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Outsized and Opaque: K–12 Pandemic Education Spending

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KEY TAKEAWAYS

Due to the COVID-19 pandemic, Congress gave K–12 schools more than $204 billion in new federal spending, the largest influx of federal education funds in history.

Despite this massive taxpayer infusion of cash, transparency around school spending has been lacking.

Lawmakers should make federal emergency education spending more transparent and provide flexible education options to families.

The coronavirus pandemic precipitated a nationwide crisis in K–12 education as in-person instruction unexpectedly converted to remote learning for 56.4 million school children in March 2020.[1] Public school enrollment dropped by more than 1.4 million students since the pandemic closed schools.[2] Learning loss resulting from ongoing school closures could have long-term negative effects on students. For instance, the lifetime earnings of students who lose one-third of a year of learning could be reduced by 3 percent, whereas students affected by a year of learning loss could see their lifetime earnings reduced by more than 9 percent.[3]

As part of three federal bailouts for K–12 education from March 2020 to March 2021, Congress appropriated approximately $204 billion in new federal K–12 spending, more than double the amount spent by the

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TABLE 1

Federal Stimulus Funding Available for K-12 Spending

Relief Package	Amount Available
2009 American Recovery and Reinvestment Act	$80 billion
2020 CARES Act	$16 billion
2020 CRRSA Act	$58 billion
2021 American Rescue Plan	$130 billion
Total	**$284 billion**

SOURCE:

- Lindsey M. Burke, "Creating a Crisis: The Squandered $100 Billion Education Stimulus," Heritage Foundation *Web Memo* No. 2936, June 18, 2010, https://www.heritage.org/education/report/creating-crisis-the-squandered-100-billion-education-stimulus.
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by the Obama Administration through the 2009 American Recovery and Reinvestment Act—the largest one-time spending package for K–12 education up to that point.[4] The most recent of the three COVID-19 spending packages—the American Rescue Plan (ARP) Act—allocated approximately $130 billion for K–12 purposes alone, nearly double the U.S. Department of Education's discretionary budget in 2020.[5] The ARP also provided $1 billion for Head Start, bringing the federal pre-K program's total pandemic relief funds to $2 billion.[6]

Additional federal spending likely presages growth in federal intervention in education, and will be the baseline from which progressive policymakers establish federal spending levels moving forward.

The influx of federal dollars is a particularly brazen instance of wasteful spending because state education agencies (SEAs) and schools had spent less than 24 percent of the $13 billion Elementary and Secondary School Emergency Relief (ESSER) funds provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act as of November 20, 2020.[7] At the same time, education researcher Dan Lips estimated that SEAs have only spent 9 percent of the $59.6 billion from the combined CARES Act and the

CHART 1

Bulk of K-12 Relief Funds Remains Unspent

RELIEF PACKAGE	SPENT	UNSPENT
CARES Act	$5.9 billion	$7.0 billion
CRRSA Act	$0.1 billion	$52.7 billion
American Rescue Plan	Unknown	$122.8 billion

SOURCE: Dan Lips, "$180 Billion of K-12 COVID Relief Funds Are Still Unspent," Foundation for Research on Equal Opportunity, May 19, 2021, https://freopp.org/have-states-spent-emergency-k-12-education-funds-during-the-pandemic-838b8a5b5d7f (accessed June 30, 2021).

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Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act funding.[8] Lips estimates that SEAs still have more than $180 billion in unused emergency funds.[9] This massive sum, however, is largely due to the first two relief packages since only 5 percent of K–12 funds in the ARP will be spent this year, the remaining 95 percent will not be fully spent until 2028.[10]

Instead of continuing this education spending spree, Congress should give states greater flexibility with existing funding, and hold established federal programs to a higher degree of transparency. Congress can do this by (1) making federal emergency education spending more transparent, (2) stopping further spending sprees, and (3) providing flexible education options to families.

