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Summary

The major education-related news in Lansing this week is that the House failed to pass a bill creating the Learning Loss Recovery Fund, a grant program that would give state dollars to students to spend on private vendors for tutoring and other activities. The vote failed on a 51-56 margin.

As always, please [contact MASA](#) with any questions or concerns.

Education Committee Summaries

On Tuesday, the House Education Committee heard testimony from the bill sponsors of SB 600-603. These bills touch on a number of topics related to **masks, vaccines, public health, health departments, and local and intermediate school district powers related to health measures.**

Senate Bill 600 would amend the Revised School Code to do the following related to Emergency Use Authorization (EUA) vaccines:

Prohibit a school district, ISD, or charter school from adopting a policy that requires a pupil to receive an (EUA) vaccine to do any of the following:

- Enter or attend a school building.
- Ride a school bus or school-related vehicle.
- Participate in school-sponsored activities or events, whether they take place on school premises or not.
- Prohibit a school from discriminating or treating differently a pupil solely based on whether or not they've received an EUA vaccine.

- Prohibit a school from requiring that an individual receive an EUA vaccination to attend a meeting of the Board of education.

The bill further touches on the subject of COVID-19 vaccinations with final authorization from the U.S. Food and Drug Administration. SB 600 would amend the Revised School Code to:

- Require that if a school district implements a policy requiring pupils to receive a vaccine for COVID-19, a waiver shall be available for a parent/legal guardian (or an 18-year-old pupil, or an emancipated minor) from the vaccination requirement.
- Require that students who receive the above-mentioned waiver shall not be prohibited from:
 - Entering or attending a school.
 - Riding a school bus or school-related vehicle.
 - Participating in school-sponsored activities or events, whether they take place on school premises or not.
- Prohibit a school from discriminating or treating differently a pupil solely based on whether or not they've received an EUA vaccine.

Senate Bill 601 would amend the Revised School Code to do the following:

- Require a school that has adopted a policy requiring pupils to wear a face mask to provide a waiver process through which a parent, legal guardian, or pupil could request a waiver from the policy.
- Prohibit a school from requiring that a pupil for which a waiver was requested to wear a face mask to do specified school-related activities.
- Prohibit a school from discriminating against or treating a pupil differently solely based on whether the pupil had requested or received a waiver and specify conduct or policies that would constitute discrimination.
- Prohibit a school from adopting or implementing a policy that required an individual to wear a face mask at a meeting of the board of the district or ISD, or a meeting of the board of directors of a PSA.
- Prohibit a school from adopting or implementing a policy that required a pupil who was asymptomatic for COVID-19 to be tested for COVID-19 to do certain school-related activities, such as entering or attending a school operated by the district or riding a school bus.
- Prohibit a school from discriminating against or treating differently a pupil who was asymptomatic for COVID-19 based solely on whether the pupil had been tested for COVID-19.
- Prohibit a school from adopting or implementing a policy that required an individual who was asymptomatic for COVID-19 to be tested for COVID-

19 to attend a meeting of the board of the district or ISD or a meeting of the board of directors of a PSA.

Senate Bill 602 would amend Part 51 (General Provisions) of the Public Health Code to prohibit the Department of Health and Human Services (DHHS) from promulgating or enforcing a rule that required a child to receive an EUA vaccination, wear a face mask, or be tested for COVID- 19 if the child were asymptomatic for COVID-19 to enter or attend school, ride a school bus, or participate in or attend a school-sponsored activity or event.

Senate Bill 603 would amend Part 22 (State Department of Public Health) and Part 24 (Local Health Departments) of the Public Health Code to do the following:

- Prohibit an emergency order issued by the Director of the DHHS or a local health official from requiring a student to receive an EUA vaccination, wear a face mask, or be tested for COVID-19 if the child were asymptomatic for COVID-19 to enter or attend school, ride a school bus, or participate in or attend a school-sponsored activity or event.
- Prohibit an emergency order from requiring an individual to wear a face mask, receive an EUA vaccination, or be tested for COVID-19 if the individual were asymptomatic for COVID-19 to attend a meeting of a school board.

