

ASBO International Federal Policy Update

**WASBO Spring Conference
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Overview

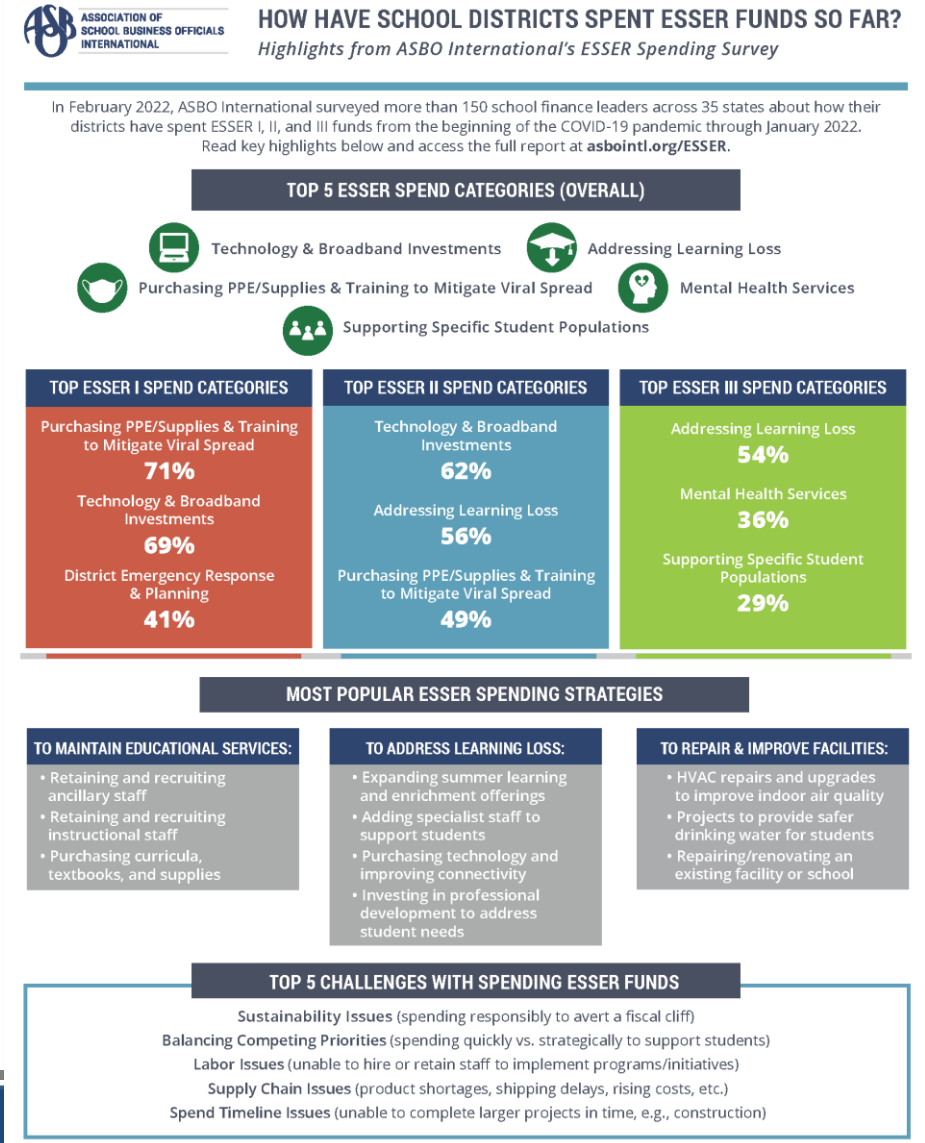
- **Legislative Resources**
- **Federal Policy Update**
 - Education Funding
 - Infrastructure & Transportation
 - School Nutrition
 - Other Issues
- **Q&A**



Legislative Resources

ASBO International Resources

- Policy priorities & resources: asbointl.org/legislative
 - New!** *ASBO International 2022-23 U.S. Legislative Beliefs*
 - Education Funding, School Infrastructure & Safety, Child Nutrition, and Health Care & Labor
 - New!** *ASBO International 2022 ESSER Spending Survey*
- New! ASBO International Virtual Advocacy Boot Camp**
 - June 6–10, five webinars over a week at 12–1 PM ET.
 - Earn 5 SFO, CPE, CAE credits and learn how to advocate at the state AND federal level!
- [Global School Business Network](#) Legislative Affairs Community
 - Share your member benefits (including full Network access) with your whole district team! [Contact us.](#)
- Twitter: [@ASBOIntl](#) (Main) & [@ASBOUSA](#) (Advocacy)



Legislative Resources (Continued)

- **AASA Resources**

- The Leading Edge ([Policy Blog](#))
- AASA Advocacy Mobile App
- Twitter: [@AASAHQ](#) (Main), [@Noellerson](#) (Noelle), and [@AASAdvocacy](#) (Advocacy)

- **[2022 AASA/ASBO Legislative Advocacy Conference](#)**

- **Register Now!** July 12–14, Washington, D.C.
- Learn about federal policy issues impacting your schools, network with peers, and meet your elected officials on Capitol Hill.



