



## MEMORANDUM

TO: **Chief State School Officers**  
FROM: **CCSSO**  
DATE: **September 18, 2023**  
SUBJECT: **Impact of a Potential Government Shutdown**

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The purpose of this memorandum is to discuss the potential impact of a government shutdown on programs and operations of the U.S. Department of Education (ED or the Department) and other Federal agencies.

### Background

Fiscal year (FY) 2024 begins on October 1 of this year. If any of the 12 appropriations bills is not signed into law by the beginning of the fiscal year, Congress must pass a continuing resolution (CR) providing temporary funding that enables the affected Federal agencies to continue their operations and programs. If a CR is not enacted, the agencies must implement shutdown procedures and then operate in a severely curtailed manner, as described below.

At the current time, the Congress has not passed any of the FY 2024 appropriations bills. With two weeks left in this fiscal year, it is highly likely that Congress will not complete action on appropriations, including the appropriations bill for the Departments of Labor, Health and Human Services and Education, before the beginning of the fiscal year. In addition, there is some opposition to a CR in the House. Again, if a CR does not pass by October 1 (or, later, if a temporary CR lapses and is not extended, and Congress has not yet passed the full-year appropriations), a shutdown will go into effect.

### What happens under a shutdown?

Under a shutdown, not all government functions actually cease. Programs and activities carried out with mandatory funding (that is, funding that is not subject to annual appropriations), and those that have been funded through previous years' appropriations, continue. Activities that, if suspended, would immediately threaten the safety of human life or the protection of property, or would infringe upon the constitutional responsibilities of the President, will also continue. Lastly, individual agencies must determine which employees are necessary to carry out this limited set of programs and functions. These "essential employees" continue working during a shutdown.

In the past, the Office of Management and Budget (OMB) has issued guidance and other documents advising agencies and the public on the operation of agencies and programs during a shutdown, such as this set of [frequently asked questions](#) (FAQs) released in 2021, the last time a shutdown was seriously threatened. In addition, each Federal agency has developed its own shutdown contingency plan, such as this one from the [Department of Education](#), also from 2021.

## **Impact on Programs and Operations of the Department of Education**

As under past shutdowns, ED would be affected if the Congress and President have not yet have agreed to an appropriations bill funding its discretionary programs. Below we provide information, based on past shutdown guidance and experiences, for some of the major ED programs and functions. None of this information should be viewed as authoritative, pending the release of new guidance from OMB and the Department.

### **Elementary and Secondary Education Formula Programs**

Most ED funding for K-12 education flows to States and then local educational agencies by formula, through such programs as ESEA Title-A (Grants to Local Educational Agencies), Title II-A (Supporting Effective Instruction), Title III (English Language Acquisition), Title IV-A (Student Support and Academic Enrichment) and Title IV-B (21<sup>st</sup> Century Community Learning Centers), as well as IDEA Part B (Special Education Grants to States) and Career and Technical Education (CTE) State Grants.

Depending on the program, some or all of the program's funding is appropriated on a "forward-funded" basis, meaning that the funding becomes available for drawdown by the State and local educational agencies (SEAs and LEAs) beginning on July 1 of the fiscal year (for instance, on July 1, 2023 for FY 2023 funds). SEAs and LEAs will be able to continue using those funds, as well as carry-over funds from previous years, if the Department is shut down.

In addition, a portion of the funding for four programs (ESEA Titles I-A and II-A, IDEA Part B and CTE) is appropriated on an "advance-funded" basis, meaning that the money does not become available until October 1 of the following fiscal year; In other words, the FY 2023 advance-funded money will become available on October 1, 2023. Although the ability of SEAs and LEAs to access those funds could thus be affected if the Department shuts down on October 1, we note that, at the beginning of a shutdown, Federal employees briefly engage in what are known as "orderly shutdown procedures." We think it is highly likely that ED would release the October 1 formula funds as one of those procedures.

Among the formula programs, one that could be affected by a shutdown, particularly a protracted one, is Impact Aid, which is funded on a "current-year" basis, with the funds becoming available to eligible LEAs from the beginning until the end of the fiscal year. (For example, the period of availability for FY 2024 will be October 1, 2023, through September 1, 2024.) Some Impact Aid districts, typically those for which program funds account for a significant portion of revenues, rely on timely receipt of the funds during the school year. A delay in making Impact Aid awards for more than a brief period could result in serious consequences for those districts' operations.

