

EducationCounsel's Summary of the Biden Administration's Early Actions Related to Education

On January 20, President Joe Biden and Vice President Kamala Harris were sworn into their respective Offices, marking the official beginning of the Biden Administration. The president took immediate action by signing multiple Executive Orders and Presidential Memoranda on day one his presidency followed by additional executive actions on his second and third days in office. The following is a summary of these early actions related to education¹.

Key to Know:

- In signing several Executive Orders and Presidential Memoranda during his first few days in office, President Biden is signaling that he **intends to take immediate action to address his top policy priorities**, including rolling back some of the Trump Administration's initiatives. The president is **also making clear that among his top policy priorities are education and child care** by taking actions to extend the pause on student loan payments, expand student protections and rights, support efforts to safely reopen schools, and ensure the safe and continued operation of child care providers, among other actions.
- The Biden Administration will **continue to push for the need for additional efforts to respond to the COVID-19 pandemic, making this one of its highest and most urgent legislative priorities**. Building on his \$1.9 trillion coronavirus relief plan released prior to taking office, President Biden took several executive actions in recent days aimed at safely reopening schools and released a national strategy to respond and recover from the pandemic (See below). It is important to understand that the **first focus of the new administration will continue to be on recovering from the pandemic and the resulting economic crisis**, as this will occupy much of the Biden Administration's focus and attention for the foreseeable future. Additionally, **any initial congressional actions on the Administration's education funding and policy priorities could possibly occur as part of a coronavirus relief package**.
- President Biden's executive actions taken during his first few days in office are only the **kick-off to a series of opportunities that the Administration is expected to leverage over the first 100 days to advance its agenda**. Looking ahead, the Biden Administration will use upcoming **nomination hearings for the U.S. Secretary of Education and the U.S. Secretary of Health and Human Services (HHS)** to continue outlining its plan to address the COVID-19 pandemic, including supporting safe school reopening. Additionally, President Biden will deliver his **first address to a joint session of Congress** in late February. During his address, President Biden will likely **outline the second step of his economic recovery plan** aimed at making investments in infrastructure, innovation, and research and development. This will also be an opportunity for the president to lay out his initial funding and policy priorities that will be included in his **first budget request for fiscal year 2022**. To advance its agenda, the Biden Administration will also **continue to take steps which will not require congressional action or authority**, including issuing additional Executive Orders, guidance and regulations, rescinding regulations put in place during the Trump Administration, and influencing state and local decisions through its bully pulpit.

Inaugural Address:

During his Inaugural Address, President Biden emphasized the themes of unity and recovery, particularly as relates to the multiple crises facing the country, including the COVID-19 pandemic, the economic crisis, the need for racial justice, and the climate crisis. Specific to education, President Biden noted, "With unity we can do great things.

¹ This summary focuses on executive actions which are likely to have implications related to education. This is not a comprehensive summary of the full executive actions taken by the Biden Administration in recent days.

Important things...We can teach our children in safe schools.” Following his address, the president through a combination of executive actions is beginning to move toward his goal of addressing the crises caused by the pandemic and the economic recession, as well as advancing racial equity. The president’s Inaugural Address is [here](#).

Summary of Day One (January 20) Actions:

Shortly after assuming office, President Biden signed a series of Executive Orders and Presidential Memoranda, some of which have notable education and early childhood impacts. Actions include:

- Directing the Acting Secretary of the U.S. Department of Education (USED), Phil Rosenfelt, to **extend the pause on federal student loan payments and collections** and to keep the interest rate at 0 percent. The Office of Federal Student Aid (FSA) announced that the extension is through “at least” September 30, 2021. The extension announcement is [here](#). A tweet from FSA is [here](#).
- Signing an **Executive Order** titled, “**Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation**,” which ordered all federal agencies to fully implement the U.S. Supreme Court decision in *Bostock v. Clayton (2020)*. The decision ruled that Title VII of the Civil Rights Act of 1964 protects against sex-based discrimination, including gender identity and sexual orientation. The Order notes that the decision also includes protections within Title IX of the Education Amendments of 1972 and states that “children should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports.” The Order directs agencies to consider whether to rescind existing actions incongruent with the Order or to promulgate new guidance or actions to fully implement the Order. The Executive Order is [here](#).
- Signing a **Presidential Memorandum** titled, “**Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)**.” In 2012, during the Obama-Biden Administration, the U.S. Secretary of Homeland Security (DHS) issued a memorandum known as DACA guidance deferring the removal of certain undocumented immigrants who were brought to the United States as children and permitting eligible individuals who pass a background check to apply for temporary work permits. The Trump Administration later attempted to terminate the DACA program; however, the U.S. Supreme Court found that the administration’s attempt to rescind the program was done improperly. The memorandum signed by President Biden would direct DHS and the U.S. Department of Justice (DOJ) to take actions to preserve and fortify DACA. The Presidential Memorandum is [here](#).
 - Separately, the Biden Administration also took several executive actions related to enforcement of immigration and sent a bill – the U.S. Citizenship Act of 2021 – to Congress aimed at reforming the nation’s immigration system, including providing an eight-year pathway to citizenship. A fact sheet is [here](#).
- Signing an **Executive Order** titled, “**Advancing Racial Equity and Support for Underserved Communities through the Federal Government**.” The Order is focused on creating a comprehensive, “whole of government” approach to addressing equity, including racial equity. The Order outlines that the Domestic Policy Council (DPC) will coordinate efforts to “embed equity principles, policies, and approaches across the Federal Government.” Further, the Order, in addition to other actions, directs the Office of Management and Budget (OMB) to study methods for assessing whether policies or actions create or exacerbate barriers to full and equal participation; directs all agencies to conduct an “equity assessment” for their policies and programs; directs OMB to identify opportunities to promote equity within the President’s budget request to Congress; and creates an Equitable Data Working Group, which will provide support to federal agencies in expanding data available to inform more equitable policies and programs. The Executive Order is [here](#).

