

NATIONAL | INSIGHTS

President Biden's Plans for Reopening Schools and Push for Vaccinations



Photo Credit: whitehouse.gov

In January, the Biden Administration hit the ground running, issuing a slew of wide-ranging executive actions just hours after the inauguration. Most of the executive actions roll back controversial policies of the previous administration or tackle things left undone. One of Biden's priorities is getting kids back to school. The President [pledged back in December](#) to get the coronavirus pandemic under

control to reopen schools within the first 100 days in office. He followed up on this promise on January 21st by signing an [Executive Order on Supporting the Reopening and Continuing Operation of Schools and Early Childhood Education Providers](#).

The order notes that two principles should guide the federal government's response to the COVID-19 pandemic regarding reopening schools: (1) the health and safety of children, students, educators, families, and communities and (2) high-quality education, during and beyond the pandemic, for every student. The order directs the Department of Education to work with the Department of Health and Human Services to guide States and schools on how and when to safely reopen schools (more information on the Department's plan is located [here](#)). It also directs the Department of Education to establish [a Safer Schools and Campuses Best Practices Clearinghouse](#) to enable schools to share lessons learned and best practices for operating safely during the pandemic. Of note, the Department of Education's Assistant Secretary for Civil Rights will be required to deliver a report as soon as practicable on the disparate impacts of COVID-19 on students in elementary, secondary, and higher education.

On February 12, the CDC released guidance on reopening schools, noting that school staff should be prioritized when it comes to vaccine administration. On March 2nd, the Department of Health and Human Services (HHS) issued [an order](#) directing states to immediately make the COVID-19 vaccine available to eligible teachers, school staff and childcare workers. Shortly thereafter, the CDC then issued its [long-awaited guidance](#) on how fully vaccinated people can visit safely with others on March 8th. White House Chief Medical Adviser, Anthony Fauci, told reporters that the administration hopes to begin vaccinating younger children by late spring or early summer. [Moderna has begun late-stage studies](#) of its COVID-19 in children aged 6 months to 12 years.

Cases continue to fall in the US

Number of daily confirmed coronavirus cases in the US



Source: COVID Tracking Project

BBC

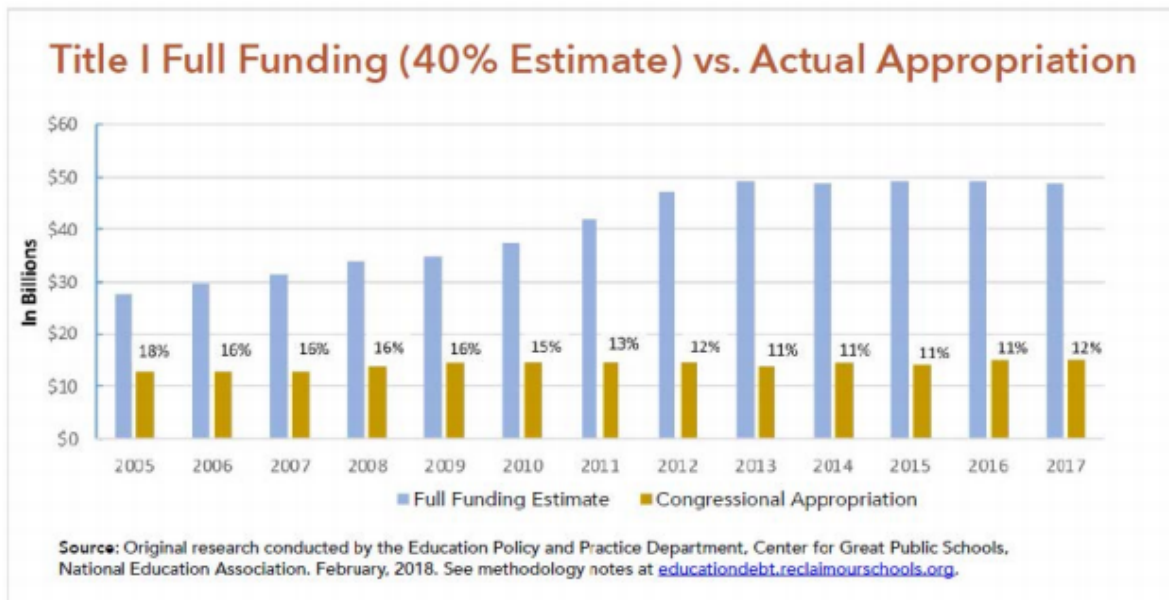
COVID-19 cases are falling, and the aggressive roll out of vaccines are contributing to the decline. On March 25th, President Biden announced a new goal of administering 200 million COVID-19 vaccinations in his first 100 days of office, up from his initial target of 100 million. As of March 24th, [25.7 percent of the Americans have received at least one vaccine dose](#). While the incidence of coronavirus cases in the United States is declining, the country continues to cope with the long term effects of a strained health care system, a fractured medical supply chain responsible for doling out the COVID-19 vaccines, and a disrupted economy. [COVID-19 is now the leading cause of death in the U.S.](#) ahead of heart disease and cancer. We also face the looming possibility of a new wave of disease variants. The Department of Education and State government officials have the difficult task of simultaneously mitigating learning loss and addressing disparities while controlling coronavirus cases.