Emergency Relief Education Spending Must Be Transparent

The three relief packages—the CARES Act, the CRRSA Act, and the ARP—appropriated nearly $197 billion, the lion's share of K–12 emergency dollars, through three ESSER funds.[11] The total amount of the three emergency relief packages—CARES, CRRSA Act, and ARP—represents the largest influx of federal dollars to K–12 education in less than a year's time in U.S. history. In light of this unprecedented spending, policymakers should guarantee that taxpayer dollars are spent appropriately, and that states receiving the emergency funds comply with the new reporting requirements outlined as part of the respective relief packages. Policymakers' ongoing vigilance to ensure transparency is paramount as states are not spending their emergency relief dollars as quickly as lawmakers anticipated. For instance, less than 46 percent of CARES ESSER dollars had been spent as of March 31, 2021. Similarly, only 0.2 percent of CRRSA ESSER dollars had been spent.[12]

State ESSER funding is based on the proportion of funding received by each state under Title I-A of the Elementary and Secondary Education Act (ESEA). SEAs must distribute at least 90 percent of ESSER funding to local education agencies (LEAs) in proportion to the amount of Title I-A funding each LEA receives. SEAs can reserve the remaining 10 percent to respond to pandemic-related issues.[13]

ESSER dollars deserve special scrutiny, as they differ vastly from previous federal spending. For instance, unlike previous federal education spending, ESSER funds are not subject to the ESEA rule of "supplement, not supplant." Accordingly, ESSER funds "may take the place of state or local funds for allowable activities," whereas substitution is prohibited under the ESEA.[14] At the same time, ESSER funds are subject to a Maintenance of Effort clause, which prevents states from "substantially reducing their support for K–12 education" and becoming permanently dependent on federal education dollars.[15] Accordingly, states should be especially wary of hefty recurring costs, such as hiring additional teaching and non-teaching staff, with emergency relief funds.[16] As Marguerite Roza and Chad Aldeman warn, "Leaders who commit to things they won't be able to afford once the money runs out are setting themselves up to fall off a funding cliff in a few years."[17]

ESSER Accountability

LEAs use their share of ESSER funds to pay for a variety of approved education expenses or fund different programs for students.[18] SEAs must comply with all ESSER reporting requirements as stipulated by their respective emergency packages. Under ESSER I, SEAs receiving $150,000 or more are required to provide quarterly reports to the Pandemic Response Accountability Committee and the U.S. Department of Education showing:

- The entire amount of CARES Act funds received from the agency;
- How much of those funds were obligated or outlaid on specific projects or activities;
- Detailed accounts of every project or activity, specifically, the project's

name, description, and the number of jobs preserved or created by each project; and

- Comprehensive accounts of all subcontracts or subgrants awarded by SEAs to comply with all requirements under the 2006 Federal Funding Accountability and Transparency Act (FFATA).[19]

In May 2020, the Office of Management and Budget (OMB) issued a guidance stating that ESSER I reporting requirements were wholly satisfied by the existing reporting requirements under the FFATA. The law requires federal agencies to post data about award spending at USASpending.gov to ensure transparency and accountability for taxpayer dollars.

Under the FFATA, SEAs (prime awardees) are required to file progress reports through the FFATA Subaward Reporting System using data collected from LEAs and any other sub-awardees that received $30,000 or more.[20] Accordingly, LEAs and sub-awardees receiving at least $30,000 must report the following information to SEAs:

- The name of entity receiving award;
- The award amount;
- The funding agency;
- The North American Industry Classification System code for contracts or the Catalog of Federal Domestic Assistance program number for grants;
- Program source;
- How the funding will be used;
- Location of the entity (including congressional district) receiving the award;
- Where the entity receiving the award plans to use the funding (including congressional district);
- Unique identifier of the entity and its parent; and

- Names and total compensation of top five executives from the entity receiving the award.[21]

Despite the OMB's assurances that the FFATA satisfies CARES Act reporting requirements, FFATA reporting requirements do not fully comply with the new reporting requirements outlined under the CARES Act. Instead, the OMB's "guidance directed agencies to ignore the clear recipient reporting requirements contained in the law that would track in greater detail how those funds were used and how many jobs were preserved or created."[22] As a result, "[d]ata reported on USASpending.gov does not include data reported by recipients of federal funds and therefore would provide no details on specific projects or jobs created using coronavirus relief funds," Sean Moulton from the Project on Government Oversight explained.[23]

Not only will the OMB's guidance affect ESSER I reporting, it will also affect reporting for ESSER II because the CRRSA Act is bound by the same reporting requirements as funding through the CARES Act. Accordingly, the CARES Act and the CRRSA Act reporting requirements remain incomplete since the OMB guidance contradicts federal CARES Act reporting requirements. The OMB's guidance means that states report incomplete data, which prevents the Pandemic Response Accountability Committee from completing its analysis of how emergency relief funds were used.

