

# **The Federal Update for November 8, 2024**

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Re: Federal Update

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## News

### Republicans Take Senate, Trump Takes Presidency, House Still Unclear

Picking up key votes in swing States Tuesday, Republicans won control of the United States Senate as well as the White House, opening the door to sweeping policy changes in education and other sectors.

Republicans managed to flip three key Senate races, unseating Ohio Senator Sherrod Brown (D-OH) and Montana’s Jon Tester (D-MT), and gaining the seat held by retiring Senator Joe Manchin (I-WV). A republican challenger is also projected to take the seat currently held by Bob Casey (D-PA). Control of the Senate means Republicans will take charge of major Committees including the Senate Committee on Health, Education, Labor, and Pensions (HELP). Senator Bill Cassidy (R-LA), currently the top-ranked Republican on the Committee, is poised to take the gavel there. Cassidy has expressed interest in stronger oversight of the U.S. Department of Education’s (ED’s) federal student aid operation and better supporting efforts to improve literacy and address dyslexia. The Senate could also take up legislation pending in the House of Representatives that would provide federal tax credits to individuals who donate to State-run school voucher programs.

With dozens of races still too close to call, control of the House of Representatives remains unclear. Lawmakers will likely need to pass another short-term spending measure which will put full-year funding in the hands of the new Congress.

While the Trump campaign highlighted a number of policy priorities around education – including eliminating or drastically reducing the size of ED, expanding school choice, and rolling back the Biden administration’s controversial Title IX rules – the scope and speed of those changes will depend on administrative appointments as well as control of the House. Some of the larger proposed policy initiatives like restructuring agencies or setting new accreditation standards would need approval from lawmakers.

Author: JCM

### Voucher Measures Fail at State Level Despite Federal Results

School vouchers were on the ballot in a number of States and in most cases failed to gain ground, despite national political trends.

In Kentucky, voters rejected a constitutional amendment that would have allowed the State’s legislature to provide public funding to students in private schools. Champions of the ballot measure, known as Amendment 2, said it would offer parents more choices in how to educate their children, as well as a way to incentivize public schools to improve as they compete for funding with non-public schools. Challengers – including a group of 42 school district superintendents – opposed the plan, saying it would “send your tax dollars to voucher schemes for unaccountable and non-transparent private school programs and harm every public school district in the state.”

In Nebraska, voters repealed the State’s private school voucher law. The relatively new $10 million law would have subsidized private school tuition for qualifying students. Nebraska does not allow charter schools and limits the number of times students can transfer between public schools, so proponents of the measure said it was necessary to give families options.

And in Colorado, an amendment that would have made school choice a constitutional right for K-12 students failed to win support. Amendment 80 would have added language stating each “K-12 child has the right to school choice” and that “parents have the right to direct the education of their children.” It explicitly named charters, private schools, home schools, and “future innovations in education” as options to be guaranteed by the State constitution. Critics expressed concern about the impact on public school funding and whether the amendment was redundant because of the State’s existing school choice law.

But these voter mandates act in contrast to national policy, as House Speaker Mike Johnson (R-LA), other Republican lawmakers, and President-elect Donald Trump have all said they would leverage another presidential term to expand school choice options, including vouchers and charter schools. How these policies play out in a new U.S. Department of Education will depend on leadership and priorities.

Author: JCM

## Legislation and Guidance

### USDA Clarifies Policy Regarding School Meal Fees

The U.S. Department of Agriculture’s (USDA’s) Food and Nutrition Service recently issued a memorandum “clarifying” the policy regarding charging students and families for processing fees resulting from online payments for school meals.

The memo states that beginning in the 2027-2028 school year, schools will be prohibited from charging families with students eligible for free or reduced-price meals any fees above and beyond the cost of meals. In addition, USDA says that school food authorities (SFAs) cannot shift the cost of processing or other fees onto students who pay full price for school meals. The most common fees charged to students and families are associated with electronic payments made by families to a school meal account, and 87 percent of school districts offer some type of electronic payment system.

In addition, USDA reminds SFAs that they must provide at least one free method for families to make deposits to school meal accounts, for both students paying reduced meal prices and students paying full price, and they must provide a method for making payments that does not require a computer.

Finally, regarding implementation of the new requirement, USDA says that “SFAs are encouraged to implement this requirement as soon as they are able and may use funds in the nonprofit school food service account to cover the fees under their current contract.” However, official implementation will not occur until the 2027-2028 school year.

The memo follows release of investigative data which showed that families – especially low-income families – pay significant additional fees when reloading school accounts, especially when platforms charge a flat fee for each deposit.

[The full memo on school meal fees is available here](https://www.fns.usda.gov/cn/electronic-payments-fees).

Author: KSC

### Foxx Tells ED Not to Regulate Online Higher Ed Issues

In a letter to Secretary of Education Miguel Cardona, House Committee on Education and the Workforce Chair Virginia Foxx (R-NC) expressed concern about planned third-party servicer regulations for colleges and universities.

In the letter, Foxx says she was pleased when the U.S. Department of Education (ED) rescinded controversial proposed 2023 guidance, saying that online programs allow for lower-cost degrees and certifications.  Any guidance the administration might plan that would regulate on the concepts outlined in the 2011 Dear Colleague letter on bundled services, she says, would risk changing the guidance and leaving colleges “in the dark about their compliance and responsibilities” without working with Congress to “clarify” the law.

Foxx notes that the use of third-party servicers has grown dramatically in the last decade and that many of the institutions using them are public or private nonprofit institutions that offer baccalaureate degrees.  Many of the agreements, she says, have been praised by colleges as allowing them to scale up online coursework and keep tuition down.

Though ED has not formally announced a plan to regulate these services, there have been growing calls to address the widespread use of online aggregators and concerns about promises they make to students.  A lawsuit from a student group recently had criticized the so-called “bundled services” exception and the guidance, arguing that the administration had created this exception against the express statutory language of the Higher Education Act.

Foxx criticized potential regulations as a “last Biden-Harris Department blunder” that would “unleash chaos for institutions, students and the ed tech industry.”  Furthermore, any regulations released now could be rescinded by Congress under the Congressional Review Act.  Though Foxx’s letter does not address this possibility, it likely serves as a warning that Foxx and her colleagues are not happy about potential changes.

[The Foxx letter is here](https://edworkforce.house.gov/uploadedfiles/letter_to_ed_11.7.25_final.pdf).

Author: JCM

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