

## EducationCounsel Alert for June 23, 2025

This EducationCounsel Alert shares updates about various recent actions by the federal government relevant to education, including:

1. [Senate Finance Committee Releases Budget Reconciliation Proposal](#)
2. [Senate's "Byrd Bath" Process is Underway for the Budget Reconciliation Bill](#)
3. [Supreme Court Upholds Tennessee Ban on Gender-Affirming Care for Transgender Minors](#)
4. [Supreme Court Clarifies Standards for Education-Related Disability Discrimination Cases](#)
5. [GAO Finds the Administration Illegally Impounded Institute of Museum and Library Services \(IMLS\) Funds](#)
6. [Other Significant Updates](#)

You can also find summaries and brief analysis of many other developments in our ongoing [Executive Actions Chart](#). Our [Executive Actions Tracker](#) is a companion resource that lists the specific actions called for in all Executive Orders affecting education, with "due dates" and status updates for each.

All of our summaries and analysis of the Administration's executive actions are available in one place by [clicking here](#). Please note that these developments are sometimes changing rapidly, and *this Alert and all our materials are meant to provide general guidance and do not constitute specific legal advice.*

### 1. Senate Finance Committee Releases Budget Reconciliation Proposal

On June 16, the Senate Finance Committee released its [proposed bill text \(section-by-section\)](#) for inclusion in a larger budget reconciliation package being developed by multiple Senate committees. (See this EducationCounsel [Deep Dive](#) on the Senate HELP Committee's draft bill and this [Alert](#) on the Senate Agriculture Committee's version.) The Finance Committee's bill would expand tax cuts, increase some taxes, and cut Medicaid, among other things. The bill may still see changes before moving to the Senate floor to ensure passage since Senate Republicans can only lose three Republican votes and still pass a bill (assuming the opposition of all Democratic Senators). Senators Rand Paul (R-KY) and Ron Johnson (R-WI) have already indicated that they are unlikely to support the Senate package because of debt concerns, further narrowing the path to 51 votes.

Summaries of key provisions of the Senate Finance Committee proposal are listed below. Where appropriate, we have also indicated how the Senate committees' proposals compare to parallel provisions in the House's budget reconciliation bill:

- **Medicaid:** The Congressional Budget Office (CBO) has yet to release its estimate of the dollar amount and impact of the Medicaid cuts proposed in the Senate bill, but early reports indicate they would likely be *higher* than the [\\$793 billion](#) cut in the House-passed bill. Republican Senators including Josh Hawley (R-MO) and Susan Collins (R-ME) have particularly expressed concern about a potentially significant impact on [rural hospitals](#). Like the House-passed bill, the Senate bill would make a number of changes to the Medicaid program, including frequent eligibility redeterminations, increased costs to states to cover some recipients, increased costs to patients for some services, and additional work requirements. The work requirements in the Senate bill would apply to parents with children over 14 years old, whereas the House-passed bill exempted parents of any dependent children from new work requirements. The Center for Budget and Policy Priorities [estimates](#) that applying work requirements to parents with children over 14, as the Senate bill proposes, would put an additional 100,000 to 400,000 people at risk of losing coverage. (Find the Kaiser Family Foundation's side-by-side comparison of the House and Senate Medicaid provisions [here](#). State-by-state estimates of those who could lose coverage based on stricter requirements can be found [here](#).)

