
- Linda Barton, MSED
- Loud Voices Together
- Maria Ott
- Maryland Coalition of Families
- Maryland Special Education Lawyers
- McDonough Law
- Parents’ Place of Maryland *
- Pathfinders for Autism
- Positive School Center
- Project HEAL at Kennedy Krieger Institute
- Savit & Szymbowicz
- Schweitzer & Scherer, LLC
- Selene Almazan Law, LLC
- Special Kids Company
- Steedman Law Group, LLC
- Weinfeld Education Company
- Youth, Education, Justice Clinic – University of Maryland, Francis Carey School of Law
nearly 97,000 jobs and our unemployment rate is almost 30 percent lower than the national rate and far better than most states in America and the very best in our region.

So let’s move on to the business of the day. This morning we will be conducting our semi-annual bond sale and I know that the Treasurer and her staff have been working very hard to make sure that today’s bond sale is a huge success. Last week, all three bond rating agencies reaffirmed Maryland’s AAA bond rating, which is really quite an accomplishment, especially in the middle of this, while responding to a crisis that has created a multiyear budget crisis unlike anything the State has ever experienced before and much worse than the Great Recession. This AAA bond rating is the result of all of us working together in a bipartisan manner, acting as prudent stewards of the taxpayers’ money. And all three rating agencies noted our State’s vigilant debt management, sound budget policy, and proactive fiscal management, including the Board’s quick, decisive actions to address the midyear shortfalls.

S&P Global Ratings praised the proactive action taken by this Board in May to help close fiscal 2020’s budget shortfall by implementing $120.7 million in spending cuts. Consistent with our strong management practices, S&P expects us to actively manage our budget in fiscal 2021 to address the shortfall. But they state, and I quote, “while we recognize decisions on expenditure reductions are not easy or politically palatable, prolonged delay on enacting such
revisions to later in the fiscal year may diminish their effectiveness.” Typically, S&P’s rating outlook timeframe is up to two years. But, given the current uncertainty around this pandemic, that is subject to change. And if we prove unable to enact budget cuts, or draw down our reserves to a level that is unlikely to be replenished, we could risk S&P having to revise this outlook or lower our rating.

Fitch Ratings cited our willingness to utilize our superior gap closing capacity to trim spending commitments in response to changing circumstances. And Fitch mentions the $413.2 million in spending reductions implemented by this Board on July 1st and the additional $205 million in proposed cuts which were deferred until we receive the new revenue and economic data over the next several weeks. But even with these actions, Fitch points out that a sizable gap remains to be solved.

So, all three of us need to continue our hard work together in a bipartisan manner, continuing to step up and to make some very tough decisions in order to make it through these difficult times. Not taking action is not an option and the Maryland Department of Budget and Management will have to bring cuts back before us in September. Failing to take action on the $205 million in items that have been deferred would result in having to lay off more than 3,157 State employees.
While State and local governments across America have already laid off 1.6 million government workers, here in Maryland we have so far avoided cutting the jobs of State employees. But the three of us face very tough decisions about cutting spending or cutting people. And I’m going to fight to try to keep people working.

I want to applaud my colleagues, Treasurer Kopp and Comptroller Franchot, and their staffs for their tremendous work and thank them and their staffs for the collaboration with our team, especially Budget Secretary David Brinkley and his staff. We could not have received this AAA bond rating without all of us working together. And only by continuing to work together will we be able to maintain that AAA bond rating through this economic crisis.

With that, I’m going to turn it over for any opening remarks from my colleagues. Madam Treasurer, the floor is yours.

TREASURER KOPP: Thank you. Thank you, Governor. Yes, I think all Maryland should take pride in the fact that the rating agencies and investors across the country understand that Maryland makes tough decisions and investment in Maryland is a very good investment. We’ll see in about an hour exactly how good, how much they are willing to pay. But there is no doubt that a AAA rating in these times is very significant.

I would endorse what you said, support what you said, and add only that among the strengths that the rating agencies note are not only the ability...
to cut the budget, the Board of Public Works when the Legislature is not in session, the Legislature when they are in session, a regular or a special session, but also to transfer funds and to raise revenue when necessary. The whole picture, in other words, the whole puzzle. And I do believe that by the end of this fiscal year and next year, when we address all of these problems, it will be using our full range of tools and weapons to fight this recession.

I don’t think we can let today go by without noting the passing of Congressman John Lewis, a great American. Some of us who are old enough, perhaps not you, Governor, remember the 1960s and walking in the streets and I never went down to Mississippi or Alabama. But I remember when we went even to Southern Virginia, they were very difficult times. There was a lot of, just a lot of trouble. He, John Lewis and his colleagues, made what they call good trouble, good trouble, trouble to accomplish great ends. And I think he had to know in his last days that in fact while we’re still fighting and we have hardly made the progress we wished we had, there has been great progress since those days in the sixties. And a lot of it was due to people like John Lewis, our own Elijah Cummings, people who put their lives on the line. And I think in every state throughout the nation there are people mourning and there are people rededicating themselves also to the fight for equality and decency. And I know Maryland will be there in the forefront of that fight. So I thank you.
Maryland Lottery and Gaming contributed an all-time record of more than $1.3 Billion to the State of Maryland.

Record Total Casino Gaming Revenue: $1.760 billion
  - $81.4 million (4.9%) more than in FY2018.
Record Contribution to the Education Trust Fund: $542.7 million
  - $46.0 million (9.3%) more than in FY2018.
Record-setting Revenue Month: $163.3 million in March 2019
  - Casino gaming revenues averaged $146.7 million per month in FY2019.
Local Aid: $92.8 million
  - $4.4 million (5.0%) more than in FY2018. Total includes local impact grants and contributions to local jurisdictions.
Casino Employees: More than 7,400
  - Total includes more than 6,200 full-time employees.

The Maryland Lottery and Gaming Control Agency encourages responsible play. If you or someone you know needs help with a gambling problem, call 1-800-GAMBLER or go to mdgamblinghelp.org.

WHERE THE MONEY GOES

CASINO OVERVIEW

<table>
<thead>
<tr>
<th>Casino</th>
<th>Revenue</th>
<th>Contribution to State</th>
<th>Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>MGM National Harbor</td>
<td>$711.5 million</td>
<td>$277.9 million</td>
<td>2,590</td>
</tr>
<tr>
<td>Live! Casino-Hotel Maryland</td>
<td>$589.4 million</td>
<td>$243.8 million</td>
<td>2,572</td>
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<tr>
<td>Horseshoe Casino-Baltimore</td>
<td>$250.3 million</td>
<td>$98.7 million</td>
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<td>Ocean Downs Casino</td>
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<tr>
<td>Hollywood Casino</td>
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<td>$41.6 million</td>
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</tr>
<tr>
<td>Rocksalt Casino</td>
<td>$56.1 million</td>
<td>$21.0 million</td>
<td>332</td>
</tr>
</tbody>
</table>

*Total operating expenses of the Gaming Division are $16,955,982.
Maryland Lottery and Gaming contributed an all-time record of $1.311 billion to the State in Fiscal Year 2019. Of that amount, Maryland Lottery's profit to the state totaled an all-time record of $593.1 million.

