

UPDATED 7/27/2025: Summary and Analysis of Trump Administration Executive Actions Impacting Education

President Trump has issued numerous Executive Orders (EOs) and other administrative actions, several of which have significant implications for early childhood, K-12, and higher education. EOs have the force of law and can direct agency action, but they cannot themselves expand legal requirements or prohibitions beyond existing statutes or regulations, nor conflict with those existing laws. As such, several of the Trump EOs and related actions have been and will likely be challenged in federal court (either on their "face" or as the Administration takes further actions to implement them). The table below provides a summary of the most education-relevant EOs and related actions to date, grouped by topic.

For each executive action, we have provided a <u>link</u> to the relevant text as published by the White House (or other sources as appropriate), a <u>summary</u> of what is included, a brief <u>analysis</u> of its potential impact in education, and other <u>notes</u>, including information about related Administration actions and legal challenges to these actions. Note that each EO opens with a purpose statement (not generally summarized here) that provides a sense of the President's goals as well as the framing and rhetoric that characterize the EO. (Visit our "<u>Executive Actions Tracker</u>" to view all of the "to do" items initiated by the EOs and other executive actions catalogued in this document.)

New rows in the table are shaded in yellow and flagged with " NEW:" to help you identify the recent additions. Where appropriate, we continue to make small updates throughout the table, including related actions by federal agencies and rulings by federal courts. These updates are also marked with " NEW:". Note that we have added a flag for "LAWSUIT:" to help you find and stay updated on the progress of various court challenges to many of the Administration's actions.

NOTE: As the Executive Actions Chart has grown longer, some users have found it helpful to navigate the document using the hyperlinks in the Table of Contents and/or by using word searches (via "control-F") if you are looking for information on a specific topic or policy.

Please note that these developments are sometimes changing rapidly so information may become outdated, and nothing here constitutes specific legal advice.

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TOPIC 1: EQUITY AND CIVIL RIGHTS

"Restoring Equality of Opportunity and Meritocracy" EO (4/23/25)		
Summary	Analysis	
Eliminates under Title VI and Title IX the federal government's longstanding use of the disparate impact standard for identifying discrimination under civil rights laws and regulations Calls for DOJ and other agencies to repeal or amend	• The new federal policy announced here represents a major change in how we conceive of civil rights protections and how the federal government identifies and remedies discrimination in society, including in schools. In the absence of disparate impact, only claims based on evidence of <i>intentional</i> discrimination may be investigated or prosecuted by the federal government, and such cases are often very hard to prove.	
relevant regulations and guidance—including several Title VI regulations often used in education settings—and to report back on progress within 30 days (i.e., 5/23/25), including a list of relevant federal and state laws or decisions. • Directs all agencies to take "appropriate action" within 90 days (i.e., 7/22/25) on existing consent judgments and permanent injunctions that were based on the disparate	• The EO mischaracterizes the disparate impact standard, implying that it equates the mere existence of a statistical disparity with unlawful discrimination. The Administration claims that the standard imposes a "near insurmountable presumption of unlawful discrimination exists where there are any differences in outcomes." The EO goes even further, concluding that this long standing approach to civil rights enforcement "violates our Constitution by mandating, rather than proscribing, discrimination."	

- impact standard across civil rights laws, change the government's stance in any *pending* matters relying on it within 45 days (i.e., 6/7/25), and deprioritize *new* enforcement under any disparate impact laws or regulations.
- Orders DOJ to identify other laws or decisions—including at the *state* level—that are about disparate impact and report back about "any appropriate measures to address any constitutional or other legal infirmities."
- Requires DOJ and the Equal Employment Opportunity
 Commission (EEOC) to develop joint guidance or technical
 assistance to help employers understand expectations with
 regard to nondiscrimination in employment under Title VII
 and to "promote equal access to employment regardless of
 whether an applicant has a college education."

- The disparate impact standard at its core entails the use of disaggregated data to identify and explore where practices or policies by recipients of federal funds may be causing unjustified discriminatory effects. By refusing to examine why disparities exist in opportunities and outcomes among groups, the Administration is effectively locking into place existing (or widening) disparities, including where it is tied to past or present discrimination.
- The EO's direction to revisit all existing agreements and settlements could create significant change (and uncertainty) in the affected school communities. Additionally, because the EO characterizes the disparate impact standard as "mandating... discrimination" in ways that are "wholly inconsistent with the Constitution," the EO raises the possibility that the Administration will not only cancel existing agreements but also seek to *require* the involved school district or other parties to *stop implementing* whatever remedies were part of the agreement.
- Two provisions in the EO call on DOJ to explore pathways to imposing throughout the nation (not just across the federal government) the President's view that the disparate impact standard itself is discriminatory. For now, however, the disparate impact standard is still available to non-federal actors (including private citizens and state/local governments) to the extent that a state's law recognizes the disparate impact standard.

- The Administration's first application of this EO's approach to the disparate impact standard appeared in the EO (below) about K-12 school discipline.
- EducationCounsel is preparing a deeper analysis of this EO and its profound implications.

"Reinstating Common Sense School Discipline Policies" EO (4/23/25)

Summary

Reverses course on federal guidance about school discipline as part of the Administration's "anti-DEI" efforts, eliminating use of the disparate impact standard to identify unjustified discriminatory effects in K-12 discipline.

- Claims that guidance and resources from the Obama and Biden Administrations "required schools to discriminate on the basis of race by imposing discipline based on racial characteristics, rather than on objective behavior alone."
- Requires USED and DOJ to issue new guidance within 30 days (i.e., 5/23/25), emphasizing race-neutral, behavior-based disciplinary practices.
- Directs USED to "take appropriate action" with districts and states that "fail to comply with Title VI protections against racial discrimination in the application of school discipline."

Analysis

• The EO effectively calls for the elimination of the disparate impact standard with regard to discipline policies. The EO also suggests the Administration plans to consider as illegal racial discrimination a wide range of current—and currently lawful—school discipline policies and practices. The scope of this new policy preference will not be clear until USED issues new guidance and/or before USED initiates new enforcement actions. But from the text of the EO—and the additional context of the disparate impact EO—it is possible USED will seek to eliminate the examination of disaggregated student discipline data and even seek to prohibit efforts to reduce any disproportionality in those data.

- Orders USED and DOJ to work with governors and state attorneys general within 60 days (i.e., 6/22/25) on the prevention of racial discrimination in the application of school discipline.
- Requires USED, DOJ, HHS and DHS to submit a report within 120 days (i.e., 8/21/25), detailing:
 - o an analysis of Title VI discipline-related investigations since 2009;
 - the role of federally-funded nonprofits in promoting equity-based discipline (with recommendations of how to stop funding such things);
 - o alternatives to equity-based discipline approaches; and
 - model discipline policies that, among other things, are rooted in "American values and traditional virtues."
- Directs DOD to revise its school discipline code within 90 days (i.e., 7/22/25).
- Defines "Behavior Modification Techniques" as discipline policies or practices based on "discriminatory equity ideology" (as defined in the "Radical Indoctrination" EO).

- Although the EO only refers to racial discrimination under Title VI, the Administration's analysis will likely apply to ethnic or national origin discrimination under Title VI as well as other contexts like sex discrimination under Title IX and possibly discrimination on the basis of disability under IDEA and Section 504 of the Rehabilitation Act.
- The discipline reform efforts under Presidents Obama and Biden also encouraged schools and districts to move away from the imposition of "harsh" discipline practices, including out-of-school suspensions, expulsions, and corporal punishment. Those new policies and practices may also be treated differently under the direction set forth in this EO.

- School-level information provided through the Civil Rights Data Collection for SY20-21 (the most recent year for which the CRDC has data) showed that:
 - While Black boys made-up 8% of the P-12 students nationally, they represented 15% of students receiving in-school suspensions, 18% of those receiving out-of-school suspensions, and 19% of those expelled, and
 - o Black girls were nearly two times more likely to receive in-school suspensions, out-of-school suspensions, and expulsions than white girls.

"Designating English as the Official Language of the United States" EO (3/1/2025)

Summary

Announces symbolic designation of English as the national language and initiates revisions to agencies' guidance about language access

- Designates English as the "official language" of the nation, for the first time in history.
- Rescinds <u>EO 13166</u> ("Improving Access to Services for Persons with Limited English Proficiency"), which had been in place since August 11, 2000 and required agencies and recipients of federal funding to provide extensive language assistance to non-English speakers and work to eliminate discrimination against them.

- The mere designation of an official language is likely a symbolic one without clear legal authority, but it could have significant implications for how federal agencies support non-English speakers.
- Regardless of this EO, federal law still requires that the government provide English learners access to public
 education. This is primarily guaranteed by Title VI of the Civil Rights Act of 1964, the Equal Educational
 Opportunities Act, and the Supreme Court's 1974 ruling in Lau vs. Nichols, a decision that has been repeatedly
 affirmed in subsequent Supreme Court rulings. Lau, in particular, ensures that English Learners receive the
 necessary support to gain access to public education, including through programs and services that aid in
 English language acquisition.
- Rescinding EO 13166 is a significant shift for federal agencies because that EO has been a longstanding central
 plank in our national commitment to ensuring access to public services regardless of language proficiency. It
 also helped ensure compliance with Title VI's protections against discrimination on the basis of national origin.

- Orders the DOJ to rescind and replace any guidance issued since 2000 pursuant to EO 13166.
- Refrains from requiring agencies to change how they approach language access: "Agency heads are not required to amend, remove, or otherwise stop production of documents, products, or other services prepared or offered in languages other than English."
- Allows each agency instead to "make decisions as they deem necessary to fulfill their respective agencies' mission and efficiently provide Government services to the American people."

- By rescinding EO 13166, the DOJ will have to remove and begin a time-intensive process of issuing numerous policy documents, which could lead to a long period of confusion without clear federal guidance in place. But many agencies have formal regulations in place on this topic, which cannot be undone by the EO itself.
- The key moving forward will be to see if agencies such as USED, HHS, etc., maintain their existing policies and practices for ensuring access or if they point to this EO and the rescinding of EO 13166 as rationales to pull back from their current levels of support for language access.
- The EO should not affect dual language programs or other models that do not use English as the language of instruction. Indeed, in the early childhood context, the Head Start Performance Standards, which carry the force of law, mandate that programs recognize bilingualism and biliteracy as strengths, and promote dual language acquisition among the 30% of children in Head Start whose home language is not English. Further, in ESSA's Title III, Congress prohibited such interference: "In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating English learners" (20 U.S.C. 6849).

- More than 30 states have already designated English as their official language. Hawaii and Alaska have multiple official state languages.
- On Inauguration Day, the Administration took down the Spanish version of the White House website.
- For a sense of the number of learners who speak a language other than English in their homes: <u>one-third of all children</u> between the ages of zero-to-five are Dual Language Learners, learning English in addition to their home language. <u>5.3 million K-12 students</u> (nearly 11% of the student population) are English Learners.

Office of Civil Rights "Dear Colleague" Letter about Title VI of the Civil Rights Act of 1964 (2/14/25)

Summary

Announces intentions to use Title VI enforcement to advance the Administration's anti-DEI priorities.

- Declares that OCR will apply the holding in the Supreme Court's 2023
 decision in SFFA v. Harvard—it was unlawful to consider an applicant's racial
 status in the college admissions process for the purpose of advancing
 diversity—to many other educational contexts for all early childhood, K-12,
 and postsecondary recipients of federal funding:
 - OCR will apply SFFA's holding across the board, targeting institutions
 "using race in decisions pertaining to admissions, hiring, promotion,
 compensation, financial aid, scholarships, prizes, administrative support,
 discipline, housing, graduation ceremonies, and all other aspects of
 student, academic, and campus life."

- This EducationCounsel <u>longer legal analysis</u> explores these three key points about the OCR letter:
 - Not all diversity, equity and inclusion policies and programs are unlawful, as the letter suggests.
 - The letter's rendering of the Supreme Court's 2023 decision in SFFA is both skewed and incomplete. (For example, it suggests SFFA applies to hiring, but those decisions are governed by a different law (Title VII) with different standards and case law. And the letter's treatment of how admissions essays can be used ignores the SFFA opinion's detailed framework about this aspect of the process.)
 - The threat of civil rights enforcement is undercut by the ambiguity of the letter, and the letter itself acknowledges that "Dear Colleague" letters lack the "force and effect" of law and cannot change the law.

- States that neutral-appearing programs, decisions that are nevertheless "motivated by racial considerations," or policies that rely on proxies for race will also be considered by OCR to violate federal antidiscrimination laws.
- Warns that "DEI programs" that "preference certain racial groups and teach students that certain racial groups bear unique moral burdens" also violate Title VI because they "deny students the ability to participate fully in the life of a school."
- Announces OCR will begin enforcing this approach no later than 14 days from the letter's circulation (i.e., 2/28/25), including "potential loss of federal funding."

- <u>NOTE</u>: The linked <u>analysis</u> includes (non-legal) advice to leaders responding (or not) to the letter.
- The letter seems to reorient federal civil rights enforcement away from its historic
 focus and toward vindicating the rights of white and Asian students against what it
 describes as "pervasive and repugnant" discrimination via DEI policies and programs.
- Any such effort to use Title VI to prevent teaching, learning, or discussing race and
 issues related to diversity, equity, and inclusion in schools would likely raise
 significant First Amendment issues, as well as questions in the K-12 context about
 violating multiple federal statutes barring federal involvement or control over state
 and local decisions about standards, curricula, and instruction. Some statutes
 similarly bar such involvement in the higher education context.