- As part of the above Executive Order, the president **also rescinded Executive Orders issued by the Trump Administration**, including an Order titled, “**Combating Race and Sex Stereotyping**,” which prevented federal contracts from supporting diversity trainings and teachings around anti-racism, and an Order titled, “**Establishing the President’s Advisory 1776 Commission**,” which was charged with determining how “American exceptionalism” can be better taught within civics education.
- Signing an **Executive Order** titled, “**Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial Census**.” The Order rescinds an Executive Order and Presidential Memorandum issued by the Trump Administration excluding undocumented immigrants from the 2020 census count, which is used to determine how many seats each state gets in the House of Representatives (a process known as apportionment). This Order ensures that the resident population count for the census will include all people (citizens and noncitizens) living in the United States at the time of the census as had been in the past. This is important as certain federal programs rely on population counts as part of their formula for awarding funding. Regarding education, the census count has implications for the awarding of federal funding under programs, such as Title I of the Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Act (IDEA), among other programs. The Executive Order is [here](#).
- Signing a **Presidential Memorandum** titled, “**Modernizing Regulatory Review**.” The memorandum directs the OMB Director with others to begin a process with the goal of producing a set of recommendations for improving and modernizing regulatory review. Specifically, the OMB Director should make recommendations on how the regulatory review process can promote public health and safety, economic growth, social welfare, racial justice, environmental stewardship, human dignity, equity, and the interests of future generations. The recommendations should also include proposals that would ensure that regulatory review serves as a tool to affirmatively promote regulations that advance these values. The Presidential Memorandum is [here](#).

Summary of Day Two (January 21) Actions:

On his second day in office, President Biden continued to take executive actions focused on the need to address the COVID-19 pandemic, including efforts to ensure the safe reopening of schools. Actions include:

- Releasing a **National Strategy for the COVID-19 Response and Pandemic Preparedness**, which includes seven goals to address the pandemic’s impacts and to begin the road toward recovery. Of the seven goals, the fifth goal – “Safely reopen schools, businesses, and travel while protecting workers” – directly describes the Administration’s plan to support elementary and secondary schools, child care providers, and institutions of higher education (IHEs) in their efforts to reopen and/or safely continue operations. Most of the proposals included in the National Strategy that would support the reopening of schools and child care providers would rely on funding previously proposed as part of President Biden’s \$1.9 trillion American Rescue Plan². Beyond new funding, the National Strategy outlines federal actions that will be taken, such as issuing guidance and offering technical assistance to schools, child care providers, and institutions. These actions were codified in a subsequent Executive Order after the National Strategy’s release, which is described below. The president’s National Strategy is [here](#).

² On January 14, then President-elect Biden unveiled his proposal for a \$1.9 trillion coronavirus relief package – the American Rescue Plan. Included within that package is \$170 billion for governors, K-12 schools, and IHEs to support reopening. Additionally, the proposal would provide \$40 billion to expand access to high-quality, affordable child care, and \$350 billion for state and local fiscal relief. The proposal will need to be adopted by Congress. A fact sheet on the proposal is [here](#).