WHERE THE MONEY GOES

FY2019 Lottery Sales: $2,196,908,499**

- Prizes to Players: 62% - $1,362,156,494
- Operating Expenses: 3.5% - $76,142,292
- Retailer Commissions: 7.5% - $165,508,687
- Profit*: 27% - $593,101,026

Profit is distributed to:
- Maryland General Fund: $552.0 million
- Maryland Stadium Authority: $20.0 million
- Baltimore City Schools: $20.0 million
- Veterans' Organizations: $78,023
- Maryland International Race: $1.0 million

*Profit is distributed to:
**All Fiscal Year 2019 figures are unaudited.

Among the Lottery's record-setting figures in FY2019 were:
- Record Profit to the State: $593.1 million
  - $17.4 million (3.0%) year-over-year increase in profit.
  - Third all-time record in the last four years.
- Record Sales: $2.197 billion
  - $154.1 million (7.5%) more than the previous record of $2.043 billion in FY2018.
  - Fourth consecutive record sales year.
- Record Prizes Paid to Players: $1.362 billion
  - $115.4 million (9.3%) more than the previous record of $1.247 billion in FY2018.
- Record Retailer Commissions: $165.5 million
  - $11.8 million (7.7%) more than the previous record of $153.7 million in FY2018.

Among the Lottery's growth drivers in FY2019 were:
- A Fifth Consecutive Record Year for Scratch-off Sales: $812.4 million
  - Sales increased $61.5 million (8.2%) from the previous record in FY2018.
- Record-setting Mega Millions Sales: $137.7 million
  - A Mega Millions-record $1.537 billion jackpot in October 2018 helped to fuel a 55.4% year-over-year increase in sales.
- Record-setting Racetrax Sales: $211.2 million
  - $18.6 million (9.7%) more than the previous record of $192.6 million in FY2018.
.05 Student Attendance Policy.

Each local school system shall develop a student attendance policy which includes:

A. A general statement dealing with the local school system's purpose and rationale for promoting regular school attendance.

B. Rules, Definitions, and Procedures for Policy Implementation.

(1) Reasons for lawful and unlawful absences and tardiness include lawful/unlawful absence as defined in Regulations .03 and .04, of this chapter. Clarification of special situations for unlawful absence may also be identified.

(2) Standards for regular attendance include minimal requirements for student attendance in order to foster continuity of the instructional program. The standards for school attendance may identify a specific number of excessive or unlawful absences allowed within a marking period, semester, or school year.

(3) Procedure to verify absences/tardiness includes responsible persons, time limits, and methods of absent/tardy verification.

(4) Penalties for not meeting standards for regular attendance requirements include actions taken by school system staff when a student is unlawfully absent or accumulates an equivalent number of excessive or unlawful absences which exceeds the standard for regular school attendance. The penalties should be identified, and should reflect a continuum of excessive or unlawful absences.

(5) Make-up work requirements include classroom teacher and student responsibility, time limits, and grading policy for make-up work. Make-up work requirements may also involve a procedure for completing class work in advance of an absence wherever possible.

(6) Attendance-monitoring procedure includes:

(a) Record-keeping format to comply with State attendance reporting requirements;

(b) Intervention strategies and procedures for dealing with absenteeism at the beginning stages of the problem as well as chronic absenteeism; and

(c) A referral process to pupil services or other central office professionals for case management of chronic attendance cases.

(7) Reward process includes an identified motivational program to reward regular school attendance.

(8) Information dissemination includes methods for informing school staff, students, parents, and community members of attendance policy requirements.

(9) Appeals process includes specific due process procedures for appealing attendance violation decisions at the school and central office level.

(10) Legal foundation includes citations of legal authority for attendance policy development and implementation.
An Invisible Shield: States Begin Enacting COVID-19 Liability Protections

Article By:
Seth Pierce Johnson
Laura G. Hester

Although top officials in the U.S. Senate have insisted that liability protections are a top priority for future COVID-19 relief legislation from the federal government, the current onus remains on the states to limit liability and provide COVID-19-related protections to healthcare services and business entities. As a result, in the absence of federal protections, states across the country are beginning to pass legislation that provides liability protections for companies and healthcare providers against COVID-19-related lawsuits. These “liability shields” are intended to provide certain immunities from liability claims regarding COVID-19 and prevent lawsuits brought by people who contract the virus under a specific set of circumstances.

At the time of this article, at least 12 states—including Alabama, Arkansas, Georgia, Iowa, Kansas, Louisiana, Mississippi, North Carolina, Ohio, Oklahoma, Utah, and Wyoming—have begun enacting such legislation to narrow the liability limits related to and stemming from COVID-19. Although the various pieces of legislation may contain similarities, each law differs from state-to-state in a manner that leaves healthcare providers, businesses, and individuals vulnerable to differing rules and regulations related to COVID-19 liability across their respective footprints. In this alert, we look specifically at the Georgia COVID-19 Pandemic Business Safety Act and other still-emerging issues with liability shield legislation.

The Georgia COVID-19 Pandemic Business Safety Act

On June 26, 2020, the Georgia General Assembly passed Senate Bill 359, also known as the “Georgia COVID-19 Pandemic Business Safety Act.” The Act, which currently awaits final approval by Governor Brian Kemp pending his office’s legal review, intends to protect healthcare providers and certain other businesses, entities, and individuals in the State of Georgia from legal liability arising from COVID-19. However, the Act allows lawsuits to proceed if the claimant can prove “gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm” by one of the Act’s covered parties. In other words, if the Act becomes law, the covered parties operating in Georgia would be shielded from lawsuits related to COVID-19 exposure, absent one of the carve-outs for gross negligence or wanton misconduct.

The Act makes Georgia one of the most recent states to have enacted legislation or issued an executive order acting as a “liability shield” for COVID-19. However, the Act’s recent passage and broad language serves as a reminder that navigating state-specific legislation may come with more complexity than a blanket federal shield across all 50 states. To serve as a compass for navigating these uncharted waters, we take some of the Georgia-specific provisions in turn.

