NCSL Standing Committee on Education

POLICY DIRECTIVES AND RESOLUTIONS

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Contents
POLICY: FEDERAL EDUCATION RELIEF AID ................................................................. 1
POLICY: SCHOOL SAFETY AND STUDENT MENTAL HEALTH .................................. 4
POLICY: NCSL AFFIRMS IMPORTANCE OF CIVIC EDUCATION ................................... 5
POLICY: THE STATE-FEDERAL PARTNESHIP IN ELEMENTARY AND SECONDARY EDUCATION ........................................................................................................... 7
WHEREAS, state legislatures have the primary responsibility for funding and governing their state’s K-12 and higher education systems; and

WHEREAS, the Elementary and Secondary School Emergency Relief (ESSER) Fund provided historic amounts of one-time federal funds that gave school districts, rather than states, discretion over how to spend ninety percent of funds; and

WHEREAS, school districts were granted unprecedented flexibility over how funds were spent; and

WHEREAS, states were expressly prohibited from directing or restricting school district spending; and

WHEREAS, school districts, by recent estimates, are expected to spend close to half of the total allocated local share of ESSER funds over the next year; and

WHEREAS, any pressure to rapidly draw down of tens of billions in ESSER funds may exacerbate inflation and potentially encourage local spending without a clear plan for sustainability; and

WHEREAS, a sudden and steep reduction in one-time funds, especially if spent on what are typically considered recurring expenses, could cause fiscal turmoil in school districts that state legislatures may be expected to respond to; and

WHEREAS, each state has its own unique system for funding K-12 and higher education; and
WHEREAS, fiscal conditions can vary significantly across states, especially during
times of national economic emergencies; and

WHEREAS, education is a significant part of state budgets, other compelling priorities
may make demands on state resources while states respond to and recovery from
emergencies; and

WHEREAS, Congress has included maintenance of effort provisions for both K-12 and
higher education funding from fiscal year 2020 to fiscal year 2023 as a condition of a
state receiving funds from the Elementary and Secondary School Emergency Relief
(ESSER) Fund; and

WHEREAS, Congress has also included “maintenance of equity” provisions for K-12
funding in fiscal years 2022 and 2023;

NOW, THEREFORE BE IT RESOLVED, the National Conference of State Legislatures
believes unanticipated federal funding for education should not bypass state legislative
appropriations processes and should allow state legislatures broad discretion in
determining how those funds will best meet local and state education needs; and

NOW, THEREFORE BE IT FURTHER RESOLVED, the National Conference of State
Legislatures believes Congress should extend the spending deadline for ESSER to
December 31, 2026 in order to smooth the rate of school district spending, which could
mitigate the inflationary impact of a rapid draw down of funds and give state legislatures
more time to conduct oversight and evaluate whether and how certain ESSER
expenditures could be sustained; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State
Legislatures believes the U.S. Department of Education should implement an orderly
and timely process for states and districts to request and receive permission for a late
liquidation of funds well in advance of the ESSER III obligation deadline of September
30th, 2024; and
NOW, THEREFORE, BE IT FURTHER RESOLVED, the Secretary of Education should allow states the opportunity to seek waivers from the maintenance of effort and “maintenance of equity” provisions associated with the Elementary and Secondary School Emergency Relief (ESSER) Fund; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believes state fiscal requirements for education relief aid should only ask states to maintain aggregate funding levels or serve as a guide for how states can make cuts to education if facing revenue declines.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the National Conference of State Legislatures believes state fiscal requirements should not be used to compel states to make fiscal or policy decisions beyond the purposes enumerated above, which includes requiring states to increase funding for education or distribute funds to local education agencies by methods other than a state’s statutorily defined school funding formula.

BE IT FINALLY RESOLVED, that NCSL send a copy of this resolution to Members of Congress and the U.S. Department of Education.
Youth mental health, along with school safety and security, are perennial challenges faced by our nation. State legislatures recognize the need for increased school safety for children and educators in their state, as well as the increasing demand for mental health services and support.

State legislators see the federal government as a partner in supporting school security and the safeguarding of student mental health. State legislators firmly believe that the best structure for this partnership is a collaborative approach between the federal government and the states, consisting of federal funding and other means of support that are flexible enough to allow state legislatures to directly leverage these resources where they are most needed. State legislatures are best positioned to be responsive to the unique needs of their constituents.

The federal government should not mandate or incentivize specific strategies or approaches to school security and student mental health. When emergencies warrant the swift provision of federal resources to support school security and student mental health, funds should be distributed through existing programs or provided through flexible block grants to states.
The National Conference of State Legislatures (NCSL) recognizes that voter turnout in the United States lags behind that of other countries, with approximately 60% participation in presidential elections and only 40% in midterm election years. To address this challenge and increase voter turnout over the long term, cultivating social and political engagement among students is a crucial strategy.

