

# THE TOP 9 EDUCATIONAL PRIORITIES FOR THE BIDEN ADMINISTRATION

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There is no doubt that President Biden has signaled strong interest in schools and educational reform as a priority for his administration. Obviously, however, battling COVID-19 remains the top priority. Although the administration's proposals remain focused on the pandemic, its comments on other goals provide insight into what schools and higher education institutes can expect throughout Biden's term. Although President Biden has not yet shared his full educational agenda, he has telegraphed many of his priorities. Here are the main nine issues for those in the educational community to keep an eye on.

## 1. **New Secretary Of Education Will Usher In A Progressive Approach**

President Biden nominated [Dr. Miguel Cardona](#) to lead the Department of Education, and the Senate approved this nomination last week on a bipartisan basis. Secretary Cardona was most recently Connecticut's education commissioner and has spent his 20-year career as a teacher, principal, and in school district leadership. [As noted in a recent media feature](#), he is also a first-generation college student, a father of school-age children, someone who grew up poor, and speaks English as a second language – which means he has personal experience with just about all the key issues facing schools today.

## Service Focus

Labor Relations

Workplace Safety

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## Industry Focus

Education

What can you expect from Secretary Cardona's tenure? A return to progressive priorities, such as increased support for English learners, access to community college, a renewed focus on civil rights, and support for LGBTQ students. We can also expect a more aggressive approach to sexual assault allegations on college campuses under his leadership.

## 2. National Reopening Strategy Plan

President Biden's [national plan](#) to respond to the pandemic devotes significant attention to schools. Reopening schools requires "major, unified federal investments in rapid testing, an expanded rapid response public health workforce, clear guidance and protections, and support for people to stay home when they are infected...."

Specifically, Biden's [K-12 reopening plan](#) focuses more on mitigation than teacher vaccination. It urges that teachers and students wear masks, maintain distancing, institute good hand hygiene, and maintain safe coughing and sneezing. It will also advise on cleaning and ventilation, contact tracing, and isolating and quarantining. So long as schools adhere to mitigation practices, the administration believes vaccination is not necessary for reopening. Nevertheless, educators and school personnel are classified in the [Phase 1b](#) vaccine priority group in federal guidelines. As of February 24, at least 31 states, District of Columbia, and Puerto Rico [have made some or all teachers eligible](#) to receive the vaccine. Other states, such as Florida, have communicated their intent to make teachers eligible soon.

President Biden's recent relief package [proposes \\$130 billion](#) for school reopening. These funds would be used to reduce class sizes and modify spaces to improve distancing and ventilation, hire janitors, provide PPE, ensure access to a nurse, increase

transportation capacity, hire counselors, close the “digital divide,” provide summer school, and more. Funds must be used not only for reopening, but for meeting academic, mental health, and emotional needs of students. The plan also provides \$35 billion for colleges to implement public health protocols, distance learning plans, and provide emergency grants to students.

The federal government plans on providing resources to schools that sign up for appropriate mask wearing, physical distancing, and testing policies. In support, the president plans on using the Defense Production Act to get schools needed supplies.

Other issues the administration also plans to address include how to best conduct distance learning and respond to loss of learning. The administration will also work with Congress to ensure funding for staffing, technology, broadband access, etc.

Noticeably, the administration has emphasized the lack of data on school openings/closures. This has left policymakers and the public uninformed about the impact of school closures and effects on low-income students and students of color. Going forward, the administration will collect and share data on school, district, and state progress toward reopening, and will identify opportunities to address challenges—particularly those related to educational equity.

### **3. Executive Orders Address Educational Issues**

Beyond formal lawmaking, the administration has relied on executive orders to effectuate some of its educational priorities. On January 21, for example, President Biden issued an [executive order](#) directing the DOE to assist states and educational institutions on safely reopening, including by developing technical assistance. The Order requires the DOE to develop a “Safer Schools and Campuses Best

Practices Clearinghouse” on operating safely. Finally, it requires the DOE to assist with contact tracing programs, ensure delivery of supplies, and facilitate the collection of data for safe reopening.

Also on January 21, President Biden issued a memorandum [requiring FEMA](#) to provide assistance to states and local governments for safe opening and operation of eligible schools. This may include the provision of PPE and cleaning supplies. The assistance is entirely at the federal government’s cost through September 30, 2021. FEMA must expedite reimbursements or provide an advance.