Broad Language

The language of the Act was written intentionally broad to serve as all-encompassing legislation for COVID-19 liability. Nevertheless, the broader the language, the more room for error in interpretation. For example, the term “COVID-19” is comprehensive under the Act. In particular, the Act includes “any mutation or viral fragments thereof, or any disease or condition caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which were the subject of the public health state of emergency declared by the Governor on March 14, 2020.”

Although the broader definition tends to protect healthcare providers, businesses, and the rest of the covered parties from a wider array of claims, it remains to be seen how “any mutation or viral fragments” will be interpreted by a Georgia court. Rather than assume that a complainant’s disease or condition is covered by the Act, proper measures are necessary to ensure that the complainant’s condition constitutes a nonactionable injury under the Act.

Not a Blanket Liability Shield

As with legislation in other states, the Act helps—but does not absolve—employers of their duty to maintain safe operations for workers and customers. In other words, the Act is not intended to serve as a “blanket shield from liability.” The text of
the Act is clear on this point. If a healthcare provider, businesses, or individual acts with the requisite “gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm,” then a claimant may succeed in an action against such party.

State liability shields such as the Georgia Act are meant to protect healthcare providers, businesses, entities, individuals, and the remaining covered parties from virus-related lawsuits brought by customers, members of the public, and employees. That does not mean, however, that the shields go so far as to allow businesses to blatantly disregard the safety of their employees or customers and avoid liability. In other words, the Act is not a “get out of jail free card” for all circumstances.

For example, states generally preempt workplace injury lawsuits already—requiring that complaints be brought instead as worker’s compensation claims. Nevertheless, claimants can sometimes find a way to get their claims into and heard by a court, a phenomenon that is beginning to occur with COVID-19-related wrongful death lawsuits. Although it remains to be seen exactly how the Georgia Act will shield healthcare providers and businesses, or funnel such wrongful death lawsuits out of courts absent gross negligence, the Act is intended to prevent businesses from facing a litany of lawsuits from employees or customers crying foul for COVID-19-related risks.

Given the fluid circumstances surrounding COVID-19 and business operations, attorneys and their clients will want to check the requirements and guidelines in effect that are applicable in each case when forging ahead under the protection of the Act in Georgia.

The Rebuttable Presumption

The Act’s biggest protection for businesses may come in the form of Georgia’s rebuttable presumption. Absent gross negligence or willful misconduct, the Act creates a rebuttable presumption that a potential claimant assumes the risk when he or she enters certain premises that provide express warning disclaimers. The Act itself provides two such disclaimers.

The first can accompany “any receipt or proof of purchase for entry.” In this instance, to trigger the Act’s protection, the business may include a statement “in at least ten-point Arial font placed apart from any other text” that states:

‘Any person entering the premises waives all civil liability against this premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises.’

In the second instance, a business may post—at a point of entry to its premises, if present—a sign “in at least one-inch Arial font placed apart from any other text” that contains the following warning statement:

‘Warning

Under Georgia law, there is no liability for an injury or death of an individual entering these premises if such injury or death results from the inherent risks of contracting COVID-19. You are assuming this risk by entering these premises.’

The inclusion of either warning in the proper location in the requisite form and substance will trigger the rebuttable presumption that the claimant assumed the risks associated with COVID-19 infection, injury, or death when he or she entered the premises.

Given that the Act has not yet been enacted as law, Georgia’s healthcare providers, businesses, and individuals should not proceed with the assumption that these precautions will protect them from liability just yet. The Act will only become effective at the earlier of Governor Kemp’s signature or its passage without his approval on August 7, 2020. In either case, the legal protections of the Act would cover anyone who contracts COVID-19—and subsequently, their causes of action—until July 14, 2021, and would sunset for any causes of action arising thereafter.

Given the fast pace of legislation across the nation—varying by jurisdiction—to implement these liability shields from COVID-19 infections, attorneys and their clients will want to check the requirements and guidelines that are applicable in their jurisdiction when operating their business. As the Georgia Act demonstrates, knowing if there is an applicable act in your jurisdiction is just the beginning. Here is a list of questions that can assist you and your attorney as you begin navigating the re-opening phase of the pandemic:

- Does my local jurisdiction have a liability shield? What protections does it afford my business from potential claimants, such as employees, customers, or others?
- What constitutes a covered party in my jurisdiction? Is the shield limited to healthcare providers and certain businesses, or are other entities and individuals protected as well?

- What types of injury or infection does my jurisdiction cover? Is it any mutation of COVID-19—like Georgia—or is the application of the law much narrower?

- Are there carve-outs for gross negligence and willful misconduct? What is the minimum standard by which I have to operate my business to avoid liability?

- Does my jurisdiction—like Georgia—have a rebuttable presumption? What does it require?

- Are there appropriate warnings and notices that I can post to protect my business from a lawsuit? What should they say, and in what form should I provide them to my employees and customers?

- If my state does not have a liability shield, what additional information do I need to know and what steps should I take to protect my business from a lawsuit?

Although not exhaustive, this list of questions will serve as a starting point to additional inquiries that will—at least in the near term—allow businesses and other covered parties to appropriately manage their litigation and liability exposure during the re-opening process without the specter of a lawsuit looming overhead.

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More School Districts Sever Ties With Police. Will Others Follow?

By Stephen Sawchuk

June 26, 2020

School boards in St. Paul, Minn.; Oakland, Calif.; Seattle; San Francisco, and two San Jose, Calif.-area districts all voted in recent days to suspend or dismantle school policing programs—a wave of action that started with the a historic June 2 decision by the Minneapolis district.

Simultaneously, a different story played out in Los Angeles and Chicago—respectively the nation’s second- and third-largest school districts.

A proposal in Chicago to eliminate its recently overhauled $33 million school policing contract with the city police was narrowly defeated June 24 on a 4-3 vote. And Los Angeles’ board appeared close to paralysis on the issue June 23, with members unable to agree on any of three different plans for the future of its $70 million school police force, which the district has managed since 1984.

“I would regret for the rest of my life if I left any student vulnerable,” said Los Angeles school board President Richard Vladovic, who voted against the most aggressive of the plans, which would have gradually reduced the force’s budget by 90 percent by 2024.

Taken in sum, the school board votes showed that advocates and student activists who oppose policing in schools have made major gains in some quarters, even as they acknowledge that the work in other cities could prove harder.

The developments are occurring right as new data from the EdWeek Research Center suggest that educators’ appetite for eliminating school police is mixed—potentially complicating efforts to expand the local activism nationwide. Many educators in that survey indicated that they value their school police officers and do not believe that they treat Black students differently.