- FAQs: On 3/1/25, OCR <u>issued FAQs</u> to clarify and expand on the letter. <u>EducationCounsel's analysis</u> of the FAQs details how they both walk back some of the letter's misstatements about the law while also maintaining some of the letter's problematic overreaching about what does or does not violate Title VI.
- "DEI" CERTIFICATION: On 4/3/25, USED required all SEAs and LEAs to sign and return, within ten days (later extended to 20 days), a new certification indicating that they are not violating Title VI through "illegal DEI practices." USED also warned that the certifications would constitute a "material condition" for the receipt of their federal funds for purposes of any enforcement of the False Claims Act. This EducationCounsel analysis explores some legal issues SEAs/LEAs should consider.
 - SEAs (and their LEAs) responded to the 4/24/25 deadline in different ways, with a significant number refusing to sign the certifications or replacing USED's form with their own certifications that emphasize compliance with Title VI only rather than suggest they also agree to comply with USED's broad interpretation of Title VI in the Dear Colleague Letter and FAQs.
- LAWSUIT: The National Education Association filed a similar suit about the Dear Colleague letter and FAQ in a New Hampshire federal court on 3/5/25.
 - o On 3/21/25, the NEA moved for a preliminary injunction.
 - o On 4/7/25, the NEA moved for a temporary restraining order (TRO) to prevent USED from proceeding with the "DEI" certification.
 - The parties <u>agreed</u> that, in place of the court considering a TRO, USED would pause any enforcement of the certification before the deadline on 4/24/25.
 - o On 4/24/25, the court <u>issued</u> a preliminary injunction, pausing any enforcement of the DCL, FAQs, "End DEI" portal, and certification while the case proceeds. This (appealable) injunction covers any entity that receives federal funding and employs or contracts with the plaintiffs or their members, including all NEA members.
- LAWSUIT: The American Federation of Teachers and others filed suit on 2/25/25 in Maryland federal court challenging the letter and the FAQ (see next bullet).
 - o On 3/28/25, the AFT moved for a preliminary injunction.
 - $\circ~$ On 4/9/25, the AFT \underline{moved} for a preliminary injunction regarding the "DEI" certification.
 - o On 4/24/25, the court <u>blocked</u> any enforcement of the DCL (and any enforcement of the FAQs and certification based on the underlying DCL) while the case proceeds. This ruling applies nationwide.
- LAWSUIT: The NAACP Legal Defense Fund filed a <u>lawsuit</u> on 4/14/25 in a DC federal court challenging the DCL, FAQs, and "DEI" Certification.
 - o On 4/24/25, the court issued a nationwide preliminary injunction, pausing any enforcement of the certification while the case proceeds.
- LAWSUIT: On 4/25/25, 19 states filed a lawsuit in a Massachusetts federal court challenging the "DEI" Certification, making a total of four suits about this action.

- On 3/28/25, the DOJ indicated in a court filing that the Naval Academy has changed its admissions policy to no longer include *any* consideration of race, pursuant to a 1/29/25 EO titled "Restoring America's Fighting Force." Note that any changes by the academies' current leadership do not alter the fact that the Supreme Court explicitly stated that its SFFA ruling does not cover the academies. The Court noted that the military may have different interests not at issue in the SFFA case.
 - o On 4/11/25, the Air Force Academy indicated that it had made a similar change to its admissions policy.

"Eradicating Anti-Christian Bias" EO (2/7/25)

Summary

Establishes a task force to address "anti-Christian bias" in the federal government and in private conduct.

- Establishes a large Task Force to Eradicate Anti-Christian Bias, chaired by the Attorney General and including the Secretary of Education among many other cabinet members.
- Requires within 120 days (and again in one year) a Task Force report on efforts
 to identify anti-Christian "policies, practices, or conduct" along with
 recommendations for terminating them and revising laws and enforcement
 approaches that have "contributed to unlawful anti-Christian governmental or
 private conduct."

Analysis

- The EO's "Purpose and Policy" section includes several examples related to
 education among the rationales for convening the Task Force: "The Biden
 Department of Education sought to repeal religious-liberty protections for
 faith-based organizations on college campuses....And the Biden Department of
 Health and Human Services sought to drive Christians who do not conform to
 certain beliefs on sexual orientation and gender identity out of the foster-care
 system."
- The EO does not make clear the extent to which actions will be taken regarding
 "private conduct" beyond requesting the Task Force to provide recommendations
 for "appropriate actions that agencies may take to remedy failures to fully
 enforce the law against acts of anti-Christian hostility, vandalism, and violence."

"Keeping Men Out of Women's Sports" EO (2/5/25)

Summary

Interprets Title IX to prohibit transgender girls and women from participating in girls'/women's sports.

- Directs the Secretary of Education to:
 - "Take all appropriate action" to provide "all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX."
 - Issue regulations and guidance that "clearly specify and clarify" that women's sports should only include women, as defined by the 1/20 EO on "<u>Defending Women from Gender Ideology</u> Extremism."
 - Prioritize Title IX enforcement at institutions "that deny female students an equal opportunity to participate in sports and athletic events by requiring them...to compete with or against or to appear unclothed before males."

- The EO mostly focuses on which athletic opportunities transgender girls and women can participate in, but the EO also addresses which locker rooms these athletes can use. This part of the EO could come into conflict with legal precedents in some parts of the country that have held Title IX protects a transgender student's right to access bathrooms and other facilities that align with their gender.
- Typically agencies provide notice to the field via Dear Colleague letters, non-binding guidance, or formal rule-making when adopting an interpretation of a statutory provision, and the EO calls on USED to issue such

- Requires agencies to review and rescind funds for grants that do not comply with the policy in the EO.
- Urges the DOJ to provide resources to "ensure expeditious enforcement" of the actions in the EO.

regulations or guidance. As noted to the right, the Administration has already begun investigations under Title IX consistent with the EO.

- OCR followed up on the EO by announcing <u>investigations</u> into two colleges (San Jose State University & University of Pennsylvania), one athletic association (in Massachusetts), and <u>two more associations</u> (in Minnesota and California) regarding their policies and/or decisions allowing transgender students to participate on sports teams that align with their gender.
 - o On 3/19/25, the White House announced that DOD and HHS had paused \$175M of Penn's federal funding as part of a Title IX review.
 - On 4/28/25, USED <u>announced</u> that OCR has found that Penn's policies violated Title IX, giving Penn 10 days to agree to a proposed resolution or risk a DOJ referral.
 The finding is notable for many reasons including that, during the period under review, Penn's policies complied with applicable OCR guidance and NCAA regulations.
 - NEW: On 7/1/25, OCR <u>announced</u> a resolution agreement with Penn to resolve the violations. The terms of the agreement include public announcements by the university regarding its policy of excluding transgender women from women's athletics, rescinding awards previously received by transgender women athletes, and issuing a "personalized letter of apology" to impacted cisgender women athletes.
- On 2/6/25, the NCAA <u>announced</u> it was changing its policy to comply with the EO and would no longer allow transgender women to participate in NCAA-sanctioned women's competitions (although the revised policy allows athletes to practice with women's teams).
- **LAWSUIT:** The EO is being challenged in a New Hampshire court by two transgender athletes, who already secured an injunction against a similar state law; they have amended their <u>complaint</u> to also challenge the EO.
- MAINE: Maine's policies are <u>under investigation</u> by multiple agencies (including USED, HHS, and USDA), following a public argument between President Trump and Maine Governor Mills. HHS's OCR <u>found</u> a Title IX violation and USDA paused and then <u>unpaused</u> \$30 million in federal funds to the state university system. USED's OCR has <u>launched</u> an investigation into a school district as well. On 3/19/25, OCR <u>found</u> that the Maine Dept. of Ed's policies violate Title XI and on 3/31/25 <u>declared</u> negotiations are at an impasse.
 - o On 4/11/25, USED officially <u>referred</u> the case to DOJ for further enforcement actions and began its own administrative proceeding; both federal actions could result in Maine losing all of its federal education funding (including Title I).
 - **LAWSUIT:** On 4/11/25, a federal judge in Maine <u>issued</u> a TRO against USDA, finding it likely that it was unlawful to withhold Maine's USDA funding for an unrelated Title IX violation and in a manner that did not comply with procedural requirements.
 - On 5/2/25, Maine Governor Mills <u>announced</u> that USDA has agreed to release its hold on Maine's funding in exchange for Maine dropping the suit. Note that the USED/DOJ enforcement actions are not involved in this settlement.
- OCR INVESTIGATIONS: In addition to Maine, OCR has expanded its enforcement efforts from the initial focus on intercollegiate athletics to include the K-12 context and to include investigations about transgender students' access to facilities like locker rooms and bathrooms that align with their gender.
 - On 3/20/25, OCR <u>announced</u> a locker room access investigation into the Illinois Department of Education, Chicago Public Schools, and another district. On 3/25/25,
 OCR <u>announced</u> an investigation into Portland Public Schools (Oregon) regarding athletics and locker room access.
 - On 5/6/25, USED <u>announced</u> an investigation of Saratoga Springs City School District after the Board of Education adopted a resolution affirming transgender students' ability to participate in sports and access facilities consistent with their gender identity. The investigation was prompted by a 4/21 <u>letter</u> to USED from Rep. Elise Stefanik.

- TITLE IX SPECIAL INVESTIGATIONS TEAM (SIT): On 4/4/25, USED and DOJ formed a joint "Title IX Special Investigations Team" that will "apply a rapid resolution investigation process to the increasing volume of Title IX cases and also enable ED and DOJ to work together to conduct investigations that are fully prepared for ultimate DOJ enforcement." The team will focus on complaints about transgender girls' and women's participation in sports and access to facilities aligning with their gender identity.
 - On 4/30/25, the SIT announced an investigation under Title IX, FERPA, and PPRA into the Washington Office of the Superintendent of Public Instruction.
 - NEW: On 6/12/25, USED announced it was elevating OCR investigations to the SIT that are examining the trans-inclusive sports policies of the Minnesota Department of Education (opened in February) and the Minnesota State High School League (opened 6/3/25).
- CALIFORNIA: President Trump has weighed in recently about a California transgender high school athlete's participation in the state track and field championships, calling on the California Interscholastic Federation (CIF) to prohibit her participation. After the athlete participated and medaled in two events, President Trump threatened on a 6/3/25 social media post that "large scale fines will be imposed" on the state.
 - On 6/3/25, the DOJ's Civil Rights Division sent a <u>letter</u> to all CA school districts warning them of "legal liability" and potential violation of the Equal Protection Clause for following CIF's policy. The letter requested a "certification" response by 6/9/25 that districts will no longer do so. On 6/3/25, the California Department of Education <u>informed</u> districts that the state will respond on their behalf.
 - NEW: On 6/25/25, ED OCR <u>announced</u> its findings that CA Department of Education's and CIF's trans-inclusive athletics policies violate Title IX. OCR gave the state 10 days to respond to a proposed resolution agreement or risk penalties including potential refer to DOJ.
 - NEW: On 7/7/25, Secretary McMahon announced that CA rejected the proposed resolution agreement and the state "will be hearing from AG Bondi."

"Ending Radical Indoctrination in K-12 Schooling" EO (1/29/25)

Summary

Seeks to eliminate how K-12 schools incorporate "DEI" and gender in teaching and learning, as well as support for LGBTQ students.

- Addresses three aspects of what the Administration describes as "radical indoctrination": teaching about "discriminatory equity ideology" or "gender ideology"; supporting transgender students' "social transition"; and undermining "patriotic education." The EO provides definitions for each of these terms, portions of which are excerpted in the Notes column to the right.
- Requires the Secretaries of Education, Defense, and HHS, in consultation with the Attorney General, to provide an "Ending Indoctrination Strategy" to the President within 90 days of the EO that contains recommendations and a plan for
 - (1) eliminating federal funding or support for "illegal and discriminatory treatment and indoctrination in K-12 schools," including based on "gender ideology" and "discriminatory equity ideology," and (2) "protecting parental rights." Among other activities, the strategy is required to include:
 - A summary of "all federal funding sources and streams, including grants or contracts, that directly or indirectly support or subsidize the instruction, advancement, or promotion of gender ideology or

- The use of the phrases "applicable law," "illegal," "unlawful," "discriminatory," and other qualifiers throughout the EO is a reminder that EOs do not supersede existing laws and that calling something "illegal or "unlawful" via an EO does not in fact make it illegal or unlawful. At the same time, the EO calls on various agencies to provide deeper strategies aligned with this EO, which may (or may not) shed further light on how the Trump Admin will interpret federal nondiscrimination laws.
- Multiple applicable federal statutes prohibit the federal government from interfering with state and local authority to make decisions about K-12 curriculum and instructional materials. More details can be found in this blog post. In addition,

- discriminatory equity ideology," including in both K-12 curriculum and instruction as well as teacher certification and training.
- The process and enforcement mechanisms through which each agency could "prevent or rescind federal funds, to the maximum extent consistent with applicable law, from being used by an educational service agency (ESA), state educational agency (SEA), local educational agency (LEA), elementary school, or secondary school to directly or indirectly support or subsidize":
 - (1) "promotion of gender ideology or discriminatory equity ideology in K-12 curriculum and instruction and teacher certification, employment, and training";
 - (2) the "social transition" of a minor student; and
 - (3) "any interference of (i) a parent's federal statutory right to information under the Protection of Pupil Rights Amendment (PPRA)/Family Educational Rights and Privacy Act (FERPA)" or (ii) violation of anti-discrimination laws including Title VI or Title IX.
- Requires the DOJ to "coordinate with State attorneys general and local district attorneys in their efforts to enforce the law and file appropriate actions against K-12 teachers and school officials who violate the law by sexually exploiting minors; unlawfully practicing medicine by offering diagnoses and treatment without the requisite license; or otherwise unlawfully facilitating the social transition of a minor student."
- Reestablishes the President's Advisory 1776 Commission, which was established under the first Trump
 Administration to "promote patriotic education." The 20-member Commission will promote public knowledge of
 and support for patriotic education surrounding the US's 250th anniversary.
- Orders all agencies to promote patriotic education where possible, including through USED's American History and Civics Academies and American History and Civics Education-National Activities programs, and DOD's National Defense Education Program and Pilot Program on Enhanced Civics Education.