The OMB's guidance is not the only concern about emergency relief data collection. In 2018, the Project on Government Oversight pointed out that USASpending.gov—the public's virtual resource for federal spending accountability—has been rife with errors or incomplete reporting for years. As Moulton explained, "While the website does have data on subawards, it is generally fraught with errors including missing data and duplicate transactions that often make it appear that several times more money was spent in subawards than the government provided in the original award."[24] All too often, subaward description data remains opaque and "is of limited or no use."[25] In some cases, subaward descriptions have consisted of little more than "numbers or a series of codes and acronyms."[26] These poor award descriptions are antithetical to the government transparency that the website aims to achieve.

Despite the 2018 Project on Government Oversight's report, the website's discrepancies remain unresolved. Recent ESSER spending represents some of the latest instances of poor award descriptions and display errors. In fact, 13 states report total subawards worth more than 100 percent of the prime award. For example, Michigan's SEA reported that it obligated

$389.8 million, yet the state also reported that obligated subawards totaled $747.87 million.[27] This error is due to the fact that Michigan's subaward entries were duplicated. Other states, such as Connecticut, quad-duplicated their entries.[28]

Many states' reports show descriptor display errors that make the data unclear for the public. For example, the New York State Education Department distributed $830.93 million of ESSER through the CARES Act to 453 subawardees. The description for each school's spending falls short of a detailed explanation. For all 453 subawardees, the description states, "To prevent, prepare for, and respond to, corona vir [sic]."[29] Not only does the description contain incomplete words, but the description hardly explains how schools plan to use millions of taxpayer dollars in violation of CARES Act reporting requirements.

New York is not the only state to so poorly describe how ESSER dollars are used. New Jersey's Department of Education's 599 subawardees received $250 million through the CARES Act in ESSER funds. All schools or school districts ambiguously described the use of those funds as "Emergency relief."[30] Michigan's, New York's, and New Jersey's descriptions hardly suffice to inform taxpayers as to how billions of emergency relief dollars are spent.

Not only is the current platform for transparency of government spending rife with inaccuracies, it fails to comply with CARES Act reporting requirements. The poor and inadequate reporting mechanisms fail to make federal emergency spending transparent. Policymakers should pursue reforms to ensure greater transparency, especially as the OMB's guidance will also likely affect reporting requirements under the CRRSA Act, since the law requires SEAs to comply with all CARES Act reporting requirements pertaining to ESSER.

Ensuring Taxpayer Transparency for ESSER Relief Funds

Policymakers must ensure that states and localities comply with all reporting for COVID-19 emergency relief required by law, especially as $186.9 billion of ESSER funds remained unspent as of March 2021.[31] As the reporting deadlines for the CRRSA Act and ARP approach, it is of the utmost importance that federal emergency relief funds be transparent and intelligible to taxpayers.

As the Project on Government Oversight notes, two reforms could vastly improve transparency of federal COVID-19 relief funds. Specifically, the Department of the Treasury should ensure that USASpending.gov shows the purpose and impact of federal spending. The website should also make public full award documents and statements of work, data showing how recipients used funds, past performance reviews, and any other data that show how money was spent effectively.[32]

At the same time, the Treasury Department and the OMB could also improve transparency by tracking all federal emergency awards through a separate federal system. The cumbersome nature of the USASpending.gov website means that all too often legitimate emergency relief spending is obscured. A separate tracking system would allow clear and consistent standards, which would help to eliminate waste, fraud, and abuse. This separate tracking system would help federal policymakers to more easily assess the efficacy of various emergency spending.[33]

As federal policymakers work to guarantee transparency of taxpayer dollars, they should consider modeling their reforms on states that have been transparent about their emergency relief spending. California, for instance, was very transparent about how and where it spent its COVID-19 emergency relief dollars on education. According to the state's CARES Act Quarterly Expenditure Report, taxpayers can easily see the amount of emergency funds obligated and expended by each LEA. Moreover, the report breaks down LEA expenditures so that the public knows which percentages of emergency relief funds were spent on expenses such as learning support, instructional material, electronic devices/connectivity, personal protective equipment and safety equipment, and health services, to name a few.[34]