In short, these bills would dramatically hamper a local school district, and ISD, or a local health department from acting in the best interest of the health and safety of staff and students. **MASA is opposed to these bills and will be urging their defeat in the House and with Gov. Whitmer, should they progress that far.**

In the other chamber, the Senate Education Committee met to discuss HB 5097. The legislation is sponsored by Rep. Andrew Beeler (R- Fort Gratiot) and is another bill that proposes dictating specific requirements in our curriculum. HB 5097 would **prohibit curriculum content standards developed by the State Board of Education from including any form of race or gender stereotyping or anything that could be understood as implicit race or gender stereotyping.** The bill defines race or gender stereotyping as a set of statements, beliefs, or ideas that conform wholly or in part with the following general or particular statements:

- That all individuals composing a racial or ethnic group or gender hold a collective quality or belief.

- That individuals act in certain ways or hold certain opinions because of their race or gender.
- That individuals are born racist or sexist by accident of their race or gender.
- That individuals bear collective guilt for historical wrongs committed by their race or gender.
- That race or gender is a better predictor of outcome than character, work ethic or skills.
- That cultural norms or practices of a racial or ethnic group or gender are flawed and must be eliminated or changed to conform with those of another racial or ethnic group or gender.
- That racism is inherent in individuals from a particular race or ethnic group or that sexism is inherent in individuals from a particular gender.
- That a racial or ethnic group or gender is in need of deconstruction, elimination, or criticism.
- That the actions of individuals serve as an indictment against the race or gender of those individuals.

The bill was voted out of the Senate committee with the support of four out of the five Senate republican Committee members. **MASA is opposed to HB 5097, and any other bills that seek to legislate what can be taught in the classroom.**

House Oversight Passes FOIA Changes

Yesterday, the House Oversight Committee voted on a package of bills that would make various amendments to the Freedom of Information Act (FOIA). Committee discussion reiterated that the impetus for this legislation is to provide greater transparency for public bodies. However, this **package of bills proposes several changes for local units of government that the Legislature is not subject to.** Prior to the vote, the Committee made a handful of revisions to the legislation, those significant changes are outlined below.

- **HB 5921 (Johnson) Denial of Record Requests**
 - Currently, when a public body makes a final determination to deny all or a portion of a request, an individual has the right to either submit a written appeal to the head of the public body or commence a civil action in that circuit court. The bill proposes adding language to require **when an individual commences legal action, the**

public body (who denied the FOIA request) would be limited to only using the basis it previously gave for its denial by written notice. HB 5921 states that a public body would need to assert any exemptions during the initial response to a FOIA request.

Exemptions to FOIAs are found [here](#).

- The substitute version of the bill states that if in a civil action, a public body asserts a basis for a denial that was not included in the denial notice to the FOIA request, they will be subject to a \$500 fine. The \$500 will go to the person asserting the FOIA request.
- **HB 5922 (O'Malley) FOIA Coordinator Contact Information**
 - A public body would be required to **conspicuously post in a public area at least one visually prominent sign that contains the contact information for that public body's FOIA coordinator.** This must include their name, business telephone number, email, and mailing address. This information must also be included for any individual designated to act on behalf of the FOIA coordinator. If a public body has a direct or indirect intent presence, this information must also be publicly available.
 - There is no definition in HB 5922 for "conspicuously post"
 - A substitute version of the bill clarifies that this information can be posted on a public body's website homepage to fulfill this requirement.
- **HB 5923 (VanWoerkom) Response to FOIA Requests**
 - This bill would **require a public body to respond no later than two business days after receiving a written request** for a public record. This response would need to be a receipt of the request. Currently, after receiving a FOIA request, school officials have only five business days to either grant or deny the request, in whole or in part, or issue a notice extending the response deadlines up to an additional 10 business days.
 - Additionally, if a FOIA request is withheld, the public body would be required for each record that is being withheld an explanation that acknowledge that the record exists, generally describe what it is and fully explain the public body's grounds for exemptions.
 - A substitute version of this bill clarifies that if the request is submitted through electronic means, the receipt can be emailed to the individual.
- **HB 5924 (Fink) Avoidance of Requests**
 - Proposes that when a public body's **outside counsel has a public record, it would be considered in the public body's custody for**

purposes of FOIA and is subject to disclosure. Any record that is [FOIA exempt under section 13](#) could be exempted.