- many states have their own laws requiring curriculum related to diversity or student supports related to gender identity. Depending on how the Administration approaches implementation, these other state and federal laws may stand in the Administration's way of fully implementing this EO.
- This EO is very likely to be challenged in court, although the timing and nature of those challenges will turn on the Administration's approach to enforcement.
- The definitions included are likely to show up in agency efforts to advance the EO's goals as well as in bills introduced in Congress.

- The EO's definitions include, but are not limited to, these terms:
 - <u>discriminatory equity ideology</u> as an ideology that "treats individuals as members of preferred or disfavored groups, rather than individuals, and minimizes agency, merit, and capability in favor of immoral generalizations," including those based on race;
 - social transition as "the process of adopting a 'gender identity' or 'gender marker' that differs from a person's sex";
 - patriotic education as a history of America grounded in "an accurate, honest, unifying, inspiring, and ennobling characterization of America's founding"; how America has "admirably grown closer to its noble purpose"; that "commitment to America's aspirations is beneficial and justified"; and that "celebration of America's greatness and history is proper."
- As a federally-operated school system, the Department of Defense Education Activity (DoDEA) has quickly instituted <u>several changes</u> to implement the EO. DODEA schools are likely to continue being at the front edge of implementing the Administration's policies in K-12 school settings.
 - **LAWSUIT:** On 4/15/25, twelve K-12 students attending DoDEA schools <u>filed</u> a lawsuit challenging DoDEA's removal of certain books and curricular materials as part of the DOD's implementation of the "anti-DEI" EOs.
- FERPA: USED has taken several steps to enforce the Family Educational Rights Privacy Act (FERPA) in the context of K-12 schools' policies and practices related to

changes in students' names, pronouns, etc. while at school.

- o On 3/27/25, USED's Student Privacy Policy Office (SPPO) initiated an investigation into the California Department of Education (CDE) alleging that CDE (and its school districts) are violating FERPA by adhering to a state law that preserves parents' rights to access their children's school records but prohibits districts from requiring that school staff affirmatively disclose to parents information about a student's gender identity at school.
- o On 3/28/25, SPPO announced a similar investigation into the Maine Dept. of Education regarding its school districts' policies on this issue.
- o On 3/28/25, SPPO <u>issued</u> a new <u>Dear Colleague Letter</u> to state chiefs and district superintendents notifying them of their obligations under FERPA and the Protection of Pupil Rights Amendment (PPRA) to "allow parents to review all education records of their student, including any document related to a student's 'gender identity.'" The letter directs all SEA by 4/30/25 to document compliance with both laws, particularly the following two "priority" concerns: "[e]nsuring parental rights to inspect and review education records" (especially "gender plans") and "[e]nsuring parents receive annual notification of rights" under FERPA.
- INEW: On 6/17/25, SAMSHA announced that it will end LGBTQ+ specific services through the 988 Suicide & Crisis Lifeline on 7/17/25 to "focus on funding all help seekers."
- INEW: On 6/20/25, ACF at HHS sent a letter to California requiring the removal of all content related to "gender ideology" from the state's federally-funded Personal Responsibility Education Program following a review of the curriculum that identified information about transgender identities.

"Additional Measures to Combat Anti-Semitism" EO (1/29/25)

Summary

Requires agencies to identify new mechanisms and strategies to combat antisemitism, including on college campuses.

- Reaffirms EO 13899, "Combating Anti-Semitism," which was issued in President Trump's first term, and charges
 all executive departments and agencies with combating antisemitism. Neither that EO nor this new one adopts a
 definition of "antisemitism," although EO 13899 does direct federal agencies to "consider" the definition
 developed by the International Holocaust Remembrance Alliance (IHRA).
- Requires agency heads within 60 days to submit a report identifying all civil and criminal authorities or actions that might be used to further "curb or combat antisemitism," including an inventory and analysis of:
 - "all pending administrative complaints against or involving institutions of higher education alleging civil-rights violations related to or arising from post-October 7, 2023, campus anti-Semitism;"
 - (for DOJ) "all court cases against or involving institutions of higher education alleging civil-rights violations related to or arising from post-October 7, 2023, campus anti-Semitism" and "whether the Attorney General has or intends to take action" with respect to court cases involving institutions of higher education; and
 - (for USED) "all Title VI complaints and administrative actions, including in K-12 education, related to anti-Semitism — pending or resolved after October 7, 2023 — within [OCR]."
- The USED, State, and DHS reports must also include "recommendations for familiarizing institutions of higher education with the grounds for inadmissible aliens [8 U.S.C. 1182(a)(3)], so that institutions may monitor for and

- This EO aims to drive widespread investigations and reporting of antisemitism as well as enforcement of existing legal prohibitions of antisemitism. The EO focuses particularly, but not solely, on college campuses.
- Although First Amendment protections apply to campus protests, the EO encourages institutions to "monitor" and "report" foreign students and staff who might be subject to deportation under 8 U.S.C. 1182(a)(3) if they are found to have expressed support for "terrorist organizations or activity."
- The EO's encouragement of the Attorney General to make use of civil and criminal statutes could have further chilling effects.
- Given the breadth and vagueness of the EO's charges, and the protections of the First Amendment, this EO and/or future guidance or

report activities by alien students and staff relevant to those grounds and for ensuring that such reports about aliens lead, as appropriate and consistent with applicable law, to investigations and, if warranted, actions to remove such aliens."

• Encourages the DOJ to enforce civil rights laws to combat antisemitism and, in so doing, specifically references a criminal law, 18 U.S.C. 241, which makes it a felony to conspire against someone's rights.

actions stemming from it are likely to be challenged in court.

- The White House also issued a <u>fact sheet</u> accompanying the EO, which, among other things, makes clear the purpose of referencing 8 U.S.C. 1182(a)(3). In it, President Trump stated, "To all the resident aliens who joined in the pro-jihadist protests, we put you on notice: come 2025, we will find you, and we will deport you. I will also quickly cancel the student visas of all Hamas sympathizers on college campuses, which have been infested with radicalism like never before."
 - o On 3/25/25, several media outlets <u>reported</u> that OCR, as part of these investigations, is seeking the names and nationalities of students who participated in the protests at the center of the allegations against the institutions.
- On 2/3/25, OCR announced investigations into five IHEs as a follow up to this EO.
 - on 3/10/25, OCR sent letters to 55 universities (in addition to the initial five) that are "presently under investigation for Title VI violations relating to antisemitic harassment and discrimination" to warn them of potential enforcement actions, especially following a 3/7/25 announcement that resolving antisemitism complaints will be a top OCR priority.
- ANTISEMITISM TASK FORCE: The DOJ has organized a cross-agency task force to help implement this EO that includes, among others, USED, HHS, and the General Services Administration (GSA). The task force has begun investigating universities and, while the investigations are pending, has canceled portions of several universities' federal contracts and grants. For example, the Administration has frozen \$1 billion of Cornell's federal funds and \$790 million of Northwestern's. Below are more details about two of the most notable enforcement actions thus far:
 - COLUMBIA: On 3/3/25, the task force <u>announced</u> an investigation into Columbia University regarding its approach to protecting students from anti-semitism and raised the possibility of "Stop Work Orders" for Columbia's federal contracts and a review of all of its federal grants.
 - On 3/7, just four days later, the Administration announced initial cancellations of \$400 million in grants and contracts to Columbia.
 - In a 3/13 <u>letter</u>, the task force identified nine "precondition[s] for formal negotiations regarding [Columbia's] continued financial relationship with the [US] government" that must be met by 3/20.
 - On 3/24/25, the task force <u>acknowledged</u> that Columbia met the pre-conditions, characterizing them as a "first step."
 - On 5/28/25, HHS and ED OCRs <u>announced</u> the joint investigation found Columbia in violation of Title VI "by acting with deliberate indifference towards student-on-student harassment of Jewish students from October 7, 2023, through the present."
 - NEW: On 6/4, USED <u>announced</u> that it notified Columbia's accreditor of the violation. On 6/26/25, the accreditor <u>placed</u> Columbia on "non-compliance warning."
 - **LAWSUIT:** On 3/25/25, Columbia professors (via the American Association of University Professors (AAUP) and the AFT) <u>filed</u> a lawsuit in a New York federal court. On 4/3/25, AAUP and AFT <u>moved</u> for a preliminary injunction.
 - **NEW:** On 6/17/25, the court <u>dismissed</u> the suit for lack of standing, as the plaintiffs could not sufficiently show that AAUP or AFT members had been directly impacted by the cuts.

- HARVARD: On 3/31/25, the task force announced a similar review of Harvard University. (NEW: See EducationCounsel's DEEP DIVE, a full and ongoing summary.)
 - **LAWSUIT:** On 4/9/25, Harvard professors (via AAUP) <u>filed</u> a lawsuit in a Massachusetts federal court in response to the task force's initial set of (Columbia-like) "pre-conditions."
 - After the task force detailed even more far-reaching demands Harvard must meet and after Harvard then <u>communicated</u> it would not comply, the task force <u>announced</u> on 4/14/25 that it was freezing \$2.2 billion in grants and \$60 million in contracts.
 - **LAWSUIT:** On 4/21/25, Harvard University itself <u>filed</u> a lawsuit in a Massachusetts federal court. Reporting <u>suggests</u> the Administration is also considering freezing an additional \$1 billion in grants and threatening to have the IRS revoke the university's non-profit status. Oral arguments have been <u>set</u> for 7/21/25.
 - On 5/5/25, Sec. McMahon <u>notified</u> Harvard that the university will no longer be eligible for new federal grants. The basis for this determination is unclear, though the letter appears to reference the university's refusal to comply with the Task Force's 4/11/25 <u>letter</u>.
 - On 5/13/25, the task force <u>announced</u> the termination of an additional \$450 million in grants to Harvard across eight federal agencies.
 - On 5/19, HHS <u>announced</u> the termination of an additional \$60 million in grants alleging the university's "continued failure to address antisemitic harassment and race discrimination."
 - On 5/22, DHS <u>announced</u> the termination of Harvard's Student and Exchange Visitor Program (SEVP) certification, which would end enrollment of international students for SY25-26 and direct current students to transfer. On 5/23/25, Harvard <u>sued</u> DHS and <u>received</u> a TRO. On 5/29/25, DHS rescinded its action and <u>notified</u> Harvard that the university will have 30 days to contest the termination. **!! NEW:** On 6/20/25, the court <u>issued</u> a preliminary injunction against DHS's efforts to terminate Harvard's SEVP certification and directed the government to instruct employees to "disregard" DHS's action and "restore every visa holder and applicant to the position" prior to the revocation. (See "Enhancing National Security By Addressing Risks at Harvard University" Presidential Proclamation (6/4/25)," summarized <u>below</u>.)
 - On 5/27/25, GSA <u>directed</u> all federal agencies to terminate remaining contracts with Harvard by June 6 (<u>estimated</u> at \$100 million across nine agencies).
 - **NEW:** On 6/30/25, HHS OCR <u>issued</u> a letter of violation to Harvard on behalf of the task force, finding that the university engaged in "deliberate indifference towards that discrimination directed towards Jewish and Israeli students" from 10/7/23 to the present. The <u>letter</u> notes that Harvard is statutorily entitled to at least ten days to provide voluntary compliance but HHS "will refer this matter to the Department of Justice as soon as possible after the mailing of this Notice."
- On 4/22/25, the American Association of Colleges and Universities (AAC&U) published a <u>letter</u> calling for "constructive engagement" by the Administration with higher education institutions and pushing back on infringements of academic freedom. As of 5/29/25, 657 college presidents had signed onto the letter.
- LAWSUIT: On 3/25/25, AAUP filed a lawsuit challenging the Administration's deportation initiative targeting pro-Palestinian student organizers.
 - o On 4/29/25, the court largely denied the government's motion to dismiss.

'Ending Illegal Discrimination and Restoring Merit-Based Opportunity" EO (1/21/2025)		
Summary	Analysis	
Reinforces the other anti-DEI order and further seeks to eliminate DEI programs/initiatives beyond the federal government.	The Trump Administration here lays out plans to target and prioritize efforts to prevent actions that it might characterize as unlawful "DEI,"	

- States that the "Federal Government, major corporations, ...the medical
 industry,...institutions of higher education" and other non-federal entities "have
 adopted...dangerous, demeaning, immoral race- and sex-based preferences under the guise
 of so-called 'diversity, equity, and inclusion' (DEI) or...DEIA that can violate civil rights
 laws...."
- Establishes a policy of "promot[ing] individual initiative, excellence, and hard work" and directs "all agencies to enforce our longstanding Federal civil-rights laws and...combat illegal private-sector DEI preferences, mandates, policies, programs, and activities." It further instructs all federal agencies to "terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements." This includes termination of all "'diversity,' 'equity,' 'equitable decision-making,' 'equitable deployment of financial and technical assistance,' 'advancing equity,' and like mandates, requirements, programs, or activities, as appropriate."
- Directs the Attorney General and Secretary of Education within 120 days of the order to
 "jointly issue guidance to all State and local educational agencies that receive federal funds,
 as well as institutions of higher education that receive federal grants" and participate in the
 federal student loan program, "regarding the measures and practices required to comply
 with" SFFA.
- Directs the head of each agency to include in all contracts or grant awards a term requiring the contracting or receiving party to "certify that it does not operate any programs promoting DEI that violate any applicable federal anti-discrimination laws."
- Directs the Attorney General within 120 days (i.e., 5/21/25) to make recommendations for ending private sector "illegal DEI discrimination."
- Directs every agency to identify up to "nine potential civil compliance investigations
 of...large non-profit corporations or associations, foundations with assets of 500 million
 dollars or more...institutions of higher education with endowments of over 1 billion
 dollars."