- **Child Tax Credit:** Beginning in 2025, the bill would make permanent and increase the non-refundable Child Tax Credit (CTC) by \$200 to \$2,200. Additionally, the non-refundable credit would be indexed to inflation after 2025. Also, it would make permanent and adjust for inflation the refundable CTC resulting in a \$1,700 credit for 2025. Only those parents with an active Social Security number (SSN) would be allowed to claim the credit, a requirement that the Children Thrive Action Network [estimates](#) would cut off 2.6 million children from access to the CTC.
  - *House/Senate Comparison:* The House bill would temporarily increase the non-refundable CTC to \$2,500 until 2028, before reverting back to \$2,000. Both the House and Senate would permanently extend and adjust for inflation the refundable CTC. Both the House and Senate would only allow parents with an active SSN to claim the credit.
- **School Choice Tax Credit:** The bill would create a new \$5,000 (or 10% of the adjusted gross income of the taxpayer for the taxable year) income tax credit for charitable contributions to tax-exempt state and local organizations that provide private school scholarships (or vouchers) to elementary or secondary school students. The scholarships could be used for a range of educational expenses, including but not limited to, private or religious school tuition. Students from families earning up to 300% of an area's median income would be eligible. The proposal would create a permanent program with tax credit availability capped at \$4 billion per year for taxable years beginning after December 31, 2026. Access to the credit would be provided on a first-come, first-served basis but would allocate specific portions of the overall funding to every state.

The proposal is closely based on prior legislation introduced by Senate Health, Education, Labor, and Pensions Committee Chair Bill Cassidy (R-LA) and Representative Adrian Smith (R-NE), known as the [Educational Choice for Children Act](#) (ECCA). Some provisions in the reconciliation bill differ from ECCA, including new provisions exempting provided scholarships from being considered taxable income for the receiving student.

- *House/Senate Comparison:* The House bill would include a \$5 billion per year cap on the availability of the credit, instead of the \$4 billion per year cap in the Senate proposal. Additionally, the House bill would establish the credit from calendar year 2026 through 2029, while the Senate proposal would create a permanent program for taxable years beginning after December 31, 2026. The House bill would also allow scholarships to be used toward homeschool expenses.
- **Deductions for Unreimbursed Employee Expenses for Eligible Educators:** The bill would permanently terminate the ability to deduct most miscellaneous itemized deductions, except for the deduction of educator expenses. This appears to leave in place the current law allowing an eligible educator to deduct up to \$300 for unreimbursed employee expenses, including books, supplies, computer equipment and supplementary materials used by eligible educators as part of instructional activity.
  - *House/Senate Comparison:* House bill does not include a similar provision.
- **529 Plan Expansion:** The bill would expand allowable tax-free distributions for K-12 expenses under 529 accounts in connection with enrollment or attendance at elementary and secondary school, whether public, private, or religious. Although tax-free withdrawals from 529 accounts of up to \$10,000 annually for K-12 education are already permitted, the bill would expand the list of allowable expenses to include curriculum and curricular materials, online education materials, tutoring, testing fees, and fees for dual enrollment, among other things. The bill would also expand allowable tax-free distributions to some additional industry-recognized credentials and apprenticeships.
  - *House/Senate Comparison:* The House bill proposed similar expansions of allowable tax-free distributions, but it would also include homeschool expenses.

- Employer-Provided Child Care Credit (45f):** The bill would permanently increase the credit from \$150,000 to \$500,000 and the percentage of qualified expenses from 25% to 40%, with more generous benefits for small business employers directing expenditures to child care.
  - House/Senate Comparison:* This is similar to the House bill.
- Dependent Care Assistance Program (DCAP):** Increases the limit for pre-tax contributions for dependent care assistance from \$5,000 (current law) to \$7,500 annually. DCAP allows for pre-tax contributions to be used for dependent care expenses, such as child care.
  - House/Senate Comparison:* The House bill does not include a similar provision.
- Child and Dependent Care Tax Credit (CDCTC):** Under the CDCTC, taxpayers can claim a credit to be used for expenses for the care of a qualifying individual (e.g., dependent child under the age of 13) that enable the taxpayers to work or actively look for work. The credit is calculated by multiplying the amount of qualifying expenses—a maximum of \$3,000 if the taxpayer has one qualifying individual, and up to \$6,000 if the taxpayer has two or more qualifying individuals—by the appropriate credit rate. Currently, the credit rate varies by the taxpayer’s adjusted gross income (AGI), with a maximum credit rate of 35% that declines, as AGI increases, to 20% for taxpayers with AGI above \$43,000. The Senate proposal would increase the maximum credit rate to 50% and on a sliding-scale basis increase the maximum AGI at which the credit rate is phased down until reaching 20% for AGIs between \$75,001 and \$105,000 for single-income households (\$150,001 and \$210,000 in the case of joint-income households). (For additional information on updates to tax policy in the Senate proposal that could help make child care more affordable for more working families with young children, First Five Years Fund has created [this new resource](#), which includes their calculation that almost four million families would see an increased tax credit.)
  - House/Senate Comparison:* The House bill does not include a similar provision.
- Higher Education “Endowment Taxes”:** The bill would modify the excise tax on investment income of certain private colleges and universities by including a new sliding scale to determine the rate of taxation in place of the current rate of 1.4%. The proposed scale would not focus on the absolute size of the institution’s endowment but instead on the endowment-per-student amount, which is the total endowment divided by the number of enrolled students.
  - House/Senate Comparison:* The House bill would also include a new sliding scale to calculate the excise tax on investment of certain private colleges and universities, but it would instead include five tiers with a maximum excise tax rate on investment income of 21% for institutions with an endowment above \$2,000,000 per student. The following chart compares the two proposed sliding scales:

