POTENTIAL LEGISLATION – April 3, 2020

Truncated School Years and Instruction

Twenty-nine states have suspended in-person schooling through the end of the school year, 18 remain temporarily closed, and four are leaving it up to individual districts or localities. Ten states have officially changed required instructional hours for the school year, though most others are enabling waivers or revisions. In states that have closed school until the end of the year, some explicitly are not requiring districts to make up all lost instructional hours and others are allowing replacements. On the other hand, both New Jersey and New Hampshire are counting any day where distance learning is available as an instructional day.

Distance Learning

Twenty-nine states, including Michigan, are requiring districts to plan distance learning options for students and an additional 16 states are encouraging the adoption of distance learning plans (though many have yet to begin). Thirty-seven states are providing some resources to districts to enable distance learning, though these vary in quality dramatically, with only 24 offering resources by grade or subject. Importantly, there is wide acknowledgement that distance or remote learning does not need to be and likely cannot solely be offered online. No state was prepared to immediately shift to an online learning platform or distribute computer and Internet resources to students statewide, but several districts are developing plans to do so. District efforts range from distributing print packets of homework to standardizing laptops and video instruction. State efforts range from parent resource links to video webinars. Some states are capitalizing on existing virtual schools to help ramp up online instruction. For instance, Florida is using its virtual school to provide guidance and instruction to districts and teachers and Alaska, which also has a statewide virtual school, is offering distance learning resources for free to Alaska students. Other states, like Illinois, are providing free access to online resources directly to parents. At the other end of the spectrum, Iowa has restricted districts from requiring student participation in distance learning. West Virginia is encouraging phone contact.

Special Education and Equity

The shift has raised legal and operational issues regarding special education and students with disabilities along with wider concerns about equity across districts and students. Twenty-three states have provided some recommendations for access to instruction by special education students, though many are vague guidelines to local districts. Special education advocates have raised concerns that high-bandwidth online educational services are not universally appropriate and asked districts to prepare alternative forms of distance education. Connecticut provides a relatively expansive toolkit for special education distance learning and Georgia has created a webinar for special education teachers to help them
support their students. Most states are requiring district plans to be submitted to the state that incorporate their methods of addressing special education. Many states refer to continuing federal legal requirements but do not say how to meet them.

Assessment

All states have sought waivers of federal standardized testing requirements; most have already been granted. Eleven states have provided some guidance to districts for how grading should take place this school year. Some districts are changing grading requirements to pass/fail or certification of content mastery. Most states are planning to graduate and advance students to the next school year, though most have not developed an alternative plan for assessment. States with third grade reading requirements expect to modify or suspend them. Georgia has waived the requirement to base grades on end-of-course assessments. Oklahoma has declared that grades cannot be negatively impacted by the suspension. Idaho’s guidance says that “school districts and charter schools are asked to take into consideration the students’ future plans for going on to some form of postsecondary education or other scholarship considerations when evaluating grading policies.”

Finance

Ten states have advised districts on using funds to support instruction and district operations and 19 states have documented compensation guidelines for teachers and staff. Like Michigan, Mississippi is authorizing payment of educators during school closures due to COVID-19. Although no states have rescinded or substantially cut school financing, many district leaders have raised concerns regarding increased expenses and continuing obligations. Several states are requiring continued employment of teachers or other education staff. Vermont is requiring states to track all additional expenses related to the health crisis.

State Legislation

Most states have left emergency decisions to governors and state education departments, without passing enabling legislation. Arizona passed legislation to compensate employees, revise instructional hours requirements, and enable summer instruction. Pennsylvania passed similar legislation empowering agency discretion and requiring districts to create learning plans. Ohio has canceled testing and report cards for the school year and advanced or graduated students who were on track prior to closures, but also enabled districts to extend school years. Washington passed legislation enabling school employee compensation and benefits, with Mississippi, Minnesota, Missouri, and Maine considering finance legislation. Louisiana and Tennessee are considering legislation suspending testing requirements.
Federal Resources

The new federal Coronavirus Aid, Relief, and Economic Security Act includes a $13.5 billion stabilization fund for school districts and a $3 billion fund for governors (subject to waivable maintenance-of-effort requirements), with an additional $8.8 billion for child nutrition. U.S. House leadership is requesting additional state and local government funding in new legislation. Although the federal funding is mostly unrestricted and could potentially be used to ramp up summer instruction or distance learning or to enhance the 2020-21 school year, it totals approximately one-third of the funding made available in the 2009 recession and is unlikely to fully offset declining state revenues. Illinois has directed that increased federal resources be used for addressing high-need and special-education students.