- but it cannot use this EO to outlaw all "DEI" programs categorically. As implementation moves forward, the key questions are what the Trump Administration has the authority to say is illegal under federal law; how, when there is overreach, the field reacts to the potential chilling effect; and what the courts ultimately say about efforts to reinterpret antidiscrimination laws.
- The ambiguities of this EO's requirements for federal action and its characterization of all DEI efforts as illegal raise First Amendment issues. The Supreme Court in SFFA, for example, characterizes diversity interests as "commendable" and "worthy," not illegal.
- The EO rescinds seven longstanding equal opportunity EOs, including a 1965 order (EO 11246) from the Lyndon B. Johnson Administration that has been a hallmark of the civil rights era to ensure anti-discrimination protections for employees of federal contractors and subcontractors.
- The EO calls on each federal agency to identify large non-profits, colleges and universities, and foundations for potential civil investigations relating to their advancement of DEI efforts. Whether the identification of these entities leads to enforcement of any kind is unknown. But, as with other actions, the chilling effect it may have on entities engaged in DEI efforts may prove significant.
- The EO's requirement that every contract or grant award, which
 would include future contracts or grants, include a
 "term...that...compliance in all respects with Federal
 anti-discrimination laws is material to the government's payment
 decisions for purposes of [the False Claims Act]," may give rise to
 False Claims Act liability for noncompliance.

- LAWSUIT: Several lawsuits are challenging this EO (alongside the EO just below), including: (1) NADOHE and the City of Baltimore; (2) US intelligence officers assigned to DEIA initiatives (they've won a stay of their terminations); and (3) a group of nonprofits including the National Urban League.
 - on 2/21/25, the court in the NADOHE/ Baltimore case issued a won a preliminary nationwide injunction, enjoining this EO's "certification" requirement and part of the EO's enforcement threats. (The injunction also halts the terminations called for by the EO below.) Among its reasons, the court cited "widespread chilling of unquestionably protected speech." More analysis is underway to understand any effect on other EOs related to the Administration's anti-"DEI" policies.
 - On 3/10/25, the court <u>clarified</u> that its injunction applies to *all* federal agencies.
 - On 3/14/25, the Fourth Circuit Court of Appeals <u>stayed</u> the district court's injunction, meaning USED can return to implementing the EO for now. Two of the three judges emphasized that although they concluded the mere existence of the EOs should not trigger a preliminary injunction, a court may find the EOs unlawful once USED acts to enforce them, for the same reasons the district court found persuasive.
 - o On 2/28/25, the National Urban League filed for a preliminary injunction. On 5/2, the court denied the motion.
- On 4/21/25, the National Institute for Health (NIH) modified the terms and conditions of its awards to include a term requiring the type of certification called for in this EO: NIH grantees must certify that they do not "operate any programs that advance or promote DEI, DEIA, or discriminatory equity ideology in violation of Federal anti-discrimination laws." They must also certify they do not participate in the boycott, divestment, and sanctions movement against Israel.
- On 5/22/25, DOJ <u>announced</u> the creation of the Civil Rights Fraud Initiative, a partnership between the Civil Fraud Section and the Civil Rights Division (in collaboration with other offices and agencies) that will enforce the False Claims Act against recipients of federal funds that allegedly violate civil rights laws by engaging in DEI, affirmative action, trans-inclusive policies, and more.

"Ending Radical and Wasteful Government DEI Programs and Preferencing" EO (1/20/25)

Summary Analysis

Eliminates diversity, equity, and inclusion (DEI) and diversity, equity, inclusion, and accessibility (DEIA) programs/initiatives in the federal government.

- Terminates all "illegal DEI" policies, programs, and activities "in the Federal Government, under whatever name they appear," including but not only hiring, and calls for necessary revisions of employment practices, union contracts, or training policies.
- Requires each agency within 60 days (i.e., 3/20/25) to: (1) terminate, "to the maximum extent allowed by law," all DEI offices/positions; "equity action plans;" "equity-related" programs, grants, or contracts; and DEI performance requirements for employees, contractors, or grantees;
 - (2) provide a list of all prior Administration agency activities or federal contractors who have provided trainings or materials to agencies;(3) provide a list of all federal grantees funded to provide or advance DEI programs, services, or activities;(4) assess the cost of prior Administration DEI actions; and
- This EO does not define DEI while seemingly characterizing all federal "DEI" activities, including those within the U.S. Department of Education (USED) and other agencies, as "illegal and immoral discrimination." The EO contrasts "DEI" as a concept with approaches that "reward individual initiative, skills, performance, and hard work." That said, the EO does not expressly declare "DEI" initiatives as unlawful for the field under federal law, such as Title VI. Further, the EO should not have the authority to eliminate programs that Congress required to be created and funded.
- The EO does, however, create an obligation on federal agencies and a
 mechanism within the White House to identify and advance other
 recommendations to eliminate "DEI" and terminate DEI-related grants and
 contracts, which could give rise to further field-facing actions. For example,
 the call for recommendations on new "litigating positions" aligned with the EO

- (5) recommend further federal actions to align federal programs, activities, policies, regulations, guidance, employment, enforcement, contracts, grants, orders, and litigating positions with this anti-DEI EO.
- Establishes monthly meetings led by the Domestic Policy Council to track progress and identify areas for additional action.
- previews expected shifts in Administration postures in court cases seeking to end any consideration of race or ethnicity in education.
- The EO addresses federal "DEI" and "DEIA" programs, with the "A" standing for "accessibility," which the Government Accountability Office (GAO) has defined as "[t]he design, construction, development, and maintenance of facilities, information and communication technology, programs, and services so that all people, including people with disabilities, can fully and independently use them." Common usage in equity-advancing programs considers "A" to be access for those experiencing barriers, particularly people with disabilities.

- Following the issuance of this EO, the Trump Administration instructed federal agencies to place all federal DEI staff on leave and take down all DEI websites or media.
- Additionally, all federal agencies issued <u>letters</u> to their employees requiring them to report any information about DEI programs, including where language was changed with regard to those programs, and <u>threatening them with adverse employment action</u> if they fail to do so.
- USED summarized its early implementation efforts of this EO in this press release.
- LAWSUIT: Several lawsuits are challenging this EO, alongside the EO just above. Notes about these lawsuits appear there.
- On 5/6/25, USED <u>cancelled</u> grants to the Corporation for Public Broadcasting through the ESEA Ready to Learn program on the basis that funds were used for "racial justice educational programming." Past funds have supported Sesame Street, Reading Rainbow, and more.

"Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" EO (1/20/25)

Summary

Establishes a federal policy that recognizes only two immutable biologically-determined sexes, and reverses the prior Administration's position that Title IX protects against discrimination based on gender identity.

- Asserts that "ideologues who deny the biological reality of sex have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces."
- Creates new definitions for the following terms: female, woman, girl, male, man, and boy, as well as gender ideology and gender identity. The binary definitions of "male" and "female" focus on a person's sex "at conception." Instructs federal agencies to enforce laws, regulations, and guidance governing sex-based rights and protections in a way that is consistent with these new definitions.
- Requires the White House Office of Legislative Affairs to present draft legislative text to the President within 30 days (i.e., 2/20/25) that he can propose to Congress

- The terms of art associated with gender included in the EO may be considered by this Congress if the President presents it with the draft legislative text called for in the EO. Given the current make-up of Congress, it is possible legislation codifying the EO's definitions may pass and begin to affect a number of federal education laws and regulations.
- The EO particularly reverses efforts undertaken during the prior Administration to advance the interests and opportunities of transgender students and youth.
- Several lower federal courts and the Biden Administration have held that
 other statutory prohibitions against sex-based discrimination (such as Title
 IX) included discrimination on the basis of sexual orientation and gender
 identity. Moving away from that interpretation has potentially far-reaching
 implications for policies designed to protect LGBTQI+ individuals.

- codifying these definitions in federal law, and requires the Department of Health and Human Services to provide guidance expanding on the definitions.
- Directs the Department of Justice to issue guidance that the Supreme Court's holding
 in Bostock v. Clayton County that Title VII prohibits discrimination based on gender
 identity in employment does not apply to Title IX's protections in education, and
 rescinds more than a dozen related guidance documents from the prior
 Administration.
- It remains unclear what impact this EO will have for schools and districts
 that seek to provide students with access to facilities consistent with their
 gender identity. However, it removes the prior Administration's recognition
 and enforcement of those rights, eliminates federal guidance that would
 support such actions, and previews potential enforcement against those
 actions where they are seen to interfere with others' rights based on sex as
 defined in this EO.

- This EO directly conflicts with President Biden's Title IX rules, which were finalized in April of last year and sought to expand protections for transgender students, among other changes. Those regulations are also currently enjoined from taking effect, and they were vacated entirely by one district court.
 - On 1/31/25 (revised on 2/4/25), OCR circulated a "Dear Colleague" letter citing these court rulings (and this "Defending Women" EO) to announce OCR will implement the first Trump Administration's Title IX regulations.
- On 1/28/25, President Trump issued a related EO, "Protecting Children from Chemical and Surgical Mutilation" seeking to end federal support for gender-affirming care for people 19 or younger.
 - **LAWSUIT:** Two lawsuits are challenging this medical care EO; both courts have issued temporary restraining orders. On 3/4/25, the court in Maryland issued (opinion) a nationwide preliminary injunction blocking the EO.
- On 2/14/25, USED <u>changed</u> the FAFSA form so that student applicants can only select "male" or "female" rather than selecting from a range of gender options as the prior version allowed.
- LAWSUIT: The lawsuit by nonprofits including the National Urban League discussed above also includes a challenge to this EO.
- INEW: On 6/2/25, USED <u>announced</u> it will recognize June as "Title IX Month" and announced two new Title IX investigations against schools and programs with trans-inclusive policies (University of Wyoming, related to a trans member of the Kappa Kappa Gamma sorority; Jefferson County Public Schools (KY) related to field trip policies).

estoring Freedom of Speech and Ending Federal Censorship" EO (1/20/2025)	
Summary	Analysis
 Prohibits federal employees – and agents of the government – from engaging in censorship of free speech. Asserts that the Biden Administration "trampled free speech rights by censoring Americans' speech on online platforms, often by exerting substantial coercive pressure on third parties, such as social media companies." 	• The inclusion of "agents" of the federal government in the list of entities included in the EO could include private contractors of the government, such as institutions of higher education and nonprofits <i>if</i> they are producing work contributing to federal policy or performing work that the government would otherwise perform. These concepts of agency are used in other contexts, for example to determine when the Freedom of Information

- Prohibits each "federal agency, entity, officer, employee, or agent [to] act or use any Federal resources
 in a manner" that would "abridge the free speech of any American citizen" or use "taxpayer resources
 [for such abridgement]."
- States that it is the policy of the United States to "identify and take appropriate action to correct past misconduct by the Federal Government related to censorship of protected speech."
- Charges the Attorney General to consult with other agencies to "investigate the activities of the Federal Government over the last four years that are inconsistent with the [EO's] purposes and policies" and to report to the President "with recommendations for appropriate remedial actions."
- Act applies to non-federal entities. However, the boundaries here are unclear and may develop as things unfold.
- The EO states that it must be carried out consistent with applicable law. In this instance, it would require a review of activities relating to potential violation of free speech, protected by the First Amendment.

• Complaints were raised during the Biden Administration that government officials worked to silence conservative viewpoints on social media on topics including the COVID-19 pandemic and election security. These complaints were advanced in cases brought by two states and five social media users. The Supreme Court sided with the Biden Administration in those cases.

Enforcement Actions Related to Allegations of Racial Discrimination

The following are enforcement actions by USED and other agencies regarding allegations of discrimination on the basis of race, ethnicity, or national origin. These include investigations and other actions brought under Title VI as well as the Administration's EOs and agency guidance. Some enforcement actions appear elsewhere in this Executive Actions Chart because they are specifically tied to certain EOs such as the one on combating anti-semitism.

