

# **The Federal Update for December 13, 2024**

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Re: Federal Update

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## Legislation and Guidance

### Negotiations Continue as CR Deadline Approaches

Lawmakers have only one more week of Congressional session before the temporary spending measure keeping the federal government open expires. The continuing resolution (CR) funding federal programs at fiscal year 2024 levels will end on December 20th, and negotiations have yet to yield a replacement.

Negotiators have reportedly cited the need to assess hurricane relief, and whether to include additional funding beyond Federal Emergency Management Agency programs is holding up funding. Others cited Internal Revenue Service funding and additional requests for the Environmental Protection Agency and Social Security Administration as hurdles in the talks.

While lawmakers initially decided to extend funding until March of 2025, some Republicans have pushed for a new CR that would require Congress to finish funding faster rather than let it define the first months of a new Trump administration.

Author: JCM

### Congress Strikes Deal on WIOA, Passage Remains Uncertain

Members of Congress have reportedly struck a deal on legislation to reauthorize the Workforce Innovation Opportunity Act (WIOA) at the beginning of December, following months of negotiations. The House passed the “A Stronger Workforce for America Act” earlier this year with significant bipartisan support, and the Senate released its own discussion draft of a WIOA reauthorization bill earlier this summer but has not yet taken substantive steps toward passage. The updated compromise bill, which differs from both the House-passed legislation and the Senate discussion draft, has not yet been officially introduced in Congress, but a summary of the bill and proposed bill text have been quietly shared by the Senate Committee on Health, Education, Labor, and Pensions.

Negotiations over the last few months in the Senate have been delayed partially due to a debate over whether to include a provision that would exclude employers who have not complied with certain labor law requirements from participating in workforce programs, which was included in the Senate discussion draft from this summer but opposed by several stakeholder and advocacy organizations. Other stakeholder organizations have expressed concerns with several provisions in the compromise bill as well, including a mandate to use 50 percent of adult and dislocated worker funding for training and provisions regarding redesignation of workforce areas, among others.

The Senate is said to be considering passing the legislation through unanimous consent, which requires support of all 100 senators, or attaching the bill to a year end continuing resolution to extend fiscal year 2025 funding. However, negotiations are still ongoing, with senators on both sides of the aisle expressing hesitation, leaving the certainty of passage unclear. In addition, since the proposed Senate legislation makes changes to the version passed by the House earlier this year, the House will be required to vote on the updated legislation, with minimal time in session remaining before the end of the year.

Resources:

Nick Niedzwiadek and Lawrence Ukenye, “Bipartisan deal to revamp federal workforce development nears finish line,” *Politico*, December 4, 2024.
Author: KSC

### ED Issues New Title II Guidance Documents

Last week the U.S. Department of Education (ED) issued two new guidance documents on the administration of Title II, Part A under the Elementary and Secondary Education Act (ESEA).

The first, titled “Supporting a Diverse Educator Workforce to Strengthen Teaching and Learning,” includes numerous citations to research on the value of diversity among teachers in increasing student performance. It encourages States, districts, and schools to examine the diversity of their employees, identify barriers, and establish and publish clear diversity goals and a strategic plan to meet those goals. The guidance identifies several key strategies to increasing diversity: providing financial support and incentives; creating positive and supportive conditions for candidates in educator preparation programs; creating supportive teaching conditions; and collecting diversity data to support these efforts. A table in the second half of the document identifies funds that can be used to support educator diversity efforts, including competitive priorities for certain grants.

ED cites as the impetus for this guidance the instructions in the 2023 Consolidated Appropriations Act to study ways that certain funds

“may be used by [State educational agencies], [local educational agencies] and [institutions of higher education] to increase teacher and school leader diversity, including through pre-service support, enhancing preparation, providing on-the-job support, and strengthening retention and promotion policies.”

[The educator diversity guidance is available here](https://www.ed.gov/media/document/supporting-diverse-educator-workforce-strengthen-teaching-and-learning).

A second document focuses on “Using Title II, Part A Funds to Strategically Support Educator Recruitment, Retention, Professional Learning, and Improved Student Outcomes.” Incorporating some of the flexibilities used under the Elementary and Secondary School Relief Fund (ESSER), the guidance encourages States and districts to build on pandemic-era programs and incorporate lessons learned in recent years.

In order to improve recruitment and retention, the guidance says, Title II, Part A funds can be used to pay for teachers who take on other responsibilities like coaching and mentoring, or for increased time spent in collaborative planning outside regular working hours, so long as such costs are supplemental. Additionally, forms of compensation like scholarships or loan forgiveness may be offered in exchange for a commitment to teachers in hard-to-staff schools or positions, or to pay for additional certifications in high-need areas. Funds can also be used to support educator wellbeing through efforts to improve working conditions, hire additional staff, create professional learning communities, and provide logistical support so teachers can focus on instructional practice.

Examples of successful “best practices” from States and districts are used throughout the document to explain each activity.

[The recruitment and retention guidance is here](https://www.ed.gov/media/document/using-title-ii-part-funds-strategically-support-educator-recruitment-retention-professional-learning-and-improved-student-outcomes).