All of that points in a few key directions for advocates: First, continuing to harness the power of youth, who, like with gun violence in 2018 and climate change in 2019, have been at the forefront of the organizing and activism in the cities where the votes were successful.

“I’m ecstatic. I’ve been crying for days now, tears of joy,” said Judith Browne Dianis, the executive director of the Advancement Project, which supports police-free schools. “As we see the country moving in this discussion around defund the police, young people, sometimes younger than high school, are finding their voice in this moment and telling their stories.”

It also means, she said, that the movement’s continued success will depend on reframing school safety in new ways and challenging old paradigms of thinking. The number of armed police in schools has risen steadily since the 1999 mass shooting at Columbine High School in Littleton, Colo.—to the point where the very concept of school safety has, fairly or not, become associated with police presence.

“This is where the hard work come in. Police are the easy thing; thinking about the ways in which we could support young people [to feel safe] takes some creativity, and it also takes real political will,” she said.

A Reckoning for SROs and Beyond

America’s racial reckoning with law enforcement extends far beyond school policing. Teachers and students are demanding anti-racist curricula that include the contributions of Black students and no longer sugarcoat the country’s bloodier historical moments.

Superintendents and boards have been confronted with the structural racism embedded in many common practices—like which administrators are tapped to become principals. Some district leaders have even called out racism within their own governance ranks, as recently occurred in Oregon’s Salem-Keizer district.
But the front burner issue is that of school policing. Advocates for Black students have long argued that the same problems Black communities have experienced with punitive, disproportionate policing in their communities occur in the schools their children attend.

Research is mixed on whether the presence of police improves school safety, while federal data indicate that Black students are disproportionately likely to be arrested at school, and that they are more likely to attend school with police. Some studies attribute those patterns directly to the presence of SROs, while others fault overall school culture.

For school boards, the main debates have centered on whether to do away with school-based police altogether, or whether steps can be taken to reform them. Discussions around reforming police typically center around tighter job descriptions, better training, bans on the use of pepper spray and policing techniques like neckholds, and prohibiting school police from being involved in routine disciplinary matters.

For its part, the National Association of School Resource Officers recommends at least 40 hours of training covering the teen brain, sex trafficking, and how to mentor and build relationships with students among other things, and some states have moved to establish similar voluntary or mandatory guidelines for SRO programs.

It’s not clear whether such training sufficiently covers all those topics in enough depth and whether it is reinforced in day-to-day school interactions, or how it dovetails with previously received messaging. (Many SROs come through regular police academies.) And even school safety experts wrestle with the philosophical question of whether the hierarchical, command-and-control nature of policing can be squared with the culture of schools, which is supposed be nurturing.

At last week’s board meetings, many of the youth who said that even when they haven’t personally experienced a bad interaction with police, their presence in school felt stigmatizing.

“Having an SRO is like having a note on my back that says, ‘I’m not valuable,’” said one Chicago student during the board’s public comment period.

**Pros and Cons**

For racial-justice advocates, several of the week’s actions were not only a breakthrough for students, but also carried symbolic resonance because of the past history of policing in those locations.

St. Paul has long faced tensions between students, teachers, and school police after a spate of attacks on teachers. The district overhauled its school policing several years ago even as Black Lives Matter advocates pushed for more drastic measures.

And in Oakland, where school police have been a controversial fixture since the 1950s, the vote made it the first to dismantle its own school police force; the Black Organizing Project has been advocating for nine years to force police out of schools.

Those deep roots have paid off, advocates said.

“Youth of color have been working with organizers for years. So there was the killing of George Floyd and the awakening our country had, and this infrastructure was already in place for youth to be connected to be organized, and to be educated to say: Not only do we not want police in schools, here’s what our vision of safety looks like, and what being included in a school community looks like,” said Cara McClellan, an attorney for the NAACP Legal Defense and Education Fund.

Even though Chicago’s vote fell short of advocates’ hopes, it was nevertheless an extraordinary rebuke of Mayor Lori Lightfoot, who opposed the elimination of school police. (Lightfoot appoints the members of the school board, who rarely if ever challenge her positions.)

Still, the boards’ discussions also illuminated some of the limitations of the debate. Both advocates for and against the plans and board members themselves frequently drew on anecdote, personal experience, and emotion rather than data about student arrests or perceptions of school police.

Los Angeles board member George McKenna mounted a passionate defense of school police, insisting that the district’s SROs are fundamentally different from municipal police. He suggested at one point that the students who had turned out were being manipulated by adult advocates. (Similar criticisms date all the way back to youth activism during the Civil Rights and Vietnam eras.)
In Chicago, two board members who voted against the resolution, Dwayne Truss and Lucino Sotelo, spoke at length about traumatic experiences of being threatened by gangs when they were young Chicago students. They both said they worry that fearful students will drop out rather than attend an unsafe school.

“Our schools become a sanctuary because of the violence in their communities. We have communities under siege by gun violence,” Truss said.

**How Educators View School Police**

Where data exist, they tend to show a distinctly mixed picture. Discipline referrals in Chicago schools and overall police notifications continue to fall but continue to disproportionately affect Black students.

What’s more, surveys from Chicago educators and community members showed distinctions in how students and administrators felt; only about a third of students felt that SROs tried to build relationships with students while over half of teachers felt that way and three-quarters of administrators did.

The new data from the EdWeek Research Center survey likewise suggest that educators’ views about school policing aren't monolithic. The nationally representative survey included 1,150 responses from teachers, principals, and district leaders.

See Also: Educators Support Black Lives Matter, But Still Want Police in Schools, Survey Shows

It found only small differences between those respondents who identified as white and nonwhite on the question of whether eliminating police could lead to more school shootings, with about 60 percent of each agreeing that it would.

But other responses divided along gender lines: 62 percent of men "completely disagreed" with the elimination of armed police officers from schools compared to 48 percent of women, in an echo of the split board votes in both Chicago and Los Angeles, were women favored the more aggressive plans to eliminate school police.

Strikingly, EdWeek’s data showed that 65 percent of respondents whose schools are in the South said they “completely disagreed” with eliminating policing in schools, compared to 59 percent in the Midwest, 35 percent in the Northeast and 38 percent in the West. Those patterns could reflect different regional cultural attitudes and practices in “tough on crime” Southern states—some of which are likely traceable all the way back to the racist post-Civil War era Black codes.

Overall, educators who responded to the Education Week survey said they didn’t see differences in treatment of students by their race. Ninety-one percent of the survey respondents said that armed police officers in their district treat students of color fairly “a lot.”

**Safer Without Police?**

Those data suggest that widespread efforts to rid schools of police could depend on continuing to win the hearts and minds of educators.