- This would not apply to a public record that would identify a working group. A working group in the bill is identified as a group of two or more people, including members, employees, contractors, advisors, consultants, or vendors of a public body assembled by a public body to assist them in deliberating toward or rendering a decision on a public policy. This is not an exhaustive list or what could be considered a working group. This would include contact information about these individuals.
 - A substitute version of this bill clarifies that someone's cell phone from the working group will not be posted.
- **HB 5925 (Posthumus) FOIA fees**
 - Would amend the law so that when a public body determines that searching for or furnishing copies of a public record cannot be considered as primarily benefiting the general public, that deamination could be challenged in a civil action.
 - A public body's procedures and guidelines must provide requestors with a choice of fee payment methods that include electronic payment if the public body accepts electronic payment for other transactions.
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This Week's Introduced Bills

[HB 6171 \(Eisen\)](#) Would require school boards to adopt a policy that prohibits the use of personal cell phones by students anywhere on school property, including school buses, during the scheduled school day.

[HB 6183 \(Yaroch\)](#) Would modify the high school civics requirement to include coverage of how to interact with law enforcement.

[SB 1079 \(Runestad\)](#) Would modify social studies curriculum for grades 8-12 to include the Holodomor Genocide.

From AASA: USED Releases Final Maintenance of Equity Rule

Earlier this week, USED released its [final rule for the American Rescue Plan's \(ARP\) K12 maintenance of equity provision](#), part of the Elementary and Secondary Emergency Relief (ESSER) Fund.

Background: AASA opposes the maintenance of equity provision. It is a rinse/wash/repeat of the comparability regulations in the 2016 negotiated rule making of the Every Student Succeeds Act. The MoEquity provision was inserted into the ARP ESSER language at the very last minute with zero effort made to solicit feedback from the state and local education leader who would have to implement the provision. AASA engaged in subsequent direct advocacy with CCSSO to get significant changes (including those [outlined here](#)) made to the law to make it less problematic; that all said, less bad doesn't make it good; AASA supports ensuring that this provision—intended for only two years under ESSER—dies after ESSER and is not carried into future legislation.

Final Rule:

- The provision includes separate requirements for state and local education agencies. Our advocacy has focused on the requirements for LEAs; one of the important changes is that in addition to the limits established in the statute (the provision only applies to districts enrolling more than 1,000 kids, with more than one building (or building per grade span), USED was forced to further clarify that the provision would only apply to those LEAs facing a net cut in state/local dollars. USED had originally intended the provision to apply to LEAs, regardless of funding level. The final rule clarifies that SEAs need to ensure districts are not making disproportionate budget and staffing cuts at their highest-need schools.
- The rule extends the timeline by which states must publish information on the LEAs in their state that are exempt from the requirement.
- The deadline for FY22 reporting remains unchanged: December 31, 2022. Because states may collect/finalize per-pupil expenditure data on varying timelines, states are able to pursue a reasonable extension beyond Dec 31.
- The timing of this rule and data requirement will burden LEA staff at the end of the school year, who will find themselves facing an additional reporting requirement.
- Summary of the Final Regulatory Requirements: By July 8 of this year (for FY 2022) and by November 1, 2022 (for FY 2023), each SEA must post on its website:
 - The identity of each of its LEAs exempt from the LEA-to-school MOEquity requirements, and why the LEA is exempt.

- For each LEA that is not exempted, a listing of that agency's high-poverty schools .
 - An explanation of how the SEA will ensure LEAs that have to comply with MoEquity are protecting their high-poverty schools from disproportionate reductions in funding, in a manner that ensures the LEAs can make necessary funding adjustments in a timely manner.
 - By December 31 of each applicable school year, each SEA must post the following information for each non-exempted LEA:
 - The per-pupil funding for each high-poverty school for that fiscal year
 - The per-pupil funding in the aggregate for all schools in the LEA, on a districtwide basis or by grade span
 - The per-pupil number of full-time equivalent (FTE) staff for each high-poverty school
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