Endowment per student	Proposed excise tax rate on investment income	
	Senate Proposal	House Proposal
Less than \$500,000	0%	0%
\$500,000 - \$750,000	1.4%	1.4%
\$750,000 - \$1,250,000	4%	7%
\$1,250,000 - \$2,000,000		14%
Above \$2,000,000	8%	21%

- **Foundations “Endowment Taxes”:** The Senate did *not* include a proposal to increase taxes on investment income of certain private foundations. By contrast, the House included a new sliding scale to determine the applicable rate of taxation, ranging from the current rate of 1.39% for foundations with assets below \$50 million to 10% for foundations with assets above \$5 billion.
- **Student Loan-Related Provisions:** The bill would permanently extend the exclusion from a taxpayer’s income any income resulting from the discharge of student debt on account of death or total disability of the student, while adding Social Security number requirements for the taxpayer to be able to claim such an exclusion. Additionally, under current law, the first \$5,250 of employer-provided educational assistance—which includes payments by an employer of tuition, fees, books, supplies, etc.—is excluded from an employee’s gross income; however, only student loan payments made before January 1, 2026, currently qualify as educational assistance. The Senate Finance Committee’s proposal would make permanent the exclusion from gross income for qualified education loan payments and would index for inflation the maximum exclusion from gross income for educational assistance programs.
  - *House/Senate Comparison:* This is similar to the House bill.
- **American Opportunity (AOTC) and Lifetime Learning Credits (LLC):** The bill would add requirements for the student and taxpayer (if filing on behalf of the student) to include their Social Security number on their tax return in order to receive either the AOTC or LLC.
  - *House/Senate Comparison:* This is similar to the House bill.
- **Trump Accounts and Contribution Pilot Program:** The bill would create a new type of tax-preferred savings account to allow families to contribute \$5,000 annually into an account for children under the age of eight. Distributions would not be allowed prior to age 18, after which account holders would be able to access up to 50% for education, business development, or the purchase of a first home until age 25. At age 25, account holders would be allowed to withdraw any amount up to the full balance of the account for these limited purposes. Account holders would gain access to the full balance at age 30, for any purpose. Additionally, the government would contribute \$1,000 to these accounts under a new temporary pilot program for children born between January 1, 2024, and December 31, 2028. To be eligible for the government contributions, a child must have a Social Security number, and *both* parents must provide Social Security numbers and “be considered work eligible to claim the credit.”
  - *House/Senate Comparison:* This is similar to the House bill. The Senate Finance Committee stated in their section-by-section that, “Further refinements to the text included in the House-passed H.R. 1 with respect to the Trump accounts program continue to be developed and finalized in coordination with the Trump Administration.”

Senate Republican leaders have said they hope to bring a full budget reconciliation package to the Senate floor for consideration ahead of its July 4 recess. Final legislation would have to be agreed to by both a majority of the House and Senate, with Republicans aiming to send a bill to the President’s desk as soon as possible.