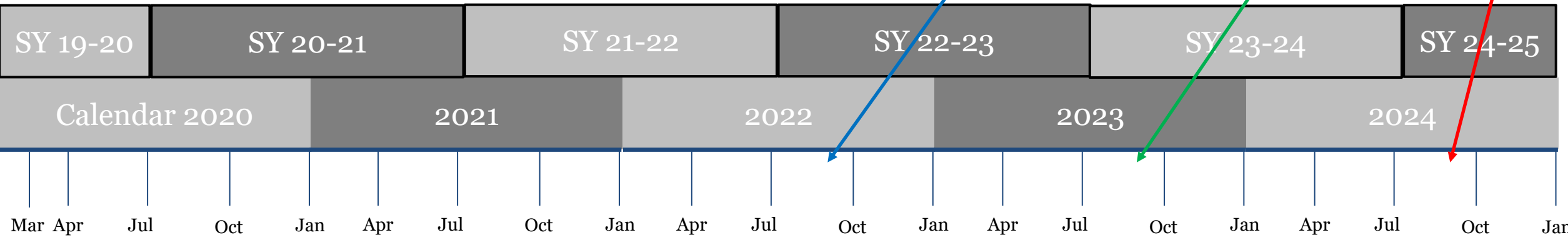
Education Funding: American Rescue Plan Spending

- LEAs have until 2024 to Obligate ARP Funds

\$123B ARP ESSER III. LEAs must obligate by 9/2024 ~\$2,400/pupil.
**20% must be used for learning loss*

\$54B CRRSAA ESSER II. LEAs must obligate by 9/2023 ~\$1,100/pupil.
**Broadly flexible — ED says expenses must relate to COVID-19*

\$13B CARES ESSER I. LEAs must obligate by 9/2022 ~\$250/pupil.



*Image adapted from [White Board Advisors](#) and [Edunomics Lab, Georgetown University](#).

Education Funding: ARP Spending (Continued)

- LEAs:
 - **At least 20%** of ARP ESSER III funds must address learning loss/recovery.
- Other ARPA set-asides:
 - **McKinney-Vento Homeless Assistance Act:** \$800 million (reflects an 8x increase in program funding)
 - **IDEA / Special Education:** \$2.5 billion (+20% in program funding compared to annual appropriations.)
 - **Be careful!** It's one-time funding only, beware of MOE issues.
 - **Emergency Connectivity Fund (ECF):** \$7.17 billion to address homework gap issues during COVID-19.
 - **Education Assistance for Non-Public Schools (EANS):** \$2.75 billion

Education Funding: ARP Spending (Continued)

- **New provision! Maintenance of Equity (MoEquity)**—*Not the same thing* as Maintenance of Effort (MOE)!

- **LEAs cannot (for FY 22 and FY 23)...**

- **Cut state/local per-pupil funding --*OR*-- Reduce the number of full-time-equivalent (FTE) staff per-pupil** in the LEA's most economically-disadvantaged quartile of schools at a disproportionately high rate to other schools.

- Note: Districts will want to keep track of spending by school.

- **Who is exempt? LEAs that...**

- Serve less than 1,000 students; operate a single school; serve all students within each grade span with a single school; or demonstrate exceptional circumstances (e.g., changes in enrollment/decline in resources per USED's determination).
- **Special exception for SYs 2021-2022 & 2022-2023!** USED recognizes unanticipated enrollment changes during COVID-19. If an LEA can show that state/local per-pupil funding did not decrease for FY22 and FY23 (i.e., funding is flat or increased), it can certify for an exception by submitting USED's MoEquity form ([see Appendix B, p. 25](#)) to their SEA.