There are signs that that’s starting to happen. Teachers’ unions have only within the last few years taken steps to condemn police presence in schools; the American Federations of Teachers recently passed a resolution to that effect. But the union has its work cut out to win over the rank-and-file. The EdWeek data found that nearly 40 percent of teachers agreed that school police were necessary because “too many students are out of control.”

McClellan, of the NAACP Legal Defense and Education Fund, sees the data in a different light. So many schools are understaffed that police officers may be pushed into filling the roles of mentors or homework helpers, and that may be why so many say they value their school police.

“When educators may be talking about, ‘I like our police officer, he’s a great mentor to the kids,’” the reality is that our schools are understaffed and our kids are so desperate for mentors or help with homework, we’re using the resource to fill the gap when it doesn’t require a police officer to do those things,” she said. “And in fact, the risk is that they can use the information they’re receiving to do criminal prosecutions. If you’re saying, ‘Our officer is super friendly, she’s really great about talking to girls or mentoring them,’ they’re often not thinking about, ‘Is she giving them Miranda warnings?’”

Other pressures could shape the evolving conversation, too. Two horrific school shootings in 2018 led to widespread demands for stronger police presence or armed personnel in school, noted Ken Trump, the president of the National
School Safety and Security Services, a Cleveland, Ohio-based safety consulting firm, and those concerns aren’t going to go away.

"I can tell you this: There is no question in my mind that in a year or two down the road, when incidents start to happen, not only are you going to have that other group of loud parents [who support school policing], but you’ll also see these districts are going to pay a lot more in civil litigation for incidents that probably could have been prevented because they reduced the standards of security," he said.

He added that he’s deeply concerned that school districts have not given enough thought to what will replace their policing programs. (Most of the districts have said they plan to invest in counselors, who are universally in short supply in K-12 schools, among other supports; several have scheduled upcoming board meetings to discuss comprehensive plans).

"We can try to quantify incidents and arrests, but it's hard to quantify prevention," said Trump, who is not related to the president. "You have to take reasonable steps to have a secure environment in which the counseling, prevention, and intervention services can be provided."

He acknowledged, though, that many school policing programs suffer from poor management and muddied purposes.

"We often find that there is a well-written and agreed-upon memorandum of understanding between [school districts and police agencies], but those are typically executed at an executive and board member level. And when we get to the ground level, the principals and the officers themselves have never even seen the [agreements] and have no idea what the contents look like," he said.

School districts in Denver, Milwaukee, West Contra Costa, Calif., and the Edmonds, Wash., district have also this month paused or eliminated some, or all, of their SRO positions, while the city council in Rochester, N.Y., did so via its budgeting process. Madison, Wis., is expected to vote to end its program June 29.

Is your district reconsidering its SRO program? Education Week would like to hear from you. Please email Stephen Sawchuk at ssawchuk@educationweek.org.

Associate Editor Christina Samuels contributed to this report.

WEB ONLY
High Level Summary of Education Components in the HEALS Act

Senate Republicans unveiled a new COVID-19 pandemic response plan with a total funding level of approximately $1 trillion. It addresses public education in a variety of ways. The proposed legislation includes $105 billion for education including approximately $70 billion for K-12 education. However, two-thirds of the funding is only available to districts with approved re-opening plans that must be submitted to and approved by the Governor. Republican leaders are referring to the comprehensive legislative section focused on appropriations as the HEALS Act (Health, Economic Assistance, Liability Protection, and Schools).

The legislation in its current form has significant opposition but it will be used as a starting point for negotiations with the Democrats. It is expected it will change significantly as it moves through the legislative process. However, we wanted to highlight the proposal's major education components and their potential impact on local school districts. There are multiple major troublesome issues with the legislation including inadequate funding levels, no dedicated funds for the homework gap, shifts toward moving funds to private education, and requirements around school building reopening restricting many of the funds. The summary of the major legislative sections impacting public schools follows:

Education Stabilization Fund

The total legislative package contains $105 billion for education (K-12 and higher education combined) overall. The funds are available through September 30, 2021 and allocated as follows:

- **$1 billion for outlying areas and the Bureau of Indian Education** (BIE) (split evenly between the two)
- **$2 billion for governors** for distribution for education purposes. The funds will be distributed with 60% going by population age 5-24 and 40% based on the Title I eligible population. Allowable uses in the proposal are similar to the ones contained in the CARES Act. The funds must be spent within 6 months and may be used to provide emergency support through grants to local education agencies (LEAs) that the state deems to have been most significantly impacted by coronavirus. Further, funds may be used to provide emergency support to institutions of higher education.
- **$69.6 billion for K12** is allocated based on the proportion of the state’s Title I funding, with 90% sub-allocated to LEAs by Title I proportion, one-third must be passed to LEAs "not less than" 15 days after the Secretary provides the funds to the state education agency (SEA), two-thirds are awarded only after the LEA submits a school reopening plan to the governor who then must approve the plan. LEA plans that provide "in-person instruction for at least 50 percent of its students where the students physically attend school no less than 50 percent of each school-week, as it was defined by the local educational agency prior to the coronavirus emergency, shall have its plan automatically approved." An LEA that provides in-person instruction to at least some students where the students physically attend school in-person, but does not satisfy the 50/50 requirements, shall have its allocation reduced on a pro rata basis as determined by the Governor."
If there is no in person schooling the district will not receive a share of the two-thirds set aside. Allowable uses for the funding are much narrower than the CARES Act. Set asides for low income students at private schools are better spelled out in this proposal, which appears to repudiate Secretary DeVos’s interpretation of the CARES Act’s equitable services provision, but it does not include language reversing the Department interpretation and final interim rule of that legislation implementation.

- **$29.1 billion for higher education** with 85% allocated by the Secretary to institutions of higher education (IHEs) by apportioning it by 90% to Pell eligible FTEs and 10% non-Pell FTEs; 10% allocated by the Secretary to IHEs for "additional awards"; and 5% by the Secretary to IHEs with the greatest unmet needs. Allowable uses include defraying pandemic expenses and financial aid for students.

- **Maintenance of Effort.** Requires states to maintain their funding for education at least at the same proportional levels as in 2019 as a condition for receiving Education Stabilization Fund grants.

- **NAEP Funds and Administration Funds** The bill separately provides IES for $65,000,000 for National Assessment of Educational Progress (NAEP) administration and $8 million to USED for administration.

### Private Education Provisions

The HEALS Act includes provisions for the school choice program that U.S. Secretary of Education Betsy DeVos has proposed for Education Freedom Scholarships. These provisions to redirect federal funding from public schools to private schools would authorize a one-time, emergency appropriation for scholarship-granting organizations in each state. Such organizations would provide families with "direct educational assistance, including private school tuition and home schooling expenses." While the bill authorizes the creation of these scholarships, it does not fund them.