## 2. Senate’s “Byrd Bath” Process is Underway for the Budget Reconciliation Bill

The draft budget reconciliation bills developed by multiple Senate committees are currently being reviewed behind the scenes in a procedure known as the “Byrd Bath,” which exists to ensure that “extraneous” measures that have only a negligible impact on the budget are removed in accordance with the Senate’s “Byrd rule.” During this step in the reconciliation process, Republicans and Democrats make their case to the Senate Parliamentarian as to why certain provisions should be included or eliminated from the reconciliation bill in order to maintain its ability to pass the Senate with a simple majority vote. These Byrd Bath decisions can spur changes to or even the elimination of some provisions in the committees’ proposed bills. The process is

ongoing, but recent reporting has identified some early decisions by the Parliamentarian that affect education-related provisions:

- **The Parliamentarian ruled that the Senate Agriculture Committee’s proposed cost sharing mechanism under reconciliation violates the Byrd rule.** The cost sharing idea originated in the House-passed reconciliation legislation, where the majority proposed shifting a portion of Supplemental Nutrition Assistance Program (SNAP) costs to states, with every state contributing at least 5% of the cost of SNAP benefits and others contributing more depending on their payment error rates. The Senate Agriculture Committee retained the cost sharing proposal but scaled it back so that only those states with error rates higher than 6% would contribute to the cost of SNAP benefits and would cap those states’ shares at no more than 15%. Although the CBO has yet to score the savings from the Senate proposal, [public reports](#) estimate that the Agriculture Committee’s proposed legislation would save \$211 billion over ten years, with the bulk of those savings emanating from the cost sharing proposal that may now be stripped out of the bill because of the Byrd Bath ruling.
- **The Parliamentarian [also ruled](#) that the Agriculture Committee’s provisions denying benefits to certain immigrants who are not citizens or lawful residents violated the Byrd Rule.**
- **The Parliamentarian ruled that the Senate Commerce Committee’s provision effectively blocking states from enforcing new artificial intelligence regulations does *not* violate the Byrd Rule and thus can be included in the reconciliation bill.** Specifically, the provision in the draft Senate Commerce Committee bill would prohibit the ability of states to receive federal broadband expansion funds if they enforce AI regulations. It is worth noting that the Senate proactively added this connection to broadband funding to the House’s version to overcome expected challenges during the Byrd Bath process.

As the Senate Parliamentarian continues to make rulings with regard to draft committee proposals, it is also important to note that provisions in the budget reconciliation package could be challenged again on the Senate floor, where an amendment to strike a provision would only need a simple majority vote (51 votes) to pass.

### 3. Supreme Court Upholds Tennessee Ban on Gender-Affirming Care for Transgender Minors

On 6/18/25, the Supreme Court issued a 6-3 judgement in [United States v. Skrmetti](#), upholding a Tennessee state law banning gender-affirming care for transgender minors. The case was brought against the state by three transgender teens, their families, and a Memphis doctor who argued the law violates their right to Equal Protection under the U.S. Constitution’s 14th Amendment. The Court held that the Tennessee law does not violate Equal Protection because, according to Chief Justice John Roberts’s majority opinion, the state law’s classification is not based on sex or transgender status but rather on age and medical use. Accordingly, the Court applied its most deferential “rational basis” standard of review rather than a more rigorous “heightened scrutiny” standard. Justice Sonia Sotomayor, joined by Justices Ketanji Brown Jackson and Elena Kagan, dissented. The *Skrmetti* decision likely applies to similar laws in many other states.

### 4. Supreme Court Clarifies Standards for Education-Related Disability Discrimination Cases

On 6/12/25, the Supreme Court issued a [unanimous decision](#) in a Minnesota student’s lawsuit alleging discrimination under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The Supreme Court held that students bringing claims under these laws “related to their education are not required to make a heightened showing of ‘bad faith or gross misjudgment’” as the lower courts had required. Instead, the Court clarified, these types of claims “should be subject to the same standards that apply in other disability discrimination contexts,” which typically require a showing of negligence or deliberate indifference. The

decision should make it easier for students and their families to prove their allegations of discrimination under the ADA and Section 504.