NEW CASES & INVESTIGATIONS

- On 3/14/25, OCR <u>launched Title VI investigations</u> of **45 public and private universities** pursuant to OCR's 2/14/25 Dear Colleague letter. Most of the allegations relate to engagement with the **PhD Project organization**; six are alleged to grant scholarships based on race; one is alleged to operate a segregated program.
- On 3/27/25, DOJ <u>initiated</u> a compliance review investigation into whether **admissions policies comply with** *SFFA* **at four California universities**—Stanford, Berkeley, UCLA, and UC-Irvine—or if they are "using DEI discrimination" while assessing applications. On the same day, HHS's OCR <u>announced</u> a similar investigation into an unnamed medical school in California.
- On 4/25/25, the USED's OCR announced an <u>investigation</u> into the New York Department of Education and New York Board of Regents regarding the Massapequa School District's approach to a **high school mascot**. The Native American Guardians Association filed the complaint, alleging that the state violated Title VI by requiring the district to eliminate use of a "Chiefs" mascot based on its association with Native American culture. This <u>social media post</u> by President Trump appears to have initiated OCR's action. On 5/30, OCR <u>announced</u> that it found a Title VI violation and proposed a resolution agreement including a changed policy, guidance to districts, and "issuing letters of apology to Indigenous tribes." **INEW:** On 6/17/25, USED <u>announced</u> that it is referring the investigation to DOJ for further action.
- On 4/28/25, USED and the Department of Health and Human Services (HHS) both <u>initiated</u> Title VI investigations into Harvard University and the **Harvard Law Review** alleging racial preferencing in the journal's operations.
- On 4/29/25, USED <u>initiated</u> a Title VI investigation into **Chicago Public Schools (CPS) regarding its** <u>Black Student Success Plan</u>. Note that with federal courts <u>halting</u> (for now) any enforcement of USED's Dear Colleague Letter, FAQs, and "DEI" certification, this CPS investigation must be brought under the existing interpretation of Title VI.

- On 5/1/25, USED <u>announced</u> a new Title VI investigation of the **Evanston-Skokie School District 65 in Illinois** over a variety of allegations of illegal racial discrimination. This is the latest development in a Title VI complaint originally filed during the first Trump administration, later dismissed during the Biden administration, and recently <u>re-filed</u>. This new action may be significant to the extent USED finds a Title VI violation with respect to several parts of the complaint tied to the district's *curriculum*, including texts and lesson plans about diversity, equity, and inclusion, given <u>multiple prohibitions</u> on federal involvement in curriculum.
- On 5/22/25 USED OCR opened a Title VI investigation of Thomas Jefferson High School for Science and Technology's admissions policy (Fairfax County Public Schools, VA) following an investigation and referral by the state of Virginia. As background, iln May 2023, the 4th Circuit Court of Appeals reversed a district court decision and found in favor of the school district. The Supreme Court declined to take up that case in February 2024.

WITHDRAWAL FROM EXISTING CASES & INVESTIGATIONS

NEW: "Restoring Gold Standard Science" EO (5/23/25)

(vi) structured for falsifiability of hypotheses; (vii) subject to unbiased peer

- On 4/1/25, USED OCR <u>withdrew</u> from a voluntary resolution agreement with Rapid City Area Schools (SD) regarding <u>racial discrimination</u> against Native American students on the basis that the May 2024 agreement violated the 1/21/25 EO prohibiting DEI.
- On 4/29/25, DOJ dismissed a desegregation consent decree that has been in place with the Plaquemines Parish School Board (LA) since 1975. Louisiana state leaders indicated an interest in working with DOJ to dismiss all remaining desegregation cases in the state.

TOPIC 2: FUNDS & FUNCTIONS OF THE U.S. DEPARTMENTS OF EDUCATION & HEALTH AND HUMAN SERVICES

Analysis Summary Establishes new standards for government research and management of scientific • The EO's preamble section focuses in part on concerns regarding the CDC's information to address alleged politicization concerns. pandemic-era guidance on in-person schooling as evidence of the alleged politicization of science. Sets out requirements for federal activities related to all types and forms of With regard to the EO's enforcement mechanism, because there appears to be scientific information, including federally-funded research, including charging the Office of Science and Technology Policy (OSTP) with developing new guidance no requirement for consulting with experts in the field, some have raised within 30 days (i.e., 6/22/25) that all federal agencies will then incorporate into concerns that the EO creates new opportunities for political appointees to their policies and processes within the following 60 days (i.e., 8/21/25). revise, characterize, or question scientific findings that may not align with the Administration's political agenda. Directs agencies to use guidance from President Trump's first term—and reevaluate or rescind Biden-era policies—while the OSTP guidance is developed and implemented. Defines "Gold Standard Science" as "science conducted in a manner that is: (i) reproducible; (ii) transparent; (iii) communicative of error and uncertainty; (iv) collaborative and interdisciplinary; (v) skeptical of its findings and assumptions;

review; (viii) accepting of negative results as positive outcomes; and (ix) without conflicts of interest."

 Requires each agency to establish "internal processes to evaluate alleged violations" and assign responsibility for enforcement to a senior political appointee in each agency.

Notes

• NEW: On 6/23/25, the White House Office of Science and Technology Policy issued <u>further guidance</u> to federal agencies to facilitate implementation of the EO as well as requirements for future reporting, including agency-specific implementation plans by 8/22/25.

"Reforming Accreditation to Strengthen Higher Education" EO (4/23/25)

Summary

Calls for several significant changes to the higher education accreditation system, which ensures colleges and universities meet quality standards to qualify for federal aid.

- Criticizes existing accreditors for "routinely approv[ing] institutions that are low-quality by the most important measures" and incorporating "DEI"-based standards, which the Administration characterizes as supporting "unlawfully discriminatory practices."
- Directs USED to take several actions, including:
 - "hold accountable, including through denial, monitoring, suspension, or termination of accreditation recognition, accreditors who fail to meet the applicable recognition criteria or otherwise violate Federal law, including by requiring institutions seeking accreditation to engage in unlawful discrimination" (i.e., through "unlawful" DEI activities), specifically calling for investigations of the American Bar Association and Liaison Committee on Medical Education
 - "take appropriate steps" to ensure that institutions "provide high-quality, high-value academic programs free from unlawful discrimination," reduce

- The EO follows through on a longstanding Trump Administration priority to use accreditation to further pressure higher education, including with regard to DEI.
- The order does not direct the Secretary to promulgate new accreditation regulations (though this may be necessary to effectuate the changes suggested here); changes to the accreditation regulations made during the previous Trump Administration have already made it easier for the Department to recognize new accreditors.
- The EO also reflects the significant likelihood that the Administration will move as quickly as possible to recognize new accreditors, which would potentially allow significant numbers of new institutions and other higher education providers to become eligible to disburse Title IV aid.
- USED is likely to use its recognition authority to push accreditors to voluntarily change standards, but the HEA limits the agency's authority to unilaterally impose broad requirements on accreditors.
- Although USED may have the authority to compel accreditors to use student outcomes data to judge the quality of institutions they oversee, § 496(g) of the

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- barriers to innovative education models, prioritize intellectual diversity, and prohibit degree inflation;
- resume recognizing new accreditors and launch an experimental site (essentially a pilot program) to ease approvals of new and innovative higher education programs.
- mandate that accreditors require their member institutions use program-level student outcomes data to drive improvement, but without respect to race, ethnicity, or sex.
- o streamline the Department's accreditor approval process.

HEA prohibits USED from mandating specific metrics or thresholds that accreditors must use in their approval processes and decisions. It remains unclear how USED will attempt to enforce the EO's prohibition against outcomes data that reflects "race, ethnicity, or sex" given the HEA's limits on Departmental authority to impose conditions on accreditors' oversight.

 This prohibition on considering disaggregated data may be connected to the disparate impact EO issued on the same day and part of a larger policy agenda to reduce or even eliminate the use of disaggregated data in many aspects of public education.

Notes

• The <u>final regulations</u> promulgated during the first Trump Administration provided for significantly expanded avenues for prospective accreditors to become recognized by the Secretary of Education.

"White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities" EO (4/23/25)

Summary

Reestablishes a White House Initiative on HBCUs in the President's Executive Office.

- Creates an "White House Initiative on HBCUs" focused on promoting public/private partnerships to support HBCUs and enhancing their capacity.
- Includes as key strategies: fostering collaboration among federal agencies, partnering with the private sector and private philanthropy to improve HBCU capacity and funding, building pipelines with K-12 schools, and hosting an annual HBCU summit.
- Encourages state governments to provide the required matching funds for 1890 Land-Grant Institutions.
- Calls for collaboration with USDA and state governments to "establish a framework for addressing barriers to accessing Federal funding to ensure that HBCUs receive the maximum funding to which they may be entitled."

Analysis

- This EO affirms Trump Administration and bipartisan support for HBCUs, and largely continues the trend of advancing support for HBCUs through a White House Initiative that has been in place in some form since the Carter administration.
- This Initiative differs from past ones by locating it within the White House
 administrative structure (rather than at the Department of Education), explicitly
 calling on states to provide the required matching funds for 1890 land grant
 HBCUs, and referencing efforts to ensure these institutions receive "the
 maximum funding to which they may be entitled."
- As with previous EOs on HBCUs, there is no mandated mechanism to ensure additional funding, but a focus instead on fulfilling the requirements of federal legislation, including the HBCU PARTNERS Act signed into law in 2020.

Notes

• Although it is unclear whether more EOs are forthcoming, the Trump administration in January <u>rescinded</u> all of the other existing minority-serving institution and racial equity initiatives, making this HBCU Initiative the sole remaining education White House Initiative of this kind at the current time.

FSA Restarting Student Loan Collections and Withholdings (4/21/25)

Summary

Resumes collections of defaulted student loans

- Provides notice that on 5/5/25, the Office of Federal Student Aid (FSA) will resume collections of its defaulted federal student loan portfolio on May 5, including where appropriate wage garnishment.
- Restarts the Treasury Offset Program, administered by the Treasury Department, to withhold federal payments to help pay for defaulted amounts.
- Encourages borrowers in default to contact the Default Resolution Group to make a monthly payment, enroll in an income-driven repayment plan, or sign up for loan rehabilitation.

Analysis

- This is the first time since the beginning of the COVID-19 pandemic that student loan borrowers will incur significant penalties for failure to repay. There can be significant disruption and negative impacts on borrowers, including negative credit reporting and loss of tax refunds, social security benefits, and wages.
- All of these consequences existed prior to the pandemic, but new borrowers have never experienced them. Similarly, the servicers and collection entities have not collected on defaulted debts in half a decade. There may be delays in fully bringing these systems back on, particularly with outdated student contact and employer information.

Notes

- The New York Federal Reserve published an analysis last month about the potential decline in credit scores for delinquent and defaulted student loan borrowers.
- On 5/5/25, USED issued a Dear Colleague Letter urging colleges and universities to improve their loan repayment rates by increasing transparency and supports for current students and those in default. The letter both alerts institutions with high cohort default rates that they risk future eligibility for federal student aid and states that, in the coming months, USED will publish loan nonrepayments rates on the Federal Student Aid Data Center.

Department of Health & Human Services Reduction in Force (3/27/25)

Analysis Summary

Reduces HHS's workforce by about 25%

- Announces a massive layoff that, added to prior terminations, will reduce HHS's staff by about ¼.
- Places RIF'd employees on administrative leave starting on 5/28/25.
- Includes plans for an agency "restructuring" that includes, among other things:
 - o cuts regional offices in half from ten to five.
 - o folds into ACF some of the functions that currently exist at the Administration for Community Living (ACL)
 - o consolidates the Substance Abuse and Mental Health Services Administration (SAMHSA), which holds the infant and early childhood mental health grants, into a larger structure called the Administration for a Healthy America (AHA), which will also absorb the Health Resources and

- Note that ACL was presumed to be a potential landing spot for the Administration's stated desire to transfer USED's special education programs to HHS. Given this reorganization, it is possible ACF would take over those programs should the Administration or Congress follow through with eliminating USED.
- Some massive RIFs at other agencies have been quickly challenged in court, such as the 50% reduction at USED; however, the Administration has not indicated a desire to completely eliminate HHS, so any challenges to the HHS RIF might differ in significant ways from the lawsuits about USED, USAID, or CFPB.

- Services Administration, which administers the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) program
- Cuts significant regional Head Start staff including RIFs on 4/1/25 for all staff in the Office of Head Start (OHS) and the Office of Child Care (OCC) in Regions 1 (Boston), 2 (New York), 5 (Chicago), 9 (San Francisco), and 10 (Seattle).
- Without regional staff, Head Start agencies will struggle to function. Health and safety complaints may go unresolved.
 Requests for repairs and maintenance may be unapproved.
 Contract renewals may go unaddressed.

- On the same day HHS initiated its RIF, the Senate HELP Committee issued a bipartisan request for Sec. Kennedy to appear before the HELP Committee. He declined to appear publicly.
- LAWSUIT: On 4/28/25, several Head Start associations and parent groups filed a federal lawsuit in the state of Washington regarding HHS's actions regarding Head Start.

FUTURE OF USED—"Improving Education Outcomes by Empowering Parents, States, and Communities" EO (3/20/25)

Summary

Initiates steps to close the U.S. Department of Education

- Directs the Secretary of Education to, "to the maximum extent appropriate and permitted by law, take all necessary steps to facilitate the closure of the Department of Education."
- States that those steps should not interfere with "the effective and uninterrupted delivery of services, programs, and benefits."
- Charges the Secretary with ensuring that recipients of federal education funds are in "rigorous compliance with Federal law and Administration policy" regarding "illegal discrimination obscured under the label 'diversity, equity, and inclusion' or similar terms and programs promoting gender ideology."

Analysis

- The brief order does not name the specific actions the Secretary should take to close the Department.
- Because USED was established by Congress, and in several other laws, Congress has charged it with
 additional specific responsibilities, only Congress can officially close USED. It is unlikely there are 60
 votes in the Senate to do so. There is some possibility Republicans will attempt to close USED via the
 budget reconciliation process, which is not subject to the 60 vote threshold, but there are procedural
 obstacles to that path (notably, the "Byrd Rule").
- Other specific steps the Secretary might take might include additional RIFs, eliminating more offices
 not established by statute, additional terminations of grants and contracts, and trying to move USED
 functions and funding to other federal agencies.
- Despite the EO's assurance about uninterrupted services, it is unclear if USED can deliver on this pledge with greatly reduced staffing levels and additional disruptions that further hollowing out steps might cause.
- The second part of the EO directing the Secretary to ensure that recipients of federal funds halt "illegal discrimination" does not appear to introduce any new directives beyond what has already been included in prior EOs and OCR guidance.