NCSL has been committed to promoting and supporting civic education and learning. NCSL established the Trust for Representative Democracy, and through this initiative sponsored the Legislators Back to School Week, fostering engagement between lawmakers and students. Over time, NCSL has produced a variety of materials, including educational resources on the legislative process, and the podcast "Building our Democracy". NCSL has conducted extensive training for legislators, both domestically and abroad, in partnership with the US State Department, media, and the general public, focusing on the legislative and elections processes. NCSL is also a proud member of the CivXNow Coalition, a collective of over 250 organizations dedicated to promoting civic education.

Civic education plays a fundamental role in preparing and encouraging students to actively participate in the public and political life of their communities. By engaging in civics, students learn to identify and understand social problems, evaluate potential solutions, distinguish evidence-based claims from opinions, and take meaningful action based on what they have learned. This preparation fosters the development of a robust and healthy civil society.

Moreover, civic education is essential for the functioning of a democratic republic, particularly in relation to the legislative function and the creation of sound laws that enjoy the support and engagement of an informed citizenry. By equipping individuals with knowledge about their rights, responsibilities, and the inner workings of
government, civic education empowers them to actively contribute to the democratic process and effectively advocate for their communities.

In conclusion, NCSL remains committed to promoting civic education as an indispensable component of a vibrant democracy. By continuing our work in this field, collaborating with legislators, educators, and partners, and actively participating in national conversations and events, we strive to create a more informed, engaged, and participatory citizenry that ensures the vitality and strength of our democratic institutions.
Elementary and secondary education policy is defined broadly by state constitutions, specified by state statutes and implemented by state agencies, school boards and local school districts. State legislators believe that the federal role should be as a supportive partner instead of an intrusive, top-down role. A healthy state-federal partnership in the vital task of educating America’s children:

- Avoids unfunded and underfunded mandates, and fully funds federal requirements for education programs, activities, and reporting. It is both ineffective and unconstitutional to expect states to accomplish national goals that the federal government is not willing to fully fund. The policies and activities associated with federal education programs, regardless of federal funding levels, should be encouraged and not mandated. Further, federal reporting requirements should be reasonable and not require the use of funds that could otherwise be spent on program delivery.

- Encourages state innovation. States are inherently more capable than the federal government of moving quickly to initiate or change policies, can be more sensitive to public needs and can generate broader buy-in for policy changes from local school districts. State flexibility, in addition to being an effective means of making public services more cost effective, provides an opportunity for state legislators to integrate federal, state and local programs into a coordinated system.

- Respects state law and avoids inappropriate federal preemption. Creative solutions to public problems can be achieved more readily when state laws are accorded due respect. Any attempt to preempt should be balanced against the potential loss of accountability, innovation and responsiveness. Unless a clear and compelling case for national uniformity exists, every effort should be made to allow state governments to respond without federal intervention to local
conditions. The federal government should specifically restrain involvement in the following respects:

- State academic standards. State legislators support the adoption and implementation of high-quality and rigorous state academic standards as determined by state policymakers. The federal government should not—through legislative or regulatory action or funding opportunities—mandate, direct, control, coerce or incentivize states to adopt a national set of common academic standards. State participation in consortia and other multi-state collaborations should remain voluntary and the federal government should refrain from conditioning the receipt of grant funding upon adoption of common academic standards.

- State academic assessments. State legislators support the adoption and use of high-quality assessments aligned to state-determined academic standards. The federal government should not—through legislative or regulatory action or funding opportunities—mandate, direct, control, coerce or incentivize states to adopt a common assessment. State participation in consortia and other multi-state collaborations should remain voluntary, and the federal government should refrain from conditioning the receipt of grant funding upon adoption of a common assessment.

- Recognizes that K-12 education is predominantly a state and local financial and legal responsibility. Federal government spending is less than 10% of the nationwide K-12 budget and should not be used to exercise a disproportionate impact on education policy at the state and local level.

- State legislatures have plenary authority over their systems of finance for elementary and secondary education. Federal grants should not be conditioned in any way that would alter or amend a state’s school finance methodology.

- Preserves and respects state flexibility to implement and administer new block grants. If categorical federal education programs are consolidated into block grants, these grants should:
  - Include legislative language stating that block grant funding should be expended according to state law,
Not limit states to the kinds of activities funded under corresponding block grants for past categorical programs, and

- Provide adequate federal funding to assure the continuation of services.

- Maintains steady resource streams, such as formula funding, as the primary funding source for state education aid.

- Distributes competitive grant funds, when appropriate, for targeted purposes, in a transparent and consistent process.

- Respects state budget processes. Federal funds should be incorporated into state budget processes for open hearings and deliberations. Federal funding going directly to state or sub-state bureaucracies or agencies should not bypass state legislative appropriations and oversight procedures. Takes into consideration state appropriation and legislative calendars. Sufficient time must be allowed for states to implement new federal legislation and regulation.

- Maximizes state flexibility to implement and administer federal programs through a streamlined waiver process. This is critical to ensure that states are not unduly burdened by federal regulation or legislation.

- Provides opportunity for ongoing communication with and technical assistance from the federal government in lieu of federal regulatory action.

Acknowledges the constitutional and statutory authority over education policy that rests with the state legislatures by ensuring state legislators are represented in all “timely and meaningful” consultation requirements in the creation or reauthorization of any federal law relating to elementary and secondary education.