### **Student Aid**

In 2018, the ED Federal Student Aid office (FSA) posted guidance on the operation of student aid programs during a shutdown. This guidance stated that, "In the event of a closure of the federal government (more commonly referred to as a shutdown or furlough), there will be minimal impact on students, borrowers, schools, lenders, and guaranty agencies and their ability to participate in the Title IV Programs." We believe that the situation would be the same

this year. The contractors that process student aid applications, service student loans, operate student-aid-related websites and carry out other functions will continue to operate. Applicants will continue to be able to submit the Free Application for Federal Student Aid (FAFSA), although such actions as verifying eligible noncitizen status could be delayed. Contractor staff should also be available to assist applicants in applying under the various loan forgiveness authorities or in consolidating loans, although, again, there might be specific situations in which these actions are delayed.

### **Competitive Grant Programs**

ED (and likely other agencies) does not generally conduct competitions at the start of the fiscal year with appropriations made for that same year. (In other words, ED would not generally launch competitions funded with FY 2024 funds in the final months of calendar 2024.) A brief government shutdown would be unlikely to have significant consequences for when or how these competitive awards are made. A lengthier shutdown, however, would likely cause some delays because, during the period of the shutdown, staff will not be able to work on application notices or other activities needed for the launch of a competition.

The Department's Grant Forecast indicates that there are a few current competitions, under the Fund for the Improvement of Postsecondary Education (FIPSE) and the Career and Technical Education Innovation and Modernization program, where the applications are due in late September or October. For those competitions (funded with FY 2023 carry-over money), the awarding of grants could be delayed by a shutdown because ED staff will not be able to conduct peer reviews, review of applicants' budgets and related activities.

### **Existing Grants and Contracts**

Generally, existing grants and contracts will continue to function (with grantees and contractors able to draw down funds) if the grant or contract activities do not require the involvement of Federal staff to oversee or provide direction on an award during the shutdown. An action that does require Federal staff involvement (for example, if an SEA wishes to revise its ESEA State plan, or a grantee needs to revise its budget), then that element of the program funded by the grant or contract could not go forward.

The OMB FAQs, referenced above, provide some government-wide guidance on grant and contract administration during a shutdown. Overall, we believe that operations should be able to continue under all ED grant programs and under most contracts.

### **Interaction with ED and other Federal Staff**

As discussed above, in the event of a shutdown agencies will designate certain employees as "essential," and only those staffers will be able to continue to work. All other employees must remain at home until a CR or appropriation is in place and may not conduct government business from their homes.

As noted above, essential employees are typically those who have an immediate impact on national defense, homeland security, law enforcement and health and safety. Certain staff may also be designated to ensure the continued operation of programs, such as student aid

programs, that do not rely on annual appropriations. Based on past experience, ED would designate only a small number of staff as essential – typically the head of each office, employees engaged in law enforcement activities (such as Office of Inspector General staff carrying out criminal investigations), and certain FSA staff who work on programs receiving mandatory funding. For example, the 2021 ED memo referenced above stated that the Department would have initially furloughed more than 90 percent of its staff that year. In the event of a lengthy shutdown, the Department would have designated no more than 11 percent of its staff as essential. The same situation is likely to hold for the offices that administer workforce development programs at the Department of Labor and early childhood and human services at the Department of Health and Human Services. Grantees and other members of the public seeking information and advice from staff in these agencies during the shutdown would likely find that there is no one to take their calls. If you have time-sensitive questions for your Program Officer or other ED staff, we recommend you place calls and send emails as soon as possible.

### **School Meals**

Child Nutrition Programs, including school lunch, breakfast, and snack programs, are reimbursed 30 days after the end of each service month. Funding for these programs should be available through the first quarter of the federal fiscal year, through December 2023. As with the U.S. Department of Education, we expect the U.S. Department of Agriculture (USDA) to provide additional information about funding for important programs in the occurrence of a government shutdown. USDA staff will also be impacted by a shutdown, and questions about school meal programs or other programs including WIC and SNAP should be submitted to USDA staff before October.