NSBA strongly opposes this proposed diversion of federal funds to private schools and is urging Congress and the Administration to not use COVID-19 recovery efforts to a political agenda to advance school choice and privatization. As stated in previous advocacy and policy positions, NSBA opposes vouchers, tuition tax credits, and similar programs, and charter schools not subject to oversight of the local school boards, that would effectively create a separate unaccountable system of publicly funded education which would divert public funding to private schools, private home schools, including virtual schools, regardless of whether they are owned or operated by individuals, religious institutions, not for profit entities, or corporations. In addition, NSBA opposes the proposal for Education Freedom Scholarships because it would divert public funds outside of locally elected, locally accountable, representative oversight; and, it could effectuate re-segregation of schools.

### Homework Gap

The legislation does not address the homework gap leaving this critical issue students across the nation are facing unresolved in this current proposal. Addressing the digital divide in education is an allowable use under the funds but this will create a competitive environment with many other important programs and will not adequately resolve the issue.
Liability

The legislation includes schools in its liability coverage. State tort liability laws are essentially eliminated under the legislation for issues arising from COVID-19 and replaced with a federal cause of action in which the plaintiff must prove their case through a clear and convincing evidence standard which is a higher standard than the normal one. Plaintiffs will need to prove that the defendant was not making reasonable efforts to comply with applicable government standards and/or guidance and was engaged in gross negligence or willful misconduct.

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Chip Slaven
Chief Advocacy Officer
National School Boards Association
Alexandria, VA
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Coronavirus Child Care and Education Relief Act
Sponsored by Senator Patty Murray (D-WA)

As the novel coronavirus (COVID-19) continues to spread throughout the country, child care providers, K-12 schools, and colleges are confronting enormous budget shortfalls with no end in sight. After taking on unprecedented expenses since the beginning of the pandemic, they now face the prospect of devastating state and local funding cuts. These cuts come at the same time as schools and child care providers are working with public health authorities to keep children, students, and staff safe under any reopening scenario as the pandemic continues. Significant federal investments are needed to help schools and colleges make reopening decisions based on science, and to continue to ensure that all students receive high-quality education and support services, whether in-person or remotely. Schools must also prepare to address the very real issue of learning loss, particularly for students from low-income families, students of color, first-generation college students, students with disabilities, English learners, students experiencing homelessness, foster care youth, migrant children, and students involved with the juvenile justice system. Schools will also need to address the social and emotional needs of students, including helping them meet basic needs with housing, food, and health care.

To help child care providers, K-12 schools, colleges, children, students, and their families, Senator Murray is introducing the Coronavirus Child Care and Education Relief Act. This legislation would build on the educational investments from the CARES Act and provide almost $430 billion in funding for child abuse and neglect prevention, child care, K-12 education, postsecondary education, and workforce development. The bill also fixes numerous issues created by Secretary DeVos’ flawed and harmful implementation of the CARES Act that has caused unnecessary confusion for educational institutions responding to COVID-19.

The Coronavirus Child Care and Education Relief Act would provide a total of almost $430 billion in funding for:

The Child Care Is Essential Act. Child care was in crisis long before the COVID-19 pandemic hit, but now we are at risk of losing nearly half of the nation’s child care supply. As workplaces begin to reopen and working families need child care, child care providers across the country are struggling to stay in business as they operate with significantly reduced capacity and face increased operating costs with limited revenue. The Coronavirus Child Care and Education Relief Act includes the Child Care Is Essential Act, a bill led by Senators Murray, Smith, Warren, Casey, and Gillibrand and co-sponsored by 30 Senate Democrats. This bill would provide $50 billion in grant funding to child care providers to stabilize the child care sector and support providers to safely reopen and operate. Administered through the existing Child Care and Development Block Grant (CCDBG), grants would be available to licensed, regulated, or registered child care providers that are currently open or temporarily closed due to COVID-19. Grants would enable child care providers to meet their heightened costs, backfill limited revenue due to COVID-19, and provide tuition relief to working families. Additionally, the bill would enable child care providers to continue to pay staff wages and benefits during periods of closure or reduced enrollment, and to purchase necessary supplies to keep children and staff safe.

The Child Abuse Prevention and Treatment Act (CAPTA). The Coronavirus Child Care and Education Relief Act provides $1.5 billion for child abuse prevention through the CAPTA. The bill includes $500 million for CAPTA’s State grants to provide necessary supports to child welfare workers
during the COVID-19 pandemic to prevent, investigate, and treat child abuse and neglect, including by purchasing personal protective equipment and other sanitation supplies. Additionally, the bill invests $1 billion in CAPTA’s community-based child abuse and neglect prevention programs to provide vital community-based supports and services to strengthen families during the pandemic. Finally, the bill increases dedicated funding for Tribal and migrant communities to prevent child abuse and neglect.

The Education Stabilization Fund (ESF): The ESF, initially created by the CARES Act and improved through the Coronavirus Child Care and Education Relief Act, invests $345 billion in education to stabilize and prevent cuts to education. This funding supports the Governor’s Emergency Education Relief Fund (GEER), the Elementary and Secondary School Emergency Relief Fund (ESSERF), and the Higher Education Emergency Relief Fund (HEERF). ESF also includes robust funding for the Bureau of Indian Education and Tribal Colleges and Universities and outlying areas. Within the ESF, funds are provided for the:

- **Governor’s Emergency Relief Fund (GEER).** The bill provides over $33 billion to governors to support educational programs significantly impacted by COVID-19. Governors may also use funds to support early childhood education programs, including State pre-K programs, in order to ensure young children continue to receive care and services during the pandemic.

- **Elementary and Secondary School Emergency Relief Fund (ESSERF).** The bill makes a new investment of $175 billion in funding to State educational agencies and school districts, allocated based on their share of Title I-A grants for FY19 under the Elementary and Secondary Education Act. This critical funding will help States and school districts ensure that students can keep learning and schools can reopen when it is safe to do so, including supporting implementation of public health protocols such as social distancing and purchasing PPE. Funds can also be used to support and improve distance education, and address students’ academic, social, and emotional needs during the pandemic. In addition, school districts must set aside at least 20 percent of their funds to measure and address learning loss among students due to the school closures this past spring. The ESSERF provisions also correct issues created by Secretary DeVos’ flawed implementation of CARES:
  - **Equitable Services for Students at Private Schools:** The Coronavirus Child Care and Education Relief Act overturns Secretary DeVos’ incorrect interpretation of the “equitable services” requirement and requires school districts to calculate the equitable services set-aside based on the number of students from low-income families in private schools.
  - **Elimination of Secretarial Discretionary Funding:** The Coronavirus Child Care and Education Relief Act removes the discretionary set aside for the U.S. Secretary of Education that Secretary DeVos has used to advance her school privatization agenda.