Stopping the Federal Education Spending Spree

Teachers unions lobbied vigorously for pandemic-related education funds, using the crisis as an opportunity to pressure lawmakers to act in union interests and to try to extract long-held political goals. In de facto strikes, teachers unions used school reopenings as leverage to achieve non-pandemic-related goals, such as rent abatement, defunding the police, and a moratorium on charter schools.[35] In fact, the two largest national teachers unions—the American Federation for Teachers (AFT) and the National Education Alliance (NEA)— released a joint publication calling for additional federal education spending, such as funding to address learning loss during the pandemic, especially for students most negatively affected, increased staffing, smaller class sizes, and a vast array of other demands.[36]

Despite already exceeding both the Centers for Disease Control and Prevention's (CDC's) and AFT's estimated safe-reopening costs, Congress provided a nearly $122.8 billion bailout under the ARP through ESSER in March 2021.[37] The new federal law funds a plethora of new education initiatives, such as smaller classrooms to accommodate the CDC's social distancing guidelines, additional non-teaching staff, summer school, resources to guarantee safe school reopenings, funds to prevent education-sector layoffs, and additional educators to address learning loss and mental health in students.[38] Moreover, the Department of Health and Human Services will spend $12 billion from the ARP to improve testing for COVID-19 to help to expedite school reopenings.[39] These new measures accommodate many of the specific demands from the AFT and NEA. At the same time, as of April 1, 2021, state leaders in 49 states, the District of Columbia, and Puerto Rico followed President Joe Biden's directive and prioritized eligible K–12 educators for vaccination,[40] despite the CDC's guidance stating that teachers' "access to vaccines 'should not be considered a condition for reopening schools for in-person instruction.'"[41]

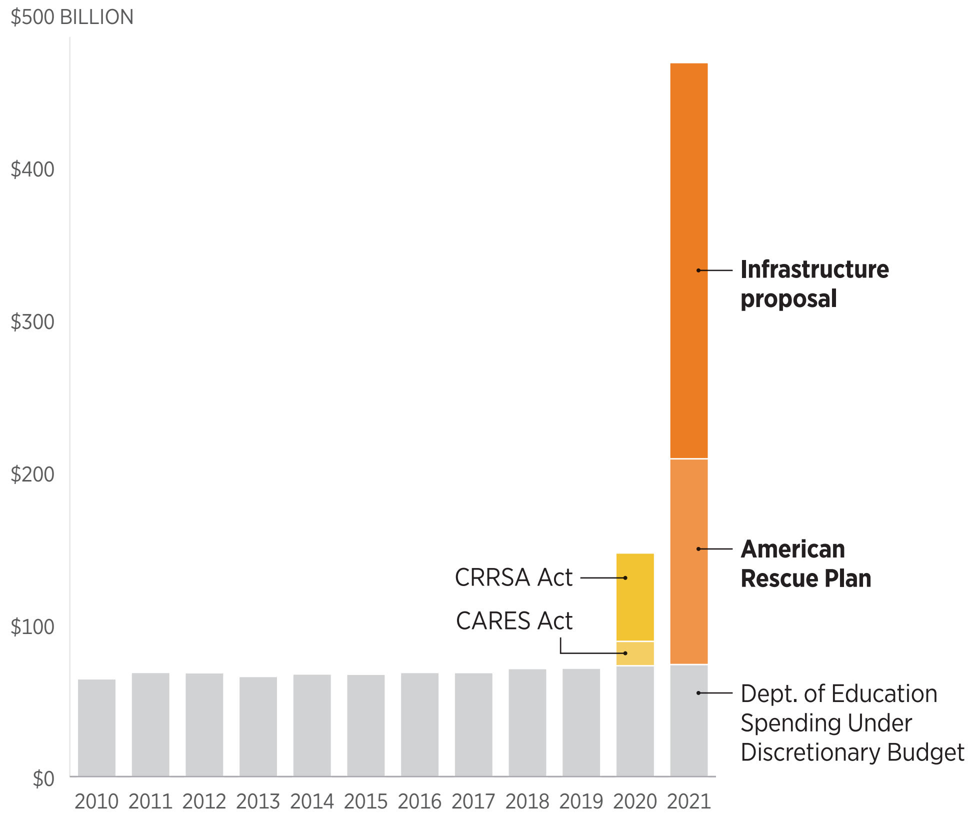
Experts at the CDC reported in July that "[a]lthough outbreaks in schools can occur, multiple studies have shown that transmission within school settings is typically lower than—or at least similar to—levels of community transmission."[42] At the same time, the American Academy of Pediatrics COVID-19 Guidance noted that "the benefits of in-person school outweigh the risks in almost all circumstances" so long as schools properly implement prevention measures combined with the availability of vaccines for eligible children. A report in the *Journal of the American Medical Association* also stated that school reopenings are safe.[43] The CDC also updated its current safety requirements recommending that schools in communities with low rates of infection distance desks in classrooms by three feet instead of six feet, divide students into small groups, and enforce mask policies.[44] Most recently, the Pfizer–BioNTech COVID-19 vaccine was found to be "safe and extremely effective in adolescents," for ages 12 to 15 specifically.[45]