- Signing an **Executive Order** titled, “**Supporting the Reopening and Continuing Operation of Schools and Early Childhood Education Providers,**” which is intended to ensure that “student[s] receive a high-quality education during the [pandemic], and to support... schools, child care providers, Head Start programs, and institutions of higher education [IHEs].” The Order directs the USED Secretary to consult with the HHS Secretary to develop and provide evidence-based guidance to states, districts, schools, and IHEs on whether and how to safely reopen and how to remain open for in-person learning, as well as guidance for how to support high-quality distance and online learning. Additionally, the Order directs USED to examine the disparate impacts of the pandemic on students and their access to learning during the pandemic. This effort will include coordination with the Institute of Education Sciences (IES) to understand the impacts, including disaggregated data on the status of in-person learning across the country based on race, disability, English-learner status, and free or reduced lunch status. The Order also directs HHS to collect, and make publicly available, data needed to inform safe reopening for schools and child care programs. Further, HHS is directed to provide guidance to child care centers and Head Start programs to safely reopen and operate and to provide technical assistance to states to support the accelerated distribution of relief funds to child care providers. Additionally, the Order “encourages” the Federal Communications Commission to increase connectivity options so that students can continue to learn remotely. The Executive Order is [here](#).
- Signing an **Executive Order** titled, “**COVID-19 Pandemic Testing Board; Establishment and Efforts to Ensure a Sustainable Public Health Workforce for COVID-19 and Other Biological Threats.**” The Order establishes a COVID-19 Pandemic Testing Board to do the following (included but not limited to): coordinate federal government efforts to promote COVID-19 diagnostic, screening, and surveillance testing; make recommendations for federal government assistance to states and local governments to expand testing and reduce disparities in testing; and identify barriers to access and use of testing in order to increase testing, including in schools and child care settings. Additionally, the Order would expand the public health workforce. The Executive Order is [here](#).
- Signing an **Executive Order** titled, “**COVID-19 Pandemic; Efforts to Ensure Equitable Response and Recovery.**” The Order establishes a COVID-19 Health Equity Task Force for allocating resources and funding in communities with inequities in COVID-19 outcomes by race, ethnicity, geography, disability, and other considerations. To address the inequities identified, the HHS Secretary, in conjunction with the Education Secretary, among others, will consult with the Task Force to strengthen equity data collection, assess and update pandemic response plans to ensure equity, and partner with states and local governments to explore opportunities to provide greater assistance to those experiencing the disproportionate effects from COVID-19, such as by expanding access to food, housing, child care, or income support. The Executive Order is [here](#).

Summary of Day Three (January 22) Actions:

The president continued taking various executive actions on this third day in office, including issuing a directive for all federal agencies to identify how they can leverage existing authorities to help alleviate some of the economic pressures on families and children due to the pandemic. Actions include:

- Signing an **Executive Order** titled, “**Economic Relief Related to the COVID-19 Pandemic.**” The Order will provide additional relief from the impacts of the pandemics by leveraging existing authorities across the federal government. This includes directing the U.S. Department of Agriculture (USDA) to expand and extend federal nutrition assistance programs. According to the White House, the Order will increase access to the Pandemic Electronic Benefits Transfer (P-EBT) program and will direct USDA to issue guidance for how states can increase emergency allotments for the Supplemental Nutrition Assistance Program (SNAP). The Executive Order is [here](#). The fact sheet is [here](#).

Summary of Key Personnel in White House, U.S. Department of Education, and U.S. Health and Human Services:

While the president's nominees for USED or HHS have yet to be confirmed, the Administration has made additional personnel announcements. As the nominees continue to move through the Senate confirmation process, political appointees will work with career staff to begin implementing the president's agenda. Notable nominations and appointments are below³.

White House:

Domestic Policy Council (DPC):

- **Carmel Martin** will serve as Deputy Director for Economic Mobility. Martin previously served as the USED Assistant Secretary for Policy and Budget during the Obama Administration.
- **Catherine Lhamon** will serve as Deputy Director for Racial Justice and Equity. The Executive Order directing DPC to advance racial equity (See above) will likely be led by Lhamon, given her background and experience as Chair of the U.S. Commission on Civil Rights.

Office of Management and Budget (OMB):

- **Neera Tanden** has been nominated to serve as the OMB Director. Tanden is currently the President and CEO of the Center for American Progress (CAP). The Senate Budget Committee has not yet scheduled a confirmation hearing for Tanden.
- **Sherry Lachman** will serve as OMB Associate Director for Education, Income Maintenance, and Labor. Lachman is currently the Executive Director of Foster America and previously served as a Domestic Policy Advisor to President Biden when he served as Vice President in the Obama Administration.

U.S. Department of Education (USED):

- **Miguel Cardona** has been nominated to serve as USED Secretary. Cardona is currently the Connecticut Commissioner of Education and has experience as a teacher, principal, and superintendent. The Senate Health, Education, Labor, and Pensions (HELP) Committee has not yet scheduled a confirmation hearing for Cardona.
- **Cindy Marten** has been nominated to serve as USED Deputy Secretary. Marten is currently the superintendent of San Diego Unified School District. The Senate HELP Committee has not yet scheduled a confirmation hearing for Marten.
- The Administration has named several other top-ranking political appointments to serve in the Department. **Shelia Nix**, will serve as Chief of Staff of the Department; **Claudia Chavez**, will serve as White House Liaison; **Donna Harris-Aikens**, will serve as Senior Advisor for Policy and Planning within the Office of the Secretary; **Ben Miller**, will temporarily serve as Senior Advisor to the Chief of Staff. Additional senior political appointees that have been announced are [here](#).

³ This summary reflects key personnel announcements related to education made as of January 25, 2021. This is not a comprehensive list.

U.S. Department of Health and Human Services (HHS):

- **Xavier Becerra** has been nominated to serve as HHS Secretary. Becerra was previously the California Attorney General. Neither the Senate Finance Committee nor the Senate HELP Committee have announced a confirmation hearing for Becerra.
- **Andrea Palm** has been nominated to serve as HHS Deputy Secretary. Palm is currently the Secretary-Designee of the Wisconsin Department of Health Services and previously served as Senior Counselor to the HHS Secretary during the Obama Administration. Neither the Senate Finance Committee nor the Senate HELP Committee have announced a confirmation hearing for Palm.

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