- **USED Data Collections: MoEquity Data, ESSER Data, and Civil Rights Data (back-to-back years)**

- These expansive data collections are happening concurrently and exceed the intended scope of the underlying statute. They require a lot of time, staff, and resources to do as districts are dealing with labor shortages and keeping schools safely open.
 - **Big point for MoEquity:** For both years, the provision only applies to LEAs facing a net cut of state and local dollars.

- **Helpful USED Guidance & Resources:**

- [May 2021 ESSER/GEER Guidance](#) and [December 2021 ESSER/GEER Supplemental FAQs](#)
- [April 2021 Maintenance of Effort \(MoE\) Guidance](#) and [December 2021 Maintenance of Equity \(MoEquity\) Guidance](#)
- [USED's COVID-19 Resources Website](#)

Education Funding: Appropriations & Vouchers

- **Federal FY22** – Affects federal funding for school year 2022-2023.
 - The President, House, and Senate advanced initial FY22 budget proposals that had significant funding increases for Title I, IDEA, and other education programs overall.
 - Congress didn't complete their FY22 work on time. The final package wasn't passed until March 15, and it is a “mixed bag” at best.
 - Title I (+\$1 B), IDEA (+\$406 M from FY21, but -\$2 B from ARP), and NO extension on nutrition waivers!
 - Learn more: [Federal Education Update: FY22 Funding for Schools](#) (ASBO Blog)
- **Federal FY23** – Affects federal funding for school year 2023-2024.
 - POTUS FY23 Budget was delayed until March 28. Much of it is a repeat of FY22.
 - With the Build Back Better Act budget reconciliation bill stalled, appropriators have moved onto next steps for FY23 by engaging in high-level discussions, but time is running out!
 - Congress must pass an FY23 package by October 1 to stay on schedule, they play the biggest factor in determining final allocations for federal programs. (Our top priorities = Title I & IDEA.)
 - Learn more: [FY23 Appropriations Process: Biden's Budget Continues Support for Education](#) (AASA Blog)
- **Vouchers** – DC private school voucher program up for reauthorization in 2023. What will Congress do?

Infrastructure & Transportation

- **White House Biden-Harris Action Plan for Building Better School Infrastructure** ([School Infrastructure Toolkit](#))

- Leverages investments from the Infrastructure Investment and Jobs Act (IIJA) passed in Nov. 2021 and other federal funding. IIJA provides \$550 billion in new infrastructure spending over 5 years. (Learn more in this [ASBO IIJA Policy Brief](#))
 - **DOE Grants for Energy Efficiency Improvements & Renewable Energy Improvements at Public School Facilities**
 - Competitive grant program providing \$500 million over 5 years to help school districts carry out energy improvement projects. Funds can be used for any improvement, repair, renovation, or installation project that:
 - Results in a direct reduction in school energy costs; leads to an improvement in teacher/student health (e.g., IAQ); involves the installation of renewable energy technologies or alternative fuel vehicle infrastructure on school grounds; or involves the purchase/lease of alternative fuel school vehicles.
 - **Application window:** DOE is [collecting stakeholder input](#) on how to roll out the program, so the official timeline is TBD (but could be as early as Summer 2022, so stay tuned!)
 - **EPA Clean School Bus Program – [Upcoming EPA Webinar](#) on May 24 @ 1PM (EST)**
 - Provides \$5 billion over five years (FY22–26) to help local/state governments (incl. school districts), contractors, etc. modernize bus fleets with clean and zero-emission buses (which operate fully or in part on alternative fuels, e.g., electric, liquified natural gas, compressed natural gas, hydrogen, propane, or biofuels).
 - First round of funds will be disbursed via the 2022 Clean School Bus Rebate program (instead of grants) to simplify and expedite the application and award process. Rebates are for bus replacements & infrastructure only. Funding is prioritized for high-need districts, tribal schools, and rural and low-income areas.
 - **Application window: Apply now from May–August 2022.** Register for a SAM.gov account to apply. Funds awarded in October. LEAs have until April 2023 to submit POs to EPA for the rebate. (Learn more in this [AASA Blog](#)).

Infrastructure & Transportation (Continued)

• Bus Driver Labor Shortages & Electric School Buses

- In November 2021, DOT provided flexibility to allow 3rd parties to administer the skills and knowledge tests for CDL.
- In January 2022, DOT and USED announced that states have an option to waive the “under the hood” CDL test requirements. That waiver has been extended until June 30, 2022.
- Other solutions ASBO/AASA are advocating for:
 - Creating an entry-level CDL in school transportation
 - Enacting a one-year exemption to Social Security earning limitations for retirees to incentivize retired drivers to help fill vacancies.
- [Electric School Bus Collaborative \(E-SBC\)](#) – In April 2022, ASBO, AASA, NAPT formed a new collaborative to amplify K-12 perspectives on school bus electrification issues to advocate for and share information and resources with members.