- **Higher Education Emergency Relief Fund (HEERF).** The bill makes a new investment of more than $132 billion to students and institutions of higher education. This critical support would be provided both for emergency financial aid grants to students for expenses like food, housing, child care, and technology supplies, and to colleges to confront the increased costs and financial pressures they face during the COVID-19 pandemic and the current economic downturn. The bill improves the formula used to distribute funds under the CARES Act by using student headcount to allocate funds, helping to ensure community colleges that enroll more part-time students receive more equitable support. In addition, the HEERF makes critical investments in Historically Black Colleges & Universities, Tribal Colleges, and other Minority-Serving Institutions to ensure that funding is equitably distributed to support students of color and students from low-income families struggling under the combined weight of systemic racism,
health disparities from the pandemic, and widespread unemployment. The bill will correct numerous issues created by Secretary DeVos’ flawed implementation of the original HEERF, including:

- **Overturning Secretary DeVos’ Effort to Limit Eligibility for Aid.** Importantly, the bill would overturn Secretary DeVos’ cruel and unauthorized effort to bar Dreamers and undocumented students from aid, contrary to Congressional intent, and also helps students who are not “title IV” eligible—including those students who have not filled out a FAFSA, are struggling academically, have a minor drug conviction, have previously defaulted on a student loan, and those who are veterans using the GI Bill.

- **Targeting Funds to Institutions with Need.** The bill would better target funds to institutions and students with need, including a set-aside for colleges that were already serving students exclusively online prior to COVID-19. The bill would stop Secretary DeVos from providing special favors to colleges that did not need federal funds. At the same time, it maintains important guardrails against inappropriate spending on executive compensation, athletics, and college endowments.

- **State and Local Education Budgets.** The ESF also protects all education investments by enacting a strong “maintenance of effort” (MOE) requirement for both K-12 and higher education. The bill establishes that, in return for the substantial federal investment of $345 billion in education stabilization, states must provide an assurance they will not cut their own education spending for three years. These provisions are essential for saving education jobs and ensuring that costs are not passed on to students and families.

**Robust Funding for the Elementary and Secondary Education Act’s Title I-A, I-C, and III Programs and for McKinney-Vento:** The Coronavirus Child Care and Education Relief Act provides an additional $12.9 billion in K-12 funding: $11 billion to Title I, Part A which provides formula funds to support local educational agencies and schools with higher numbers of children from low-income families; $300 million to Title I, Part C which is the Migrant Education Program to support migrant children and youth; $100 million to Title I, Part D which is the Neglected and Delinquent Youth program that provides funds for educational services, transitional supports, and drop-out prevention for neglected or delinquent youth; and $1 billion to Title III which is the English Language Acquisition Program to support English learners. The bill also provides $500 million in funding for the Education for Homeless Children and Youths program under McKinney-Vento that supports students experiencing homelessness.

**Individuals with Disabilities Education Act (IDEA):** The Coronavirus Child Care and Education Relief Act also provides a total of almost $12 billion in funding for the Individuals with Disabilities Education Act (IDEA). This includes $11 billion to Part B (K-12 programs), $500 million to Part C (infant and toddler programs), and $400 million to Part B Sec. 619 (preschool programs). There is also language included that requires the Secretary to ensure that for a state to receive any of the funding for elementary, secondary, or early childhood in the bill, the State must assure the Secretary that full rights are provided to children with disabilities and their families under IDEA and Section 504 of the Rehabilitation Act.

**E-Rate:** Additionally, the Coronavirus Child Care and Education Relief Act includes Senator Markey’s Emergency Educational Connections Act of 2020, co-sponsored by 44 Senate Democrats, provides $4 billion to schools through Federal Communication Commission’s E-Rate program. This funding would enable schools to purchase discounted computers, tablets, hotspots, and at-home internet service for students and educators.
**Flexibility for HBCU Endowments and Capital Financing:** The bill includes provisions to increase liquidity and cash flow at HBCUs by allowing them more flexibility to use their endowments and defer their capital finance loans.

**TRIO Programs:** The bill includes $450 million for the TRIO programs. The bill provides $250 million to boost all TRIO programs, including Educational Opportunity Centers that help unemployed and low-income adults earn high school credentials (such as the GED) and apply for college, and Talent Search that serves low-income, first-generation middle and high school students. The bill also includes $200 million for technology support for TRIO students.

**Adult Education and Literacy:** The *Coronavirus Child Care and Education Relief Act* provides $1 billion to increase access to adult education and literacy programs to help individuals attain the basic skills necessary for economic self-sufficiency. $100 million is reserved for adult education and literacy activities in correctional facilities. Funding may be used to expand the capacity of adult education providers, including additional training in digital literacy, expansion of infrastructure to move educational services online, and encouraging adult education providers to coordinate with the workforce development systems.

**Perkins Career and Technical Education:** The bill includes $1 billion to support state grants for career and technical education programs and activities. These additional funds shall be used to support activities improving or expanding career and technical education programs and programs of study to adequately respond to State and local needs as a resulting from COVID–19. These activities may include updates to physical and digital infrastructure to deliver both in-person and virtual learning activities, as well as an expansion of work-based learning supports for students and employers.

**Community College and Industry Partnership Grants:** The *Coronavirus Child Care and Education Relief Act* provides $2 billion to support community colleges and consortia to develop and scale career training programs that support high-skill, high-wage, or in-demand industry sectors and occupations. These programs would be developed in consultation with employers to ensure that students gain the skills and competencies necessary to meet future employment demand. Additionally, funds may be used to provide supportive services to students enrolled in these programs. The Community College and Industry Partnership Grants are based upon Senator Kaine and Senator Young’s bipartisan *ACCESS to Careers Act*. These grants build upon the Trade Adjustment Assistance for Community College Career Training grant program, which helped support nearly 2,600 programs of study in the wake of the Great Recession.
July 31, 2020

Amy Huber  
U.S. Department of Education  
400 Maryland Avenue, SW, Room 3W219  
Washington, DC


Dear Ms. Huber:

The National School Boards Association (NSBA) is submitting comments in strong opposition to Docket ID ED–2020–OESE–0091, the Department of Education’s Interim Final Rule regarding equitable funding distribution by Local Education Agencies (LEAs) under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which was passed to help public schools impacted by COVID-19. If this rule is enacted, it will prevent many deserving public schools from receiving adequate funding that they desperately need to support their most hard-pressed students during this national emergency. NSBA and local school board members support providing equitable services to nonpublic school students as is prescribed in the Elementary and Secondary Schools Act (ESEA). However, both approaches offered by this rule will harm many low-income students whom Congress intended to help through the CARES Act.