- Immediately following the EO signing ceremony, Senator Bill Cassidy (R-LA), the Chairman of the Senate Health, Education, Labor, & Pensions (HELP) Committee, pledged to introduce a bill to eliminate USED "as soon as possible." His bill would follow a similar bill introduced at the end of January in the House of Representatives by Congressman Thomas Massie (R-KY) along with multiple other bills introduced in the House and Senate since the EO was issued.
- On 3/21/25, Secretary McMahon published a column with information on her "vision" for implementing the EO.
- LAWSUIT: On 3/24/25, AFT and a coalition of unions and school districts <u>filed</u> a lawsuit in Massachusetts, challenging the Administration's efforts to dismantle USED; a similar suit was <u>filed</u> the same day in Maryland by NAACP, NEA, and others. (For more updates on these cases, see the table below regarding the reduction-in-force that is also being challenged by the plaintiffs in both cases.)
- INEW: On 6/10/25, USED disclosed for the first time two attempts to transfer some of the agency's functions to other federal agencies. See the table below regarding the reduction-in-force for more about this development.

USED Reduction in Force (3/11/25)

Summary

Reduces USED's workforce by about 50%

- Announces a massive layoff of about ½ of USED's staff including a reduction in force (RIF), employees who accepted the DOGE "fork" offer to voluntarily separate, and employees who accepted a recent \$25k buyout offer.
- Places RIF'd employees on administrative leave starting on 3/21/25 (and paid through 6/9/25).
- Omits an official accounting of the RIF and terminations, although the press release noted: "All divisions within the Department are impacted by the reduction, with some divisions requiring significant reorganization to better serve students, parents, educators, and taxpayers."

Analysis

- All indications are that the RIFs were not applied equally to all offices, with early reports of some offices being completely eliminated and others losing everyone except the office head. For example, almost all of the Institute of Education Sciences was cut; only 5 of 12 OCR regional offices remain; many lawyers in the General Counsel's office were RIF'd.
- Because Congress established USED and added to its responsibilities
 through subsequent federal laws, only Congress can officially eliminate
 it or relieve the agency of those mandated responsibilities. Legal
 challenges to the RIF will likely center on whether the remaining USED
 workforce will be able to fulfil the roles mandated by Congress.

- On 3/14/25, USED transmitted two letters, one to K-12 stakeholders and one to the higher education community, stating that "critical functions...will not be impacted" by the RIF. The letters reveal some reorganizing plans as well, such as in K-12, moving the Office of English Language Acquisition to the Office of Elementary and Secondary Education.
- LAWSUIT: On 3/7/25, three tribal nations and five Native American students filed a <u>lawsuit</u> in a DC federal court challenging recent layoffs at the Bureau of Indian Education (BIE) and two BIE-run schools.

- LAWSUIT: On 3/24/25, NAACP, NEA, and others filed a lawsuit in Maryland, challenging the Administration's efforts to dismantle USED.
- **LAWSUIT:** On 3/24/25, AFT and a coalition of unions and school districts <u>filed</u> a lawsuit in Massachusetts, challenging the Administration's efforts to dismantle USED. (The court later consolidated this case with a similar case brought by a coalition of states, which is described and updated in the next bullet.)
- LAWSUIT: On 3/13/25, in a Massachusetts federal court, 21 state AGs sued, claiming the RIFs are equivalent to a functional elimination of the agency.
 - o On 4/23/25, 192 Democratic members of the House of Representatives filed an amicus brief in support of the states' lawsuit.
 - o On 5/22, the court granted a preliminary injunction and ordered USED to allow RIF'ed staff to return to work and halt any steps related to the closure of USED. (The court previously consolidated this states-led-case with the unions-led case filed in the same Massachusetts court following the EO on the future of USED.)
 - o 6/4/25, the 1st Circuit Court of Appeals denied the request for an administrative stay pending appeal. On 6/6, the Administration appealed to the Supreme Court.
 - NEW: On 6/10/25, USED disclosed for the first time two attempts to transfer some of the agency's functions to other federal agencies. In a weekly status update filed in litigation challenging USED's Reduction in Force (RIF), the Department described an agreement—now paused pending this litigation—between USED's Office of Career, Technical, and Adult Education (OCTAE) and the Department of Labor's Employment and Training Administration (ETA) for ETA to administer "up to \$2,673,000,000 in FY 2025 for funds appropriated in FY 2024 and FY 2025" Perkins and WIOA Title II funding and then seek reimbursement from OCTAE. The update also disclosed a now-pending memorandum of understanding with the Treasury Department regarding student loan management.
- **LAWSUIT:** On 3/14/25, in a DC federal court, the National Center for Youth Law <u>filed</u> a suit on behalf of parents of students with disabilities regarding the specific cuts to OCR. On 5/21/25, the court <u>denied</u> the plaintiffs' motion for a preliminary injunction.
- **LAWSUIT:** On 4/21/25, the Victim Rights Law Center <u>filed</u> suit in a Massachusetts federal court and sought a preliminary injunction against ED asserting that OCR RIFs undermined the office's ability to perform its statutory functions.
 - NEW: On 6/18/25, the court granted the preliminary injunction and directed USED to return OCR staff to work.

"Restoring Public Service Loan Forgiveness" EO (3/7/25) **Analysis** Summary Initiates a rule-making process to change employer eligibility criteria • The EO does not directly change PSLF. Instead, it initiates a rulemaking process that could take upwards of a year before any resulting changes take effect. Directs the Secretary of Education to update the PSLF regulations to exclude from program eligibility any employer that engages in "activities that have a • Although the Administration may try to take a different approach, in all prior cases of substantial illegal purpose." changing rules for loan, repayment, or forgiveness programs, the new rules apply only moving forward and not to existing eligible borrowers. • Cites as examples of disqualifying employer activities: violations of federal immigration law, facilitating cartels, child trafficking, "engaging in a pattern • To the extent the new rules align with the EO's directions, they would likely be of aiding and abetting illegal discrimination," and engaging in a pattern of challenged in court at least under the First Amendment given the chilling effects of public nuisance or vandalism. vague language such as "engaging in a pattern of aiding and abetting illegal discrimination" (particularly given other EOs that have been successfully challenged for similar language). Notes

• On 4/4/25, USED <u>published</u> a Notice of Intent to negotiate new regulations on at least three higher education topics: (1) "Refining definitions of a qualifying employer for the purposes of determining eligibility for the Public Service Loan Forgiveness program," (2) "Pay As You Earn (PAYE) and Income Contingent Repayment (ICR) repayment plans," and (3) "Potential topics that would streamline current federal student financial assistance program regulations while maintaining or improving program integrity and institutional quality." Depending on when the process concludes, any new regulations will become effective either on 7/1/26 or 7/1/27.

Termination of Education Grants and Contracts (began on 2/10/25)

Summary

Ends a large number of existing USED and Institute of Education Sciences (IES) grants and contracts across a wide array of federal education programming and services (2/10/25)

- Terminates immediately many existing *contracts* "for convenience" under a government contracting provision.
- Terminates immediately many existing *grants* via form letters citing "DEI" and various other rationales such as "fraud, abuse, or duplication" and "fail to serve the best interests of the United States."
- Includes the following terminations, among others:
 - o all Regional Education Laboratories (RELs) contracts
 - o all Comprehensive Centers (CCs) grants
 - o all Equity Assistance Centers (EACs) grants
 - at least 89 IES contracts for a wide array of data collections, program evaluations, technical assistance, and website development and maintenance
 - most if not all of the following teacher/leader preparation grants: <u>Supporting Effective Educator</u>
 <u>Development</u> (SEED), <u>Teacher Quality Partnership</u> (TQP), and <u>Teacher and School Leader Incentive</u>
 Program (TSLIP)
 - the contract for the upcoming <u>NAEP assessment</u> for 17-year-olds, as well as NAEP-supporting contracts such as one for running background checks on NAEP test administrators

Cancels "late liquidation" of remaining funds from a variety of federal pandemic recovery funds (3/28/25)

- <u>Informs</u> state departments of education that the Administration has canceled any prior approval for "late liquidation" of remaining funds from a variety of federal pandemic recovery funds, including ARP ESSER, EANS, and HCY funds.
- Indicates that states can reapply for an extension "on an individual project-specific basis" by explaining "(1) how a particular project's extension is necessary to mitigate the effects of COVID on American students' education, and (2) why the Department should exercise its discretion to grant your request."

- Many of the canceled grants and contracts are for programs, services, and evaluations explicitly required by federal law. For example, EACs originate in the Civil Rights Act of 1964 while ten RELs are authorized in the Education Sciences Reform Act (ESRA) specifically to hold five-year contracts.
- It is not clear yet whether or when USED will rebid the contracts or recompete the grants.
- There is significant work underway to analyze the legality of the terminations for potential legal action. (Also, litigation over other executive actions could impact these terminations, such as the lawsuits seeking to challenge the anti-DEI EOs that are cited as a rationale in the form letters terminating the grants.)
- The letter assets that "[a]ny reliance on a discretionary extension [by USED] subject to reconsideration by the agency was unreasonable."
- Reporting suggests that as many as 41 states and DC stand to lose <u>almost \$3 billion</u> in funding that was already obligated (mostly via contracts for services) but just not yet liquidated (or reimbursed) as the now-cancelled extensions had allowed final payments to be made through early 2026.

• In a follow-up email on 4/3/25, USED explained the new process for requesting project-specific extension.

Notes

ADDITIONAL GRANT/CONTRACT TERMINATIONS:

- School Lunch: USDA has also canceled about \$1B from the school lunch program by cutting payments that help schools purchase food from local farms.
- NAEP: On 4/17/25, USED <u>announced</u> that the core 4th/8th grade ELA/math NAEP tests *will* be administered as planned in January 2026. But on 4/21/25, the National Assessment Governing Board <u>announced</u> reductions in the overall NAEP assessment schedule.
- **NSF:** On 4/18/25, the National Science Foundation (NSF) <u>announced</u> updates to its priorities, which included among other things a shift away from "DEI"-related research and "projects with more narrow impact limited to subgroups of people based on protected class or characteristics."
 - o As of 5/9, media has reported cancellations of more than 1,400 NSF grants.
 - o On 5/9/25, NSF eliminated the Division for Equity for Excellence in STEM and fired approximately 70 staff.
- **BSCA:** On 4/28/25, media <u>reported</u> that USED has begun notifying a significant number (perhaps almost all) of <u>Bipartisan Safer Communities Act</u> grantees that the Administration does not believe continuing these grants beyond the current budget period is in the "best interest of the Federal Government." The non-continuation decisions may affect up to \$1 billion in BSCA school safety and school-based mental health support distributed by USED under two grant programs.
 - NEW / LAWSUIT: On 7/1/25, 16 states <u>sued</u> USED in federal court in that states of Washington, challenging the BSCA terminations as violations of the Administrative Procedures Act. On 7/8/25, plaintiffs <u>moved</u> for a preliminary injunction.
- AmeriCorps: On 4/16/25, Americorps ended the National Civilian Community Corps and fired approximately 2,000 service members. On 4/26/25, Americorps informed all states and US territories of nearly \$400 million in grant terminations, ending nearly 1,000 programs and placing 85% of staff on leave.

15% INDIRECT RATE: Related to the R&D terminations, multiple federal agencies have issued new guidance or rules setting a 15% indirect rate:

- LAWSUIT: On 2/7/25, the National Institute for Health (NIH) <u>published</u> new grants guidance setting "a standard indirect rate of 15% across all NIH grants for indirect costs in lieu of a separately negotiated rate for indirect costs in every grant." (See <u>this explainer</u> for more details.) Three lawsuits in Massachusetts are challenging this NIH action, including 22 state AGs, higher ed associations, and medical associations.
 - o On 4/4/25, the court <u>issued</u> a permanent injunction preventing NIH from implementing the reduced indirect rate. On 4/8/25, the federal government <u>appealed</u> the order to the 1st Circuit.
- LAWSUIT: On 4/11/25, the Department of Energy (DOE) announced a similar change despite the permanent injunction in place against NIH. On 4/14/25, a coalition of universities and higher education associations <u>filed</u> a lawsuit in a federal court in Massachusetts challenging the new policy. On 5/15/25, the court <u>issued</u> a preliminary injunction preventing DOE from implementing the reduced rate while the lawsuit proceeds.
- LAWSUIT: On 5/2/25, the National Science Foundation (NSF) <u>announced</u> a similar change to its indirect rates despite the permanent injunction in place against NIH. On 5/5/25, a coalition of universities and higher education associations <u>filed</u> a lawsuit in a federal court in Massachusetts challenging the new policy.
 - NEW: On 6/20/25, the court granted summary judgment to the plaintiffs, vacating the rate changes and declaring them "invalid, arbitrary and capricious, and contrary to law."
- INEW / LAWSUIT: On 5/28/25, 16 states filed a lawsuit in a federal court in New York against NSF challenging the imposition of the 15% indirect rate as well as grant terminations related to DEI. (Further updates on this lawsuit will appear in the "LAWSUITS" section of these notes below because it addresses the terminations as well as the indirect rate.)