Despite the influx of federal dollars and the CDC's new health recommendations, AFT president Randi Weingarten openly objected to their speedy implementation, stating, "Even with the significant investment of ARP money, districts lack the human resources and institutional planning."[46] Public-sector unions have long used their political clout to effect policy change that benefits union members. During the pandemic, teachers unions used their near monopoly over education to extract political demands. As Stanford University's Terry Moe wrote, "Unions are just fine with inadequate institutions," if change is not wholly in union members' interests.[47]

In the past 15 months, state and federal policymakers bent over backwards to accommodate teacher unions' demands to reopen schools quickly, but only with increased spending. The new federal funding from the ARP,

CHART 2

Biden Administration Proposes Massive Education Spending



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combined with the two COVID-19 spending packages from last year total approximately $204 billion for K–12 education.[48] Teacher unions widely lauded these emergency spending packages while still advocating for additional spending. After schools received $65.6 billion in ESSER funds from the first two relief packages, the AFT described ARP as a "lifeline" and the NEA took credit for the ARP "after months of tireless advocacy."[49]

Yet, the Biden Administration and federal lawmakers continue to defer to teacher unions by proposing additional massive education spending. For instance, the President's fiscal year 2022 budget request would increase the U.S. Department of Education's annual budget by 41 percent—the largest proposed increase of any federal agency. This new funding increase would increase Title I funding from $16.5 billion to $36.5 billion and would provide school districts with another $1 billion to hire non-teaching staff.[50]

These proposals will saddle the very generations they are intended to help with crippling debt. The total K–12 education spending in the three relief packages is more than eight times the necessary $442 per pupil that the CDC estimated in December 2020 was needed to safely reopen schools.[51] Despite this estimate, schools received more than $3,700 per pupil via the CARES Act, the CRRSA Act, and the ARP. The ESSER per-pupil expenditures exceed even the AFT's own estimate of $2,300, which the AFT alleged was needed to reopen schools, by $1,400 per pupil.[52] These massive federal bailouts were as exorbitant as they were unnecessary. The Cato Institute's Chris Edwards noted that state and local tax revenues, which support more than 90 percent of education funding, hardly declined during the pandemic.[53] Accordingly, teachers union lobbying used an international emergency and health crisis to win huge bailouts for schools and the public education establishment.

In light of the massive education bailout from the three relief packages, Congress should refrain from supporting further unbridled education spending. Better policy is to encourage states to collaborate with families and communities to find policy solutions that meet the needs of their localities.

Reducing Federal Intervention in Education: Recommendations for Congress

The stream of federal emergency dollars pouring out of Washington over the next seven years could tempt state policymakers to become dependent on them. SEAs' and LEAs' reliance on federal emergency dollars to fund hefty recurring costs with no clear end date could create untenable funding cliffs.[54] Accordingly, federal policymakers should reduce their footprint in education and re-establish it as a quintessentially state and local issue. Moreover, states receive less than 10 percent of their K–12 education revenues from federal funding.[55] Allowing states greater flexibility and autonomy would allow them to tailor their education dollars to their particular needs.