• Broadband: Emergency Connectivity Fund (ECF) & E-Rate Updates

- Latest ECF Application Window: Closed May 13. To date, more than \$4.9 B in ECF funding has been committed to provide over 12.6 million students w/ broadband connections and equipment during COVID-19. ECF has funded over 11 million connected devices and 5 million broadband connections during COVID-19. (Learn more on [FCC's website.](#))
- E-Rate News: On May 11, FCC Commissioner Rosenworcel [announced a proposal](#) to allow E-Rate funds to be used for Wi-Fi in school buses. Although ECF funds can be used for this currently, it is not yet an eligible use/service for E-Rate funds ([see 2022 eligible services here](#)). The Declaratory Ruling, if adopted, would allow E-Rate program funding to equip school buses with Wi-Fi or other similar access point technologies for the upcoming funding year.

Infrastructure & Transportation (Continued)

• **USED Announcement: ESSER Liquidation Deadline for Facilities/Construction Projects Extended**

- In January 2021, AASA, ASBO, and other education organizations [sent a letter to USED requesting a timeline extension](#) for school districts to spend ARP ESSER funds on school construction and capital projects from Sept 2024 to Dec 2026.
 - AASA's [February 2022 ARP ESSER Survey Report](#) and ASBO International's [May 2022 ESSER Spending Survey Report](#) provided additional data on how districts were spending or planning to spend ESSER funds on HVAC repairs and upgrades, and other facility projects. However, supply chain, labor, and spend timeline issues were making it nearly impossible for many districts to complete projects by the 2024 deadline.
- **On May 13, [USED responded](#) noting that while the Department does not have authority to extend the obligation deadline for ARP ESSER (since that is Congress' authority), USED can provide late liquidation flexibility for spending funds.**
 - USED will allow states to apply (on behalf of districts) for an additional 18 months to liquidate funding for all ESSER funding (including ARP) for school facility upgrades/HVAC work (and other purposes in extenuating circumstances).
 - In the context of ARP, if the contracts for these projects are signed by the district by Sept.2024, then the project would not need to be liquidated and the ARP funds completely spent until April 2026. The letter also said longer extensions than 18 months may be considered in extraordinary circumstances.
 - [See this updated USED chart outlining federal award, obligation, and spend deadlines](#) for ESSER I, II, III, GEER, and EANS programs. (Read [ASBO's legislative alert](#) for more information).
 - As we wait for more information from USED about how states can apply for the flexibility, districts are encouraged to discuss this letter with their state agencies, contractors, vendors, and auditors to ensure clarity about the circumstances in which goods/services may be delivered beyond the ESSER's obligation and liquidation deadlines.

School Nutrition

- **During COVID-19, Congress granted USDA authority to provide waivers for child nutrition program operators to feed students despite school closures and supply chain challenges, which expire June 30.**

- Language to extend waivers wasn't in the FY22 omnibus. Two bills (H.R. 6613 Keeping School Meal Flexible Act, and S. 3979 Support Kids Not Read Tape Act) have been introduced but won't pass Congress without Republican support.
 - Significant financial impact for schools: One waiver that allows districts to receive a higher meal reimbursement at the Summer Food Service Program (SFSP) rate will expire, meaning effective July 1, districts will receive a smaller reimbursement for meals served at a time when inflation and the costs of food, labor, and supplies are at an all-time high.
 - Stricter meal pattern rules return: One waiver allowing districts flexibility with meeting meal pattern requirements for sodium, whole-grain, milk variety, vegetable subgroups, and planned menus for specific age/grade groups will expire, meaning that districts must comply with stricter requirements despite dealing with ongoing supply chain disruptions.
- **Possible Paths Forward:**
 - 1) Congress allows a scaled-back approach to extending only certain waivers that don't have a budgetary impact (i.e., still no SSO/SFSP reimbursement waiver) which could be added to the COVID supplemental package lawmakers are negotiating on (less than ideal, but more likely to happen and is better than no waiver extension);
 - 2) Full waiver authority is extended via language added in a future budget reconciliation bill that would only need Democrats' support to pass (more ideal, but far less likely to happen)

- **USDA announced that if waivers expire, it still has limited authority to grant states/districts some flexibility**

- For Non-Congregate, Parent/Guardian Pick Up, Meal Service Times, Offer Vs. Serve, Administrative, and Reporting rules.
- [See USDA's full waiver checklist](#) and ask your state to apply for these waivers if they haven't already.