NSBA is a not-for-profit organization and federation of 49 state associations and the U.S. territory of the Virgin Islands, representing more than 90,000 school board officials, that advocate for public education. Local school board members govern approximately 14,000 local school districts serving more than 50 million public school students accounting for 90% of the nation’s students in K-12 education. Advocating for equity and excellence in public education through school board governance and the belief that public education is America’s most vital institution is at the core of NSBA’s goals and mission. Education is a civil right necessary to the dignity and freedom of the American people, and all children deserve access to an education which encourages them to reach their potential.
I. Clear Statutory Language and Congressional Intent of the CARES Act

When Congress passed the CARES Act, it provided approximately $13.23 billion for an Elementary and Secondary School Emergency Relief (ESSER) Fund to be allocated to state and local education agencies (SEAs and LEAs) based on their share of Title I, Part A funding in the 2019 fiscal year. Section 18005(a) of the CARES Act provides that an LEA receiving funds under ESSER, as well as under the Governor’s Emergency Education Relief (GEER) Fund, must provide equitable services to students and teachers in non-public schools. Equitable services must be provided “in the same manner as provided under section 1117 of the ESEA of 1965.”

This clear and unambiguous language sets out the firm direction of Congress and the legislative intent to use the same allocation method for CARES Act funding as is used for Title I. Section 1117(a)(4)(A) of ESEA lays out how that allocation is to take place. “Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.”

Numerous members of Congress have clarified that their intent was to help the most vulnerable students, which is why the Title I model was used in the legislation. Allocating funds under the existing procedures for Title I provides the most expeditious path to disperse funds quickly and efficiently so resources can be provided to help the neediest students and schools during this national emergency, as Congress clearly intended. It is imperative that CARES Act funding be distributed following the Title I allocation method.

II. The Proposed Rule Has Unnecessarily Delayed the Distribution of Funds

Despite the clear and unambiguous language of the CARES Act and the intent of Congress, the U.S. Department of Education (ED) released nonbinding guidance that is contrary to the allocation method outlined in the law. Rather than follow the normal distribution of funds under Title I, ED chose to change the process and offer guidance that would base distribution on total private school enrollment instead of using poverty levels as is used for Title I allocations. Upon announcement of the guidance, there was an immediate outcry opposing ED’s decision, as it would fundamentally alter how equitable services are normally allocated. The decision caused confusion and unnecessary delay of the distribution of funds. Although there was a widespread concern from numerous education advocates, including NSBA, that the guidance was misguided

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1 Public Law No: 116-136, Coronavirus Aid, Relief, and Economic Security (CARES) Act, Section 18005 (a)(b), Assistance to Non-Public Schools.
Comments from the National School Boards Association

and burdensome, ED ignored the strong public opposition and has now moved to codify the guidance through this interim final rule.

This equitable services guidance and proposed rule to direct LEAs to distribute CARES Act money based on total private school student enrollments instead of poverty levels under Title I will create numerous problems for local schools and their students. The rule fails to acknowledge that CARES Act funds, specifically Elementary and Secondary School Emergency Relief (ESSER) funds, are allocated to states and LEAs based on their respective share of FY19 Title I dollars. Congress intended the allocation of ESSER funding to be directed to both the state and local levels based on the concentration of low-income students, and the calculation of the allocation depends on how many low-income students reside in each state and district in accordance with section 1117 of ESEA Title I. Basing distribution on any other method defeats the main point of the legislation and is in opposition to the clear language and intent of Congress.

Several states have filed a lawsuit to prevent this diversion of funds due to its negative impact on their public schools. In media reports concerning the litigation, officials in Wisconsin report that nearly $4.2 million would be diverted away from public schools to private institutions; in Michigan officials claim that the rule could cost public schools in the state as much as $16 million in lost funds; and officials in California state that $1.6 billion in aid could be impacted. These stark examples demonstrate the severe consequences to public school students if this rule is enacted.

The Department’s directive on equitable services under the CARES Act is hurting the very students Congress sought to help through the legislation. The proposed rule creates an inequitable situation where wealthier children in private schools are counted and used to generate the equitable services share of CARES Act funding for their private schools at the direct expense of low-income children in public schools. This final interim rule should be rejected to ensure that the equitable services share for private schools is determined by poverty rates rather than overall enrollment, creating a fair and equitable situation for all students.

III. Public Schools are Facing an Unprecedented Moment in Time

COVID-19 has created an unprecedented moment for public schools. School buildings across the nation have closed, and students have shifted to online learning. The challenges facing public schools are enormous as they provide instruction virtually while planning for the eventual return of students to school buildings. Creating delays in allocation so more funds can be taken away from local community schools and shifted to private education is the wrong priority to help K-12 education adjust during this extraordinary time. Public school districts are facing the reality that more than sixteen million students lack adequate access to the Internet. They are trying to help

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The leading advocate for public education
students with disabilities in a myriad of ways. They are working to continue to offer nutrition for their neediest students. They are planning how to best offer instruction in the fall. Yet, while undertaking these activities they are operating under limited funding and resources. Public schools are not receiving any funds under the Paycheck Protection Program, but private schools are receiving billions. Enactment of this rule would further exacerbate the inequities millions of students who attend public schools are facing already due to lack of resources.

Further, the rule’s provision permitting LEAs to use the traditional funding mechanism for equitable services as long as those LEAs spend funds only on students and teachers in Title I schools confuses the difference between the distribution and the allowed uses of funds. This is not a workable alternative. The clearest path forward is for each LEA to calculate what proportion of its FY19 Title I allocation was used for equitable services and provide that same share of CARES Act funding available for equitable services to eligible students attending local private schools, consistent with Title I and the Cares Act.

The limited funding provided under the CARES Act is already woefully short of the more than $200 billion that NSBA has determined is necessary to support public schools during this momentous moment in history. Creating a delay in allocation and shifting valuable taxpayer funds to private schools and away from our most deserving students attending public schools is harming the very students Congress sought to protect. This is the time to put away political agendas and focus on the best way to help as many students as possible. That can only be accomplished by rejecting this interim final rule and proceeding with funding allocations based on the method used for Title I.

The National School Boards Association (NSBA) urges you to reject this rule and to support public schools and the millions of students who attend them as educators across the nation strive to serve all their students during this extraordinary time.

Sincerely,

Anna Maria Chávez
Executive Director & CEO
National School Boards Association