## 5. GAO Finds the Administration Illegally Impounded Institute of Museum and Library Services (IMLS) Funds

On 6/16/25, the Government Accountability Office (GAO) issued a [report](#) titled “Institute of Museum and Library Services—Applicability of the Impoundment Control Act to Reduction of Agency Functions,” which found that “IMLS has violated the [Impoundment Control Act] by withholding funds from obligation and expenditure.” Following President Trump’s [March 14 Executive Order](#) directing that IMLS “be eliminated to the maximum extent consistent with applicable law,” the GAO writes that “IMLS ceased performing agency functions and withheld from obligation and expenditure funds that Congress appropriated for such functions.” Although IMLS did not respond to requests for information, the GAO used publicly available information, including sworn testimony, federal court cases, data on USAspending.gov, and information on IMLS’s website to conclude that the Trump Administration violated the Impoundment Control Act, as federal funds appropriated by Congress were not obligated correctly.

## 6. Other Significant Updates

All recent updates appear in the [Executive Actions Chart](#), but some of note include:

**Federal Court Vacates NSF 15% Indirect Cost Rate:** On 6/20/25, a federal court in Massachusetts [issued](#) a final ruling in a lawsuit brought by a coalition of universities and higher education associations to challenge the National Science Foundation’s (NSF’s) imposition of a 15% indirect rate for its grants to institutions of higher education. The court vacated NSF’s new rate, finding it to be “invalid, arbitrary and capricious, and contrary to law.” Note that, as the court summarized, “[t]his is the third of four actions filed in this District concerning agency actions seeking to cut indirect cost rates on federal grants.” The court has similarly vacated NIH’s rate, preliminarily enjoined the Department of Energy’s, and temporarily enjoined the Department of Defense’s.

**Judge Dismisses Case Over Columbia’s Funds:** On 6/16/25, a federal judge [dismissed](#) for lack of standing a lawsuit brought by the American Federation of Teachers (AFT) and the American Association of University Professors (AAUP) over the Trump Administration’s efforts to cut nearly \$400 million in Columbia’s federal funding for research in the name of combating antisemitism. The district court ruled that the AFT and AAUP lacked standing to bring forward the challenge, noting that Columbia is “conspicuously absent from this case.” The plaintiffs are appealing the decision.

**USED Refers Mascot Case to the DOJ:** On 6/17/25, USED [announced](#) that it is referring to the U.S. Department of Justice for further action its investigation into the efforts by the New York Department of Education (NYDE) and the New York State Board of Regents (the Board) to ban Native American school mascots and logos. The referral came after NYDE and the Board rejected USED’s [proposed resolution agreement](#), which called on the Board to rescind its prohibition on the use of Indigenous names and mascots and to issue a letter of apology to Indigenous tribes.

**DOJ Sues Kentucky over In-State Tuition for Undocumented Students:** On 6/17/25, the Department of Justice (DOJ) [announced](#) it is suing the Commonwealth of Kentucky in federal court over its rule allowing undocumented Kentucky residents to pay in-state tuition rates at public universities. DOJ claims that Kentucky’s rule violates a federal law prohibiting “any postsecondary education benefit” for undocumented students unless out-of-state citizens can receive the same benefit. This suit mirrors an earlier one that DOJ filed against Texas, which the state immediately agreed to settle by eliminating the challenged policy providing undocumented residents with in-state tuition.

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*DISCLAIMER: Consistent with our mission, EducationCounsel is working to update and support the field as federal actions consequential to education are unfolding. The information provided above does not serve as legal counsel and, given the pace of action, could be outdated quickly. Nonetheless we hope this information is helpful. If you have any suggestions or feedback please send it to [info@educationcounsel.com](mailto:info@educationcounsel.com). Updates in this Alert are current as of June 23, 2025 at 5:00 pm ET.*