School Nutrition (Continued)

- **New Transitional Nutrition Standards for Milk, Sodium, and Whole Grains for SYs 2022-23 and 2023-24 (Effective July 1, 2022)**

- **Milk:** Schools may offer 1% (low-fat) flavored milk in addition to 1% unflavored milk and flavored or unflavored nonfat milk.
- **Sodium:** Sodium limits for school lunch and breakfast will remain at the same level they currently are, or "Target 1" for SY 2022-2023. For SY 2023-2024, only sodium for school lunches must be reduced (by 10%) to meet a transitional "Target 1A" level. (School breakfast sodium levels will remain at Target 1).
- **Whole Grains:** At least 80% of the grains served in school lunch and breakfast per week must be "whole-grain rich" (i.e., defined as containing at least 50% whole grains).

- **USDA likely to announce plans for updating meal pattern requirements for SY 2024-25 this Summer/Fall**

- Will align with the latest *Dietary Guidelines for Americans* recommendations

- **Child Nutrition Reauthorization (CNR)** – Will it happen this year? Not likely, but here are our priorities:

- Expand Community Eligibility (CEP) by lowering the threshold from 40% to 25% and increase the ISP multiplier from 1.6 to 1.9 to increase the reimbursement schools receive.
- Preserve existing nutritional flexibilities around milk, whole grain, and sodium meal pattern requirements and reduce meal program regulatory burdens.
- Increase federal meal reimbursement rates for school meals and oppose efforts to block grant meal programs
- We support a universal meal policy provided that it would not harm eligibility for and enrollment in existing funding streams serving schools, and would fully cover costs associated with operating the program in schools.

Other Policy Issues (Continued)

• Overtime (OT) Rule Updates

- DOL held several listening sessions with stakeholder groups in April 2022 about updating the “salary test” or threshold for determining which employees qualify for overtime pay under the Fair Labor Standards Act (FLSA). ASBO/AASA requested these meetings to help DOL understand how raising the threshold could have major implications for districts as they deal with COVID-19, labor shortages, rising costs, etc. and may alter how districts hire and classify staff if there were substantial changes made to overtime eligibility rules.
 - The current salary-test threshold for determining overtime eligibility/exemptions is \$35,568/year, but the new threshold could be raised as high as \$82,732/year by 2026. This salary test would not apply to all K-12 employees, as some employees are already exempt because they fall under the “Executive”, “Administrative,” and “Learned Professional” employee exemptions (e.g., teachers, superintendents, principals, administrators, etc.).
 - However, significant changes to the OT threshold may apply to other K-12 employees, such as some aides, paraprofessionals, maintenance workers, school bus drivers, cafeteria workers, custodians, clerks, secretaries, etc. if their salaries are less than the new threshold. In other words, some ancillary staff not eligible for OT now could be eligible depending on how high the threshold is raised.

• Head Start COVID-19 Masking & Vaccination Mandate

- Requires all staff, contractors and volunteers whose activities involve contact with or providing direct services to children, families, and volunteers working in classrooms or directly with children to be vaccinated and wear masks.
 - Was temporarily blocked by a Federal Court Judge on January 1. The injunction applies to all 24 states involved in the case: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Utah, West Virginia, and Wyoming.
 - In light of SCOTUS’ decision on the OSHA rule, it is unlikely the Biden’s DOJ will appeal the district judge’s decision. However, the Head Start requirements MAY STILL APPLY to employees that work in other states that didn’t file onto the lawsuit or file a separate case. ([Learn more here.](#))

Other Policy Issues

- **Supreme Court Cases Addressing Education Issues**
 - **Carson v. Makin:** SCOTUS will review the state of Maine's exclusion of schools that provide religious instruction from its program of paying private school tuition for students in communities without high schools.
 - **Implications:** A ruling against Maine could open the door for religious charter schools and formally strike down programs in Maine and Vermont that allow parents to send their student(s) to secular private schools if no high school is nearby.
 - **Houston Community College v. Wilson:**
 - **Implications:** A school board may lack the ability to censure one of its members over their speech.
 - **Kennedy v. Bremerton:**
 - **Implications:** Employee prayer could be rampant; protect students from religious coercion or does an employee's right to prayer supersede the district's right to protect religious freedom?

Questions? Contact Us!

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