Democratic Members of Congress Re-introduce Legislation to Prioritize Special Education Funding

U.S. Senators Chris Murphy (D-Conn.), Richard Blumenthal (D-Conn.), Chris Van Hollen (D-Md.) and U.S. Representative Susie Lee (D-Nev.) announced the

reintroduction of the [Keep Our Promise to America's Children and Teachers \(PACT\) Act](#), legislation to fully fund [Title I](#) of the [Elementary and Secondary Education Act \(ESSA\)](#) and the [Individuals with Disabilities Education Act \(IDEA\)](#) on a mandatory basis. The PACT Act has been proposed in previous years, but this version notes the need for additional funding particularly given the amplification of pre-existing inequities due to COVID-19 pandemic.

The correlation between poverty and poor academic achievement spurred the establishment of Title I of the ESSA. Title I's purpose is "to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education." In accordance with the statute, the federal government provides financial assistance to the country's highest-need schools serving low-income students and families. However, this assistance has been deeply underfunded for the nearly 70,000 Title I schools across the country because Congress has not fully appropriated a level of funding authorized by statute ([NCES 2019 Report](#)). Additionally, IDEA calls on the federal government to fund 40 percent of the cost of special education, but similar to Title I, Congress has never fully funded the law, leaving the most vulnerable particularly vulnerable during the COVID-19 pandemic.



With a new Administration and a Democratic majority in Congress, a number of advocacy groups, like [the Center for Learner Equity](#), are promoting the new legislation and hoping for traction this time around.

Senators Ted Cruz and Tim Scott Introduce Legislation to Expand School Choice

During this year's [National School Choice Week](#) (January 24th - 30th), Senators Ted Cruz and Tim Scott introduced the [Creating Hope and Opportunity for Individuals and Communities through Education Act \(CHOICE Act\)](#). The CHOICE Act seeks to expand opportunities and foster success by providing parents greater options when it comes to their child's education.



"Far too many students are being left behind in our education system - especially as the COVID-19 pandemic continues to force children and their parents to navigate a virtual learning environment."

- Senator Cruz



"As the product of a poor, single-parent household, I have always been a champion of school choice. And as the coronavirus pandemic has shown us, the need for educational options is more vital today than ever before. The sad reality is too many students lack access to a quality education because of their zip code, and that is simply unacceptable. Commonsense solutions like my CHOICE Act will empower families to choose the best schools for their children and put parents in charge."

- Senator Scot

Notably, the legislation would “expand school choice programs by permitting states that have established programs for parents of children with disabilities to use public or private funds for the cost of their children attending a private school to supplement those funds with federal special education funds.” The bill would also establish a tax credit voucher program that would incentivize donations to organizations that provide vouchers to students to attend private schools. Since being introduced in January, no further action has been taken on the bill at this time.



States Begin to Include Children Under Age 16 in Vaccination Plans

In a recent blog post, [the National Academy for State Health Policy describes](#) how states are beginning to incorporate children in their COVID-19 vaccine distribution plans in preparation for when a vaccine is authorized for children under age 16.

States with Child-Related Provisions in their COVID-19 Vaccine Distribution Plans as of Jan. 6, 2021

Child-related component*	States
Child health agencies included in vaccination planning teams	AL, AZ, AK, CO, DC, FL, GA, HI, ID, KS, LA, ME, MD, MA, MI, MT, NH, NV, NJ, NM, NY, NC, OH, OR, PA, RI, SC, UT, VA, WA, WY
Designated roles for child health programs and providers	CT, HI, LA, ME, NE, NJ, NC, OR, VT, WA

Prioritizes children for Phase 3**	GA, HI, ME, NC, OH, RI
Prioritizes children in congregate settings**	FL, LA, NM, OK, PA
Prioritizes children at higher COVID-19 risk**	HI, KY, ME, NY, OK
Specifies that the plan may be updated to include or reprioritize children**	CO, DC, IA, NV, NC

* The states listed here have included these provisions in their vaccine distribution plan as of Jan. 6, 2020. Other states may have taken or plan to take these actions, but they are not specified in their plans.

