

LegislativeUpdate

Michigan Association of Superintendents & Administrators | June 26, 2020



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Summary

This week in Lansing is presumed to be the last week of session until July 21. Lawmakers have left town for a summer recess without answering our budget questions for this year or next year...which is probably for the best as the answer today would be a drastic cut to spending and a proration. We hope that Congress will act during this recess to send additional funding to the states to plug budget holes. In the meantime, we expect work to continue behind the scenes with work groups and announcements from the governor's office, but no legislation will be moving in this period.

MASA will provide information on the Return to School Roadmap we anticipate on June 30, and will continue to keep you apprised of any relevant developments.

While there is a lot of work to do, we hope that you and your team find some time to unplug and rest. This has been a year like no other, and it's important that you take care of yourself.

As always, please [contact MASA](#) with any questions or concerns.

House Republicans Release Return to Learn Package

This week House Republicans released their proposed Return to Learn Plan and introduced a package of five bills. This is a week ahead of the Governor's Return to Learn Advisory Council's release, which is expected on June 30. When we look at the dollars associated with this package, the legislation should be viewed as a Band-Aid for the current year. House Republicans have proposed that most of the state's remaining federal dollars be allocated on a per pupil basis to plug holes in the 2019-2020 budget. There is no funding solution for us in the upcoming 2020-2021 school year in this package.

The appropriation bill, as introduced, includes a total of \$1.3 billion dollars for education. There are three funding areas; \$1.25 billion for a "safe schools restart plan", \$80 million to ISDs to assist districts in drafting, coordinating, and implementing distance learning plans for the return to school, and \$53 million for teacher hazard pay in the form of a one-time \$500 payment.

The largest funding categorical, the \$1.17 billion dollars, would be allocated on a per-pupil basis using membership in the district for 2019-2020. This would equate to \$800 per pupil. HB 5914 is sponsored by Rep. Ryan Berman (R-Wixom) and is the supplemental appropriations bill of the package. Allowable uses of these dollars include many things, including the cost of implementing distance learning plans, professional development, hotspots, etc. However, HB 5914 states that dollars can be used for "other expenses incurred after March 1, 2020 as part of a robust distance learning plan and safe return to school including, but not limited to, salaries and benefits costs for directly hired staff."

For most of our members, we know that this other category is where the majority of your dollars would be allocated. Therefore, while there are many categoricals identified by House Republicans as unavoidable additional costs districts are facing, the reality is that the dollars appropriated under HB 5914 will go toward backfilling the holes in your budget right now, instead of preparing for the costs associated with resuming in-person instruction. The dollars will flow through MDE, and as written in the introduced version of the bill will require MDE to distribute by July 15, 2020. As mentioned above, the Legislature is gone until July 21, and the bill hasn't even had a hearing, so that money is not getting out by July 15.

Aside from funding, districts would be required to file an extended Continuity of Learning plan in order to have days and hours flexibility. The requirements for the proposed Extended COL plans can be found in HB 5912, sponsored by Rep. Andrea Schroeder (R-Clarkston). In summary, the extended COL would have all of the requirements of EO 2020-65, and at least three benchmark assessments per year with an overall goal of increased pupil achievement on the M-STEP. As introduced, the legislation requires an extended COL plan to be submitted to the corresponding ISD by August 1.

HB 5910, sponsored by Rep. Pamela Hornberger (R-Chesterfield), would create e-learning days. An e-learning day can be a day pupils are not physically present at school because the school is closed due to severe weather or pandemic, a day that is preplanned by the district, or a day that the school receives notice from the state superintendent that states school should be closed. The bill outlines the protocol for adopting a researched-based program for an e-learning day, and the requirements for

these programs are substantial. It should also be noted that the bill package reduces the number of forgivable snow days from six to two.

HB 5913, sponsored by Rep. Annette Glenn (R-Midland), revises the definition of attendance to mean "pupil engagement in instruction that is provided under the direction of a certified teacher or an individual who is teaching pursuant to applicable state law. Instruction may be provided at a school or different location, online, digitally, or by other remote means."

The bill adds a new requirement that states districts must administer at least one benchmark assessment to all pupils in grades K to 8 within the first 30 days of the 2020-2021 school year to measure proficiency in reading and math. If in-person instruction does not resume, then this assessment must be within 30 days of the start of the immediately following semester, trimester, or quarter. This benchmark assessment requirement is tied to state aid payments. Finally, HB 5911, sponsored by Rep. Greg Markkanen (R-Hancock), removes the cap on the number of virtual courses a student can take. The pupil's parent could request that they enroll in more than two virtual courses due to health, safety, and welfare concerns related to COVID-19.

You may be asking, what about health and safety guidelines for reopening? This package did not attempt to address this, and instead states the district must consult "with the local health department regarding any applicable guidelines issued by the department or department of health and human services concerning providing in-person instruction at school for the 2020-2021 school year, including, but not limited to, guidelines for school building cleaning and school building occupancy and a requirement that the district implement the guidelines, if any, described in this subdivision." So, the package largely punts the hard decisions to local districts and health departments while leaning in on virtual instruction in a time when the digital homework divide has never been more prevalent.

While we are pleased that the package recognizes that we need more money for this year, it falls short of answering the most pressing questions. MASA is waiting for the June 30th release of the Return to Learn Advisory Council's Roadmap and believe that product will be a more thorough approach to a safe reopening in the fall.

USED Releases New Interim Final Rule

On Thursday, the U.S. Department of Education (USED) released a new interim final rule on equitable services under the CARES Act. As you are aware, in April, Secretary DeVos issued guidance that said districts should reserve CARES Act relief money on equitable services for all local private school students, not just economically disadvantaged students.

The final rule allows districts two different options to distribute their CARES money, either strictly to schools that received Title I for the 2019-20 school year or to all schools, including all students in local private schools.

If a district chooses to fund only Title I schools, it must also distribute funds to low-income students in local private schools. If districts choose this option, they have two choices to calculate how much money they set aside for equitable services: either the same amount for equitable services they set aside for the 2019-20 school year; or they can conduct a count of low-income students in local private schools to determine the proportional share.

Secretary DeVos views this new rule a compromise because it does allow districts the option to only distribute dollars to low income students at private schools. However, if a district chooses to distribute aid only to Title I schools, they must ensure not to violate the supplement not supplant requirement in section 1118(b)(2) of the ESEA by allocating CARES Act funds to Title I schools and redirecting State and local funds from those schools to non-Title I schools.

In other words, districts can't use the CARES money to backfill cuts at the state and local level. That is not a compromise.

The rule takes effect immediately and has the full force of law, however, USED will be opening it for 30 days of public comment to gather feedback.

You can read the full rule [here](#). As you know, we've not been thrilled with this interpretation but have not received any legal guidance that allows a district to do anything contrary to what USED has mandated.

AASA Releases School Reopening Guidelines

Last week, AASA released two separate resources to help school and system leaders in their work to reopen schools this fall.

The AASA COVID-19 Recovery Task Force released their [recommended guidelines](#) that touch on curriculum, instruction, assessment, and professional development implications for educational leaders to consider.

AASA Large County Consortium, an invitational network of large, diverse, innovative, and leading school districts, released What School Districts Need: [Principles and Priorities for State COVID-19 Guidance and Action](#).