Author: JCM

### OCR Provides New Retaliation Guidance

The U.S. Department of Education’s Office for Civil Rights (OCR) released a new resource document this week covering retaliation for exercising civil rights. In the document, OCR reminds school communities that all civil rights laws that OCR enforces prohibit retaliation.

The document provides an overview of what retaliation means, a list of individuals protected from retaliation, elements of a retaliation claim, and OCR’s investigation and enforcement action after a claim is made. Along with individuals who make complaints, OCR states that anyone who participates in an investigation or proceeding or opposes discrimination, which could include third parties advocating for the rights of students, is protected from retaliation under civil rights laws.

In order to make a case that retaliation has occurred, a claimant should show that (1) they reported or opposed the violation of civil rights laws in a protected activity, (2) they experienced an adverse action, such as intimidation or discrimination, that would discourage making or participating in a complaint, and (3) there is a causal connection between the adverse action and the protected activity. According to the document, OCR reviews complaints and evidence to see if these three elements have been met. If they have, OCR offers the school the opportunity to show that there was a “legitimate, non-retaliatory reason for the adverse action” and reviews the evidence to see if there was also an unlawful reason for the action.

The guidance also includes 15 examples of situations that may raise concerns about retaliation, including retaliation based on sex, race, national origin, and disability.

The last time OCR issued retaliation guidance was in 2013. [The new guidance is available here.](https://www.ed.gov/media/document/ocr-retaliation-resource-2024)

Author: BTW

## News

### Walberg to Take Top Spot in House Committee

Representative Tim Walberg (R-MI) is set to take over as Chairman of the House Committee on Education and the Workforce after his election was announced Friday.  Walberg won out over Representative Burgess Owens (R-UT) who was also vying for the position, and after Representative Virginia Foxx (R-NC) said she would step down.

Walberg has said that his priorities are bolstering school choice, improving college affordability, passing short-term Pell Grant legislation, and reauthorizing the Workforce Innovation and Opportunity Act (WIOA).

“Having served under three Republican chairs of this committee, I understand both the privilege and responsibility now entrusted to me,” said Walberg in a statement.  “We have a unique opportunity to make substantive reforms to empower parents, incentivize workforce training, improve government efficiency, and unburden American innovators and job creators.  The American people have given us a mandate to enact meaningful change and ensure future generations will succeed.”

Author: JCM

### New “Playbook” Offers Cell Phone Guidance for Schools

The U.S. Department of Education (ED) issued a playbook last week to provide guidance to schools and districts in developing or updating policies on the use of cell phones or other personal devices, like smart watches, in schools. The playbook comes as more States and districts are considering or have passed laws or policies restricting the use of personal devices in school.

ED recommends States, districts, and schools engage stakeholders – especially students, parents, families, and teachers – as they consider establishing or modifying their policies, recognizing that circumstances may be different in schools across the country. ED also encourages educational entities to ensure the youth participation in the policymaking process is meaningful. The playbook also highlights various types of policies regarding personal device use in schools from several States, which have different levels of restrictions. Finally, ED encourages schools to track the implementation of new or updated policies and use data, where available, to evaluate the effectiveness and whether further updates are needed.

[The playbook on personal device use is available here](https://tech.ed.gov/files/2024/12/Planning-Together-A-Playbook-for-Student-Personal-Device-Policies_v25r4-FINAL.pdf).

Author: KSC

## Reports

### ED OIG Publishes Semi-Annual Report

Last month the U.S. Department of Education’s Office of Inspector General (ED OIG) published its semi-annual report covering the second half of federal fiscal year (FY) 2024. The report provides an overview of the investigative, audit, and related activities of OIG and includes recommendations to ensure ED’s compliance with federal laws.

The goal of OIG is to identify and help prevent fraud, waste, and abuse. Overall, in FY 2024, OIG closed 64 investigative cases, opened 42 new cases, ordered fines of $852,000, and recovered and seized over $8 million. OIG estimates that this work contributed to a savings of $64.6 million.

During the reporting period, OIG began audits of the Emergency Assistance to Nonpublic Schools grants. OIG also issued a series of reports on districts related to the Elementary and Secondary School Emergency Relief (ESSER) fund. The reviews looked at expenditures to determine if ESSER funds were used for allowable purposes. Further, OIG reported that they continued auditing whether States were implementing components of their statewide accountability systems under the Elementary and Secondary Education Act in accordance with their State plans.

OIG also issued 69 recommendations for improving ED and its programs and operations. For example, OIG found that Federal Student Aid (FSA) needed to implement indicators to evaluate its own performance in returning student loan borrowers to repayment after the COVID-19 pause. FSA was also deficient in effectively implementing the FAFSA Simplification Act, the report noted. The deficiencies could lead to cost overruns and impact the timely transmission of student data from ED to institutions. OIG also found that ED was not consistent in including required whistleblower protection clauses in contracts and grant awards. Additionally, the Department did not have a process to ensure contractors and grantees were notifying staff of the whistleblower protection laws.

The report also says that OIG has made new outreach efforts to encourage the identification and reporting of fraud. ED has created free resources for stakeholders that specify what education-related fraud can look like.

[The Semi-Annual Report is available here.](https://oig.ed.gov/sites/default/files/reports/2024-12/FY25%2520SAR89%2520%252811.23.24%2529v100_508_SECURED.pdf)

Author: BTW

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