ESSER LATE LIQUIDATION:

- Related to the revoking of late liquidation for ESSER funds, several states have requested Secretary McMahon to reconsider her decision, including at least <u>New York</u>, <u>Kentucky</u>, <u>Mississippi</u>, and <u>North Carolina</u>.
- LAWSUIT: On 4/10/25, 17 states filed a lawsuit in the Southern District of New York challenging the revocation of the late liquidation approvals.
 - o On 5/6/25, the court issued a preliminary injunction preventing USED from enforcing the *initial* revocations.
 - But on 5/11/25, USED "modified" the newly-restored extensions from March of 2026 to 5/24/25 (thus providing the 14 days' notice that the court stated in the preliminary injunction would be necessary before any future deadline modification).
 - On 5/20/25, the court granted a TRO preventing USED from enforcing this second attempt to cancel the late liquidation.
 - On 6/3/25, the court granted a second preliminary injunction covering the 5/11 letter's attempted modification, requiring 30 days' notice for any future modification, and inviting plaintiffs to seek further relief from the court after they review the reasons for any such modification. This opens the door for good-faith modifications but signals that the court will not allow USED to continue to try cancelling the late liquidation, at least while the lawsuit proceeds. (The government is appealing the decision.)
- INEW: On 6/26/25, USED informed all state departments of education that the Department was reversing course and would now honor the original late liquidation deadlines approved by the Biden Administration. Now all states—those who brought the litigation outlined above and those who did not join the suit—will receive the reimbursements they anticipated before USED terminated their extensions on 3/28/25, at least as long as the court challenge is pending.

LAWSUITS ABOUT EDUCATION GRANT TERMINATIONS & OTHER IES ACTIONS

- **LAWSUIT:** On 2/13/25, a court <u>issued</u> a TRO in a case about the blanket terminations of **USAID** grants and contracts. The TRO does not apply to USED/IES terminations, but the legal ruling may be relevant to any future cases challenging the education terminations.
 - o On 3/5/25, the Supreme Court denied the Administration's appeal of the TRO, on a 5-4 vote. The Court directed the district court to establish a new timeline for the government to restart the USAID payments.
- LAWSUIT: On 3/3/25, AACTE and NCTR filed a lawsuit in federal district court in Maryland challenging the terminations of the SEED, TQP, and TSLIP grants. The suit claims the injunction on the anti-"DEI" orders should apply to these terminations and that the Administration must engage in formal rule-making to adopt new agency "priorities" before it can then cite a change in priorities as a basis for termination.
- LAWSUIT: On 3/6/25, eight states (CA, CO, IL, MA, MD, NJ, NY, WI) <u>sued</u> in a Massachusetts district court to challenge the termination of **SEED and TQP grants**. On 3/10/25, the court <u>issued</u> a TRO forcing USED to reinstate the grants in those eight states.
 - o On 4/4/25, the Supreme Court <u>decided</u> in a 5-4 decision that the district court should not have granted the TRO because (i) the lawsuit probably should have been filed in a different court—the Court of Federal Claims, which typically handles monetary claims against the government—and (ii) the Court viewed the only irreparable harm might fall on the government. The Justices did *not* weigh in on the legality of the grant terminations themselves. But because the TRO has been lifted, USED does *not* have to reinstate the grants while the lawsuit proceeds.
 - INEW: On 6/2/25, the plaintiff states <u>amended their complaint</u> to add additional claims that, they argue, should justify keeping the case in the district court (rather than having it dismissed and being forced to file a new suit in the Court of Federal Claims).
- LAWSUIT: On 4/4/25, IHEP and AEFP filed a lawsuit in DC federal court challenging the hollowing out of IES, including cancellation of grants and contracts.

- o On 6/3/25, the court denied the plaintiffs' motion for a preliminary injunction, finding that the Administrative Procedures Act likely does not bar these actions.
- NEW: On 6/18/25, IHEP and AEFP filed an amended complaint in light of the court's denial of an injunction.
- LAWSUIT: On 4/9/25, the Southern Education Foundation (SEF) filed a lawsuit in DC challenging the cancellation of the Equity Assistance Center-South.
 - o On 4/23/25, SEF moved for a temporary restraining order and preliminary injunction.
 - o On 5/21/25, the court granted the TRO and preliminary injunction, directing USED to restore SEF's grant award within five business days.
- LAWSUIT: On 4/14/25, AERA and SREE filed a <u>lawsuit</u> in Maryland challenging the IES RIFs and research grant cancellations; they <u>moved</u> for a preliminary injunction on 4/17/25.
- LAWSUIT: On 4/24/25, the National Academy of Education and the National Council on Measurement in Education filed a <u>lawsuit</u> in DC, challenging a series of Administration actions related to the collection, analysis, and dissemination of **federal data at IES and the National Center for Education Statistics**.
- **LAWSUIT:** On 4/29/25, 24 states and Washington, DC <u>filed</u> a lawsuit in a Maryland federal court objecting to the massive cuts to **AmeriCorps** staff and grants that began taking place in the middle of April.
 - NEW: On 6/5/25, the court issued a <u>preliminary injunction</u>, ordering the restoration of AmeriCorps staff and grants.
- INEW / LAWSUIT: On 5/28/25, 16 states filed a lawsuit in a federal court in New York and requested a preliminary injunction against NSF, challenging grant terminations related to DEI and the imposition of the 15% indirect rate.

"Expanding Educational Freedom and Opportunity for Families" EO (1/29/25)

Seeks to expand school choice through federal programs.

Summary

Directs the Secretary of Education within 60 days to issue guidance regarding how states can use federal formula funds (e.g., Title I) to support K-12 "educational choice initiatives."

- Requires the Secretary of Education to include "education freedom" as a priority in discretionary grant programs, "as appropriate and consistent with applicable law."
- Requires the Secretaries of Education and Labor within 90 days to each submit reports to the President that recommend ways to use relevant discretionary grant programs to "expand education freedom for America's families and teachers."
- Charges the Secretary of Health and Human Services (HHS) within 90 days to issue guidance regarding whether and how states receiving federal block grants for families and children, including the Child Care and Development Block Grant (CCDBG), can use them to expand educational

- The EO tasks multiple agencies to identify opportunities under existing law to expand educational choice, through both federal formula (e.g., Title I, CCDBG, etc.) and discretionary (also known as competitive) programs. The EO cannot modify or redirect the flow or allowable uses of federal formula funds that are set in statute.
- Where agencies identify potential new uses of federal funds for vouchers/school choice, the impact could be more significant in states that already promote voucher policies.
 Most federal formula funds are spent at the discretion of states and districts within the existing parameters of the relevant grants as prescribed in statute, which are not expanded by the EO but are subject to appropriate interpretation of the agencies and ultimately the courts.
- Discretionary grant programs may provide more opportunities than formula programs
 to direct federal funds to vouchers/school choice, such as through secretarial
 "supplemental priorities." But these programs also have set uses and recipients (often
 SEAs and LEAs) prescribed in law, and the authority to append priorities to them will
 require further analysis.

- choice and support families who choose educational alternatives to governmental entities (including private and faith-based options).
- Charges the Secretaries of Defense and Interior to each submit plans
 within 90 days describing how military-connected families and families of
 students eligible to attend Department of Defense Education Activity
 (DODEA) or Bureau of Indian Education (BIE) schools, respectively, may
 use federal funds possibly as early as the 2025-26 school year to
 attend schools of their choice (including private, faith-based, or public
 charter schools).
- CCDBG funds can already be used for private and faith-based child care. Efforts to
 preference certain types of providers would likely undermine a core purpose included in
 Congress's most recent reauthorization of the law, which is to "promote parental choice
 to empower working parents to make their own decisions regarding the child care
 services that best suit their family's needs."
- Allowing parents to use CCDBG certificates for the purposes of seeking a private, or faith-based, *K-12* education, on the other hand, is prohibited by law.
- The EO's directives to the Secretary of HHS could also include examination of the Temporary Assistance to Needy Families (TANF) and Social Services Block Grants (SSBG) in addition to CCDBG since those are "block grants for families and children" and can be used to pay for child care.

- Although this EO does not propose any new federal programs or funds to advance choice or vouchers, it could mislead or elevate the expectation among parents that they will receive vouchers, particularly among families served by the Department of Defense and BIE considering that both sets of families are served through systems directed by federal agencies.
- Further, President Trump's FY 2026 budget request is likely to be released in March or April and to include proposals aligned with this EO.
- Finally, new federal support for school vouchers and/or Education Savings Accounts are also likely to be considered as part of budget reconciliation bills that will be advanced by congressional Republicans.

GUIDANCE ON USING FEDERAL FUNDS FOR CHOICE

- On 3/31/25, USED <u>issued</u> a <u>Dear Colleague Letter</u> that follows up on this EO's direction for USED to issue guidance on how states can use federal formula funds to support K-12 "educational choice initiatives." The letter points to two flexibilities within ESSA's Title I formula funds that states can use "to provide greater flexibility to support parents' choices for their child's education."
 - First, USED highlights the optional state set-aside in Section 1003A for up to 3% of a state's Title I allocation for "Direct Student Services" such as "advanced courses, dual enrollment, academic tutoring, career and technical education, personalized learning, and out-of-school activities." States could use these funds to provide families with a choice of which services best met their children's needs.
 - Second, USED points out that Title I schoolwide and targeted assistance programs could similarly provide families with some choice about which improvement
 activities are the best fit for their child such as "dual enrollment opportunities, academic tutoring programs, and career and technical education activities."
 - o Contrary to some <u>commentary</u>, the letter does not appear to open new pathways for Title I funds to follow students or expand school choice, but it simply reiterates options that could be offered by states or districts under existing law.
 - The letter also notes that it will be the first of "several" such guidance documents.
- On 5/9/25, USED issued a <u>Dear Colleague Letter</u> encouraging LEAs to make full use of ESEA Sec. 8532, which directs states to provide school choice options for students enrolled in public schools deemed unsafe by the state or after experiencing a violent criminal offense on school grounds.

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- INEW: On 6/27/25, USED issued a new <u>Dear Colleague Letter</u> to state and local education agencies regarding how they can use ESEA school improvement funds to support school choice initiatives. The guidance focuses on how states that allocate ESEA Sec. 1003(a) funds via a competition—rather than distributing the funds via formula—could prioritize proposals from those districts that will offer school choice options to students enrolled in schools identified for improvement.
- On 5/16/25, USED <u>announced</u> an additional \$60 million for the Charter School Program (CSP) for Fiscal Year 2025 (FY25), without indicating the source of the additional funds. At the same time, USED opened a new grant opportunity (the Model Development and Dissemination Grant Program to showcase innovative charter school models), and kicked off new competitions in five existing CSP funds: State Entities, State Facilities Incentive Grants, Credit Enhancement, Charter Management Organizations, and Charter School Developers.

TOPIC 3: IMMIGRATION

NEW: "Enhancing National Security By Addressing Risks at Harvard University" Presidential Proclamation (6/4/25)

Summary

Bars foreign nationals from entering the country to study at Harvard and orders review of the current students' visas.

- Suspends and limits any nonimmigrant from entering the country with the purpose of studying at Harvard or participating in an exchange visitor program hosted by the university for six months.
- Directs the Secretary of State to review, at his discretion, the immigration status of Harvard students currently in the United States on F, M, or J visas.
- Directs the Secretaries of State and Homeland Security and the Attorney General to consider limitations on Harvard's ability to participate in the SEVP and the Student and Exchange Visitor Information System
- Directs the Secretaries of State and Homeland Security and the Attorney General to produce recommendations for the extension of the ban after 90 days.
- Excludes from the prohibition any foreign national whose entry is deemed in the national interest or to those entering the country under the Student Exchange Visa Program (SEVP) to attend

- The proclamation outlines a number of bases for excluding Harvard from hosting international students including: alleged rising crime rates at Harvard, the university's refuse to provide documentation sought by DHS regarding "known illegal activity" of foreign students, the university's receipt of significant foreign donations, involvement in legal challenges to affirmative action, ongoing civil rights violations, and previously hosting individuals associated with "a Chinese Communist Party paramilitary organization."
- This proclamation is part of an ongoing dispute between Harvard University and the Trump Administration (see "Additional Measures to Combat Anti-Semitism," above.)
- See EducationCounsel's <u>DEEP DIVE</u> for a full and ongoing

another institution. summary of the conflict.

Notes

• INEW / LAWSUIT: On 6/5/25, Harvard <u>amended</u> its complaint in an ongoing lawsuit against the Administration regarding DHS's attempt to terminate the university's SEVP eligibility, already subject to a preliminary injunction. On 6/6/25, Harvard <u>sought</u> and <u>received</u> a TRO against the enforcement of the proclamation.

"Protecting American Communities From Criminal Aliens" EO (4/28/25)

Summary Analysis

Directs federal agencies to take action against "sanctuary jurisdictions."

- Requires DOJ to publish a "sanctuary jurisdictions" list within 30 days (i.e., 5/28/25) and notify them
 about any potential violations of federal criminal law related to the jurisdictions' approach to
 immigration enforcement.
- Asks OMB and other agencies to identify federal funding streams that may be suspended or terminated if jurisdictions choose not to comply, as part of DOJ's "enforcement measures."
- Directs DHS to develop guidance, rules, and other mechanisms to ensure that recipients of federal public benefits provided by *private entities* in a sanctuary jurisdiction are eligible based on their immigration status.
- Directs DOJ to "take appropriate action to stop" any state or local laws, policies, or practices that preference "aliens" over American citizens, including state laws that "provide in-State higher education tuition to aliens but not to out-of-State American citizens."
- While not exclusively focused on schools, the EO raises two potential threats to education. First, federal education funding could be one of the funding streams that are suspended or terminated for noncompliance with the President's immigration agenda. Second, the EO specifically mentions targeting state laws that qualify undocumented students for in-state tuition.
- Note that the provision mentioning state laws providing in-state tuition uses the term "alien" whereas the other parts of the EO use the phrase "illegal aliens." It is thus unclear if actions under this provision would apply to all non-citizen residents or only to undocumented individuals.