Significantly, these Orders reflect Biden’s approach that the federal government be a facilitator and advisor, [not a “top-down enforcer”](#) of policies. Rather, the federal government should advise and facilitate, rather than outright require, things of states and educational institutions.

#### **4. Imminent Department Of Education And CDC Guidance Will Offer Further Direction**

The DOE will soon be releasing guidance in “volumes,” beginning with “practical application” of the CDC’s guidance, [according to the acting director](#) of the Education Department’s national engagement team. It will also focus on “trauma-informed approaches to meeting the social-emotional needs of students and staff.”

The second volume is expected a few weeks after. Currently, it is expected to address social and emotional well-being of students and educators, how to bridge learning gaps due to COVID-19, “support for educators, including advancing educator diversity,” online and in-person learning, school nutrition, and “digital equity.” It is also contemplating “extended learning time,” which may reflect a shift in the school calendar or changes to summer school. These were referenced in President Biden’s national [strategy plan for COVID-19](#).

Further, the DOE and CDC are expected [to issue a handbook on school reopening](#) to help answer schools' questions on safe operations. It is expected to cover such topics as: utilizing PPE and other supplies, implementing distancing and cohorting measures, improving ventilation, increasing staffing, responding to outbreaks, implementing isolation and quarantine protocols; and serving and accommodating students and staff who are immunocompromised or have disabilities or special needs.

## 5. A Focus On Access To Higher Education

President Biden's education platform goes beyond COVID-19. Among other things, he has emphasized the strengthening of community colleges. This may not be surprising, given that First Lady Dr. Jill Biden [continues to teach at community college](#). During his campaign, President Biden emphasized investment in community colleges and training to build a ["stronger, more prosperous, and more inclusive middle class."](#)

Significantly, he hopes to provide two years of community college (or equivalent) tuition-free through federal and state funding. He believes college should be a reliable, affordable pathway to middle class life, rather than one saddling students with burdensome debt. All proposals will be through partnerships with states and school faculty and staff.

## 6. Reforms To Ensure Racial Justice In Education

President Biden hopes to narrow the educational equity gap across racial groups. Secretary Miguel Cardona [recently stated](#) that "we know that, for far too long, our Black and brown students haven't achieved at the same level as their white counterparts. And this is prior to the pandemic." Both Biden and Cardona also hope to support college and universities that "play unique and vital

roles” in their communities. In particular, Biden supports [strengthening Historically Black Colleges and Universities \(HBCUs\) and Minority Serving Institutions \(MSIs\)](#).

## 7. Eliminating Student Debt

President Biden has committed to [alleviating student debt](#). Although he has indicated he would prefer for relief to come through Congress, he has not ruled out the possibility of executive action. On the issue of student loan forgiveness, [Secretary Cardona stated](#) it “would be a priority for me,” but emphasizes attempts to work with Congress would be the preferred route. While student debt remains a contentious topic, the president seems likely to take some action on it. However, the details are less certain, especially as [he publicly rejected the concept of a \\$50,000 student loan forgiveness program](#) at a recent town hall meeting.

## 8. Support For Graduate Student Unionization

The Biden administration [seems likely to support](#) graduate students in unionization efforts. A proposed rule of the National Labor Relations Board under President Trump put student workers at private colleges outside of the National Labor Relations Act’s coverage. However, under President Biden, that rule is in flux. Given President Biden’s [promise to be a pro-union president](#), the NLRB will likely become more receptive to student workers as they seek to unionize.

## 9. Eliminating Pre-Dispute Arbitration

Democratic lawmakers, under a unified Congress and White House, have [reintroduced legislation](#) seeking to end mandatory arbitration provisions in employment contracts. The bill would prohibit employers from making or enforcing pre-dispute arbitration agreements and would effectively overturn the [Supreme Court’s 2018 decision](#) upholding them. This would affect schools’

employment contracts with faculty and/or staff and could lead to an increase in court-based litigation. While many aspects of this wish-list legislation may not survive a closely divided Congress, it will be worth paying attention to whether this specific proposal could survive and become the law of the land.

## **Conclusion**

In short, schools should be prepared for many changes under President Biden. Should you have questions in navigating his vision of reform, contact your Fisher Phillips lawyer or any member of our [Education Practice Group](#).