Congress should:

Revise the OMB's Guidance to Comply with CARES Act Reporting Requirements. FFATA reporting requirements do not comply with the detailed reporting requirements of the CARES Act. The OMB should revise its guidance by working with the Department of the Treasury to ensure that the federal spending database, USASpending.gov, shows the purpose and impact of federal spending. The website should also make public full award documents and statements of work, data showing how recipients used funds, past performance reviews, and any other data that improves fiscal transparency.

Create a Separate Database to Track Federal Emergency Funding to Hold Government Officials Accountable. The Department of the Treasury and the OMB could greatly improve transparency by tracking all federal emergency awards through a separate federal system. The unique nature of federal emergency funds requires clear and consistent standards to prevent and detect instances of waste, fraud, and abuse. This separate tracking system would make federal emergency spending more transparent and allow taxpayers to more easily hold government officials accountable.

Stop the Education Spending Spree. Congress has spent approximately $204 billion on K–12 education since March 2020. Instead of acquiescing to teachers union demands, policymakers should stop the federal education spending spree. The Biden Administration's recent proposal to increase the Department of Education's funding by 41 percent is untenable and will burden future taxpayers with debt of insurmountable proportions. State and local revenues hardly declined during the pandemic. Accordingly, policymakers should defer to state and local solutions instead of burdening taxpayers with massive and yet more unnecessary debt.

Pursue the Policies in the Academic Partnerships Lead Us to Success (A PLUS) Act

A PLUS, introduced in the 116th Congress by Representative Mark Walker (R–NC) and Senator Steve Daines (R–MT), returns education autonomy to the states. Under the act, states can opt out of Every Student Succeeds Act programs, the latest rendition of No Child Left Behind. States would then have complete fiscal control of their education finances and could use the $26 billion in federal funds authorized under the ESEA for any education purpose under state law. State-approved education expenses could include more flexible education options, such as education savings accounts.

Under A PLUS, states submit a declaration of intent—renewed every five years—to the U.S. Secretary of Education pending the approval of two of three state entities (the governor, the state secretary of education, and the state legislature). The declaration must guarantee five accountability measures, namely:

1. Upholding all federal civil rights laws;

2. Showing how states will hold schools accountable to taxpayers;

3. Disclosing the state's fiscal and accounting plans;

4. Showing how states will continue to guarantee that the funds will serve disadvantaged students; and

5. Guaranteeing that states will use the funds to supplement, not supplant, their current education funding.[56]

The coronavirus pandemic illustrated states' need for flexibility and freedom from red tape. The current structure of ESSA micromanages state spending through cumbersome federal formulas, which prevents states from speedily delivering education dollars to where they are needed most.

A PLUS could allow states to create targeted education programs to help students grappling with learning loss. A McKinsey & Company study released in July 2021 found that K-12 students lost an average of five months and four months of learning in math and reading, respectively. The learning loss for minority students could be more severe. The report's authors wrote, "In math, students in majority Black schools ended the year with six months of unfinished learning, students in low-income schools with seven. High schoolers have become more likely to drop out of school, and high school seniors, especially those from low-income families, are less likely to go on to postsecondary education."[57]

Instead of being encumbered with federal regulations, A PLUS would allow states to efficiently and expediently allocate their education dollars to help these students. In the pandemic's wake, many states are now reforming their education marketplaces to allow more flexible education options for families. In fact, as of June 2021, 66 percent of states introduced 49 proposals that would provide education savings accounts, tax-credit scholarships, or private school scholarships to families. Ten of these state proposals have already been signed into law.[58] Restoring states' fiscal control of education dollars would let them implement more flexible education options, such as education savings accounts, especially in times of crisis. A PLUS would free states from federal micromanagement and allow them to direct their education dollars toward their own state and local education priorities.

Conclusion

Federal policymakers should encourage states and localities to reopen schools as soon as possible. K–12 students are suffering from the effects of learning loss, which could have long-term impacts on their earnings and health. Federal policymakers also have a duty to taxpayers to ensure that federal emergency funding is transparent. Revising the OMB's guidance to comply with CARES Act reporting requirements, and creating a database to track federal emergency funding, would help the public to hold government officials accountable.

Instead of using increased federal education spending during the pandemic as the impetus for additional intervention, policymakers should increase state autonomy and flexibility. State flexibility is the key to returning children to in-person instruction. Reducing the federal footprint and restoring state and local control will ensure that education dollars reach the students who need them most expediently and efficiently.

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