** Pending authorization of the vaccine for children and Advisory Committee on Immunization Practices (ACIP) recommendations.

New Jersey Calls into Question the Role of Special Education Advocates, Why it Matters

On September 30, 2020, the New Jersey Supreme Court Committee on the Unauthorized Practice of Law issued [Opinion 56](#) regarding the scope of duties that non-lawyer advocates should be afforded when working with students and families. The Court later [requested comments](#) on the matter. The Committee is concerned that in helping parents and students with special needs, advocates are taking on responsibilities that should be reserved for licensed attorneys, namely, the provision of legal advice. However, the role of non-attorney advocates in special education matters is critical and can be particularly helpful for families that are unable to afford legal aid. It is crucial that the Committee's oversight does not inadvertently quell efforts of non-lawyer advocates to aid families in need in ethical ways. Read Gillis Education's position on New Jersey's Opinion 56 [here](#).



Free Speech on College Campuses: *Uzuegbunam v. Preczewski*

While Chike Uzuegbunam was a student at Georgia Gwinnett College (GCC), he began distributing Christian literature on campus. He was stopped by a campus police officer because he was outside of the designated area on campus where “free speech expression” was allowed. According to the school’s “Prior Speech Zone Policy,” students needed to be granted permission to use “speech zones,” which were only available at specific times on certain days. Once Uzuegbunam went through the proper channels to reserve a free speech space, he was stopped again due to complaints of his speech being disorderly.

The school’s policies came under scrutiny when Uzuegbunam, and another student Joseph Bradford who wanted to speak publicly about his religious beliefs, raised constitutional claims, stating that these policies violated their First Amendment rights to free speech and free exercise of religion as well as their Fourteenth Amendment rights to due process and equal protection. GCC revised its policies after the students filed suit, but Uzuegbunam and Bradford pursued nominal damages.



Uzuegbunam speaking with reporter.

Photo Credit: [Alliance Defending Freedom via Desert News](#)

After several rounds of litigation in the lower courts, including a dismissal of the case as moot at the Eleventh Circuit Court, the Supreme Court of the United States heard arguments on January 12, 2021 and [decided the case](#) on March 8, 2021. In an 8-1 decision, the Court ruled in favor of Uzuegbunam. The question before the court was whether nominal damages could alone redress a past injury, or does revision of an unconstitutional policy suffice? The Court concluded that nominal damages vindicate the constitutional violations and redresses past injuries.

The Court's decisions could have broad implications. Roberts, the sole Justice dissenting in this case, warns that the ruling expands the jurisdiction of the court into "advisory opinions," an idea rejected by the Founders. Trivial, nominal damages can be pursued even after the substantive matters of the case have been decided. The case will now go back to trial court to determine the nominal damages, if any, are owed to Uzuegbunam and Bradford.

EdREADS

- **The Pew Charitable Trusts:** ["It's Patchwork: Rural Teachers Struggle to Connect in Pandemic"](#)

- **Industry Dive Brief:** [“Eliminating microaggressions key to creating a more equitable school culture”](#)
- **The D.C. Policy Center:** [“State of D.C. Schools: 2019-2020”](#)
- **Bipartisan Policy Center:** [“Child Care in 25 States: What we know and don’t know”](#)
- **National Academy for State Health Policy:** [Infographic Shows Impact of Adverse Childhood Experiences \(ACEs\) on Early Childhood Development](#)
- **Rand Corporation:** [“An evaluation of “Quality Start Los Angeles \(QSLA\),” the voluntary quality rating and improvement system for early learning providers in Los Angeles County”](#)
- **Higher Education:** [“Morehouse Online Launches New Program for Black Men Seeking to Finish their Degrees”](#)
- **Congressional Research Services:** [OSHA Jurisdiction Over Public Schools and Other State and Local Government Entities: COVID-19 Issues](#)

Upcoming Events

- **March 26:** The Bipartisan Policy Center (BPC) holds [a virtual discussion](#), beginning at 1 p.m., on "Using Mental Health Consultations to Support SEL (social and emotional learning) in Early Childhood."
- **March 30:** New America holds [a webinar](#), beginning at 12 p.m., on "Reimagining Early Care and Education."

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