- The EO asserts that states and localities deemed sanctuary jurisdictions are engaged in "lawless insurrection" against the federal government's immigration authority.
- On 5/29/25, DHS released a list of identified sanctuary jurisdictions that will be "reviewed and changed at any time and will be updated regularly." On 6/2/25, DHS removed the list from its website after significant backlash from the National Sheriffs' Association and others.
- INEW / LAWSUIT: On 6/5/25, hours after filing a federal lawsuit, DOJ announced an agreement with Texas to end the state's practice of providing undocumented residents with in-state tuition, which DOJ asserts violates a federal law prohibiting "any postsecondary education benefit" for undocumented students unless out-of-state citizens can receive the same benefit.
- NEW / LAWSUIT: On 6/17/25, DOJ filed a similar suit against Kentucky.
- II NEW / LAWSUIT: On 6/25/25, DOJ filed a similar suit against Minnesota.

"Ending Taxpayer Subsidization of Open Borders" EO (2/19/25)		
	Summary	Analysis

Seeks to prohibit federal funds from being provided to undocumented immigrants.

- Directs agency heads to identify all federal programs that provide "cash or non-cash public benefit[s]" to undocumented immigrants, and ensure that federal payments to states and communities "do not, by design or effect, facilitate the subsidization or promotion of illegal immigration, or abet so-called 'sanctuary' policies that seek to shield illegal aliens from deportation." Agency leads must also "enhance eligibility verification systems" for public benefit programs.
- Requires the OMB Director and DOGE Administrator within 30 days (i.e., 3/21/25) to identify all other sources of federal funding for undocumented immigrants and recommend additional agency actions.
- Further, "Agencies shall refer any improper receipt or use of Federal benefits to the Department of Justice and the Department of Homeland Security for appropriate action."

- Generally, undocumented immigrants are not eligible for federal public benefits, including benefits offered under CCDBG, TANF, SSI, SNAP, and health benefits provided under the Affordable Care Act.
- However, for certain benefits, <u>federal law</u> allows all eligible individuals to access them, regardless of their immigration status, including Head Start, programs provided through the Child Nutrition Act and the Richard B. Russell National School Lunch Act, and means-tested programs authorized in ESSA.
- The EO does not say whether K-12 education will be considered a "non-cash public benefit," but it's critical to keep in mind that K-12 students are guaranteed equal access to public education, regardless of immigration status, under Plyler v. Doe.
- The EO also includes a threat of enforcement around any "improper receipt or use of Federal benefits," which could suggest that agencies providing benefits (including through grantees) may share undocumented immigrants' data with DOJ and DHS.

Notes

• On 3/27/25, USED <u>announced</u> it was revoking Biden-era waivers for California and Oregon that allowed colleges to use federal TRIO program funds to support undocumented students. The waivers had been granted pursuant to the Performance Partnership Pilots for Disconnected Youth (P3) program.

"Protecting the Meaning and Value of American Citizenship" EO (1/20/25)

Summary

Instructs the federal government not to recognize birthright citizenship.

- Reinterprets the 14th Amendment's Citizenship Clause, which provides that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."
- Seeks to exclude from automatic citizenship those born in the U.S. under two conditions: (1) when the mother was unlawfully present and the father was neither a U.S. citizen nor a lawful permanent resident at the time of birth; or (2) when the mother was lawfully but temporarily present

- The EO may be overturned as violating the 14th Amendment because the Citizenship Clause has been the subject to prior interpretation by federal courts, including the U.S. Supreme Court. These rulings, in addition to explicit legislative history during debates about the 14th Amendment, have consistently held over the past century that the 14th Amendment confers citizenship to nearly all children born in the United States, with very limited exceptions (e.g., the children of foreign diplomats because they are not subject to U.S. jurisdiction, unlike other nationals of other countries who are while present in the U.S.).
- The EO implicates the rights of not only individuals who are in the U.S. unlawfully, but also those who are lawfully present but on a temporary basis. For example, if a graduate student is attending an institution in the United States and has a child, citizenship may not confer to the child.
- Certain early childhood settings are subject to the federal eligibility requirements in the Personal Responsibility and Work Opportunity Act (PRWOA), which limits eligibility to federal public benefits to

(e.g., on a student, work, or tourist visa), and the father was neither a U.S. citizen nor a lawful permanent resident.

• Applies only to those who are born thirty days after the issuance of the EO (i.e., 2/20/25).

"qualified immigrants," including only those children who are citizens or here lawfully. This includes benefits provided under the Child Care & Development Block Grant (CCDBG). If this EO remains in effect, CCDBG benefits could not be conferred to those who were lawfully present solely due to their birth on American soil. Head Start is not considered a federal public benefit subject to PRWOA's eligibility requirements.

Notes

- LAWSUIT: At least ten lawsuits are challenging this EO. The federal judge in Seattle (appointed by President Reagan) hearing the challenge by four states <u>issued</u> a nationwide preliminary injunction, blocking implementation of the EO. The judge stated, "I've been on the bench for over four decades, I can't remember another case where the question presented is as clear as this one is. This is a blatantly unconstitutional order." (On 2/19/25, the Ninth Circuit Court of Appeals left the injunction in place while the appeal proceeds.)
 - A judge in Maryland has also <u>issued</u> a preliminary injunction in one of the parallel cases.
 - o On 3/13/25, the Administration <u>asked</u> the Supreme Court to allow the government to move forward with the EO except with respect to the plaintiffs in these lawsuits. Plaintiffs' briefs are due to the Court on 4/4/25.

"Protecting the American People Against Invasion" EO (1/20/25)

Summary

Prompts immediate federal actions to vigorously enforce immigration laws.

- Rescinds four 2021 Biden Administration EOs related to immigration, including those aimed at addressing asylum seekers and family reunification, and instructs agencies to "promptly revoke all guidance and policies" based on these.
- Establishes Homeland Security Task Forces to "end the presence of criminal cartels, foreign gangs, and transnational criminal organizations throughout the United States, dismantle cross-border human smuggling and trafficking networks, end the scourge of human smuggling and trafficking, with a particular focus on such offenses involving children," among other actions.
- Enforces civil fines and penalties to undocumented immigrants and promotes the construction of detention facilities.
- Requires the Secretaries of Homeland Security and Treasury to report within 90 days (i.e., 4/20/25) with progress on the actions in the EO and recommendations of additional actions.
- Instructs the Secretary of Homeland Security to use "her sole and unreviewable discretion" to carry out "efficient and expedited removal of aliens."
- Directs the Attorney General and Secretary of Homeland Security to evaluate federal funding available to "sanctuary" jurisdictions and take "lawful" action against their practices.
- Instructs the Department of Homeland Security to significantly increase the number of agents and officers available to perform the duties of immigration officers.

- This is a sweeping EO that requires federal officials to carry out vast actions implementing immigration law enforcement.
- The discretion granted to the Secretary of Homeland Security by this EO creates a wide range of potential impacts on K-12 schools and universities, especially with respect to ICE enforcement actions on students and their families/caregivers, as well as impacts on staff faced with enforcement taking place on their campuses. To the extent the EO leads to significant increases in deportations and/or family separation, child care providers and K-12 schools may be confronted with extremely high levels of student instability and increased needs.

- The Administration paired this EO with the <u>rescission</u> of guidance by the Department of Homeland Security that generally protected certain areas including schools, universities, churches, and hospitals from immigration enforcement. Click <u>here</u> for a summary of this sensitive areas policy, which dates back to 2011.
 - **LAWSUIT:** This change in policy is being challenged in at least three lawsuits, including a coalition of Quaker congregations, two dozen religious groups, and <u>Denver Public Schools</u>. On 2/24/25, the court in the Quakers case <u>issued</u> a TRO undoing the change in DHS guidance but only for the plaintiffs' places of worship.
 - Attempts to conduct immigration enforcement actions have been reported in at least two public K-12 schools (in <u>DC</u> and <u>Los Angeles</u>).
 - o LAWSUIT: On 4/28/25, community organizations and houses of worship filed suit in Oregon over the change in policy.
- The Department of Justice followed up by <u>ordering</u> its U.S. Attorneys around the nation to investigate state and local officials who refuse to help execute the Administration's immigration policies. There will likely be legal challenges to any prosecutions along these lines, as the Supreme Court has held that the federal government cannot commandeer state/local law enforcement to implement federal laws, but the EO may impact data-sharing requirements, and the threat may have powerful chilling effects.
- LAWSUIT: At least three lawsuits are challenging various aspects of this EO, including a <u>suit</u> by a group of California cities and counties that challenges the EO and the DOJ directive under the 10th Amendment.
- During March and April, over 1,000 international students have had their visas revoked, their legal status terminated, or both, triggering dozens of lawsuits across the country. On 4/25/25, the federal government appeared to reverse course pending an update to the SEVIS policy.
- INEW: On 5/27, the State Department directed a complete pause all new student visa interviews ahead of greater social media screening and vetting procedures.

"Declaring a National Emergency at the Southern Border of the United States" EO (1/20/2025)

Summary Analysis

Deploys federal resources to security enforcement at the U.S.-Mexico border.

- Declares a national emergency at the U.S.-Mexico border.
- Asserts presidential authority to deploy emergency response via the Armed Services, more specifically, the Ready Reserve and National Guard.
- Supports coordination between state governors and the Department of Defense to deploy additional physical infrastructure to improve operational security in obtaining "complete operational control of the southern border of the United States."
- Requires the Secretaries of Defense and Homeland Security to submit a report within 90 days (i.e., 4/20/25) about the conditions at the border and any recommendations for additional actions.

This EO primarily re-issues President Trump's prior emergency at the U.S.-Mexico border and authorizes the deployment of Armed Services to prevent illegal entry into the United States. However, while the first declared emergency at the border was aimed at

- supporting the creation of a wall at the border, this EO seems oriented more toward enlisting the military in immigration enforcement. This would provide added capacity to the work typically undertaken by Homeland Security.

 Presidents have broad authority to declare national emergencies, which immediately
- Presidents have <u>broad authority</u> to declare national emergencies, which immediately
 provide special authorities to the President to intervene and respond in ways that the
 executive deems appropriate to meet a crisis. Congress can suspend national
 emergencies, though it seems unlikely in this instance given the current make-up of
 Congress.
- Depending on how the increased border enforcement is implemented, this EO could result in more separation of children from their parents or guardians.

TOPIC 4: REPEAL OF PRIOR ADMINISTRATION ACTIONS

"Additional Rescissions of Harmful Executive Orders and Actions" EO (3/14/25)

Rescinds eighteen EOs covering wide-ranging topics

- Includes rescission of several EOs relevant to education and child services, including:
 - <u>Executive Order 14119</u> (Scaling and Expanding the Use of Registered Apprenticeships in Industries and the Federal Government and Promoting Labor-Management Forums)
 - <u>Executive Order 14126</u> (Investing in America and Investing in American Workers)
 - Executive Order 14112 (Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination)
 - <u>Executive Order 14026</u> (Increasing the Minimum Wage for Federal Contractors)

Analysis

- These newly-rescinded EOs join the more than 50 EOs and actions that President Trump rescinded on his first day in office (listed in the next row).
- A number of these EOs dealt with issues relating to the workforce. For instance, President Trump rescinded an EO issued by President Biden that established a \$15 minimum wage for federal contractors. He also rescinded an EO that promoted Registered Apprenticeships to meet employers' needs while investing in workers' skills. The Biden Administration had worked extensively to establish Registered Apprenticeships to increase the pipeline of K-12 teachers, increasing the number of states with recognized Registered Apprenticeships from two in 2021 to nearly 50 in 2024. The President also rescinded an EO that prioritized certain activities with investments provided through the Bipartisan Infrastructure Law, Inflation Reduction Act, and CHIPS & Science Act, including projects that provided family sustaining wages to workers, including those workers operating in the care economy.
- Additionally, the President rescinded an EO that strove to enhance tribal self-governance by asking agencies to (1) identify chronic shortfalls in federal funding to Tribal Nations; and (2) reduce administrative burdens by designing and administering funding programs in ways that provide Tribal Nations with greater autonomy and flexibility. Flexibilities, like the ones called for in the now-rescinded EO, have been crucial in Tribal Nations' ability to effectively steward federal funding for young children, particularly through funds reserved to Tribes under the Head Start and Child Care and Development Block Grant Acts.

Notes

Summary

• With this action, President Trump has rescinded nearly two-thirds of the EOs issued by President Biden.

"Initial Rescissions of Harmful Executive Orders and Actions" EO (1/20/25) Summary Rescinds approximately eighty EOs and PMs issued during the Biden Administration that addressed wide-ranging topics. • The EO reinforces this Administration's preference for eliminating completely any prior measures to promote DEI in the federal workforce, apply an equity

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- Reverses Biden Administration policies that the new Administration deems "deeply unpopular, inflationary, illegal, and radical" and aims to "restore common sense to the Federal Government and unleash the potential of the American citizen."
- Includes rescission of several EOs and PMs about education, including EOs that:
 - Advanced racial equity and supported underserved communities across the federal government, spurring federal agencies to create equity action plans to assess how policies perpetuate systemic barriers to opportunity, and how agencies would address those barriers;
 - Established White House Initiatives dedicated to advancing equity of opportunity for particular populations of students and certain institutions, including initiatives dedicated to advancing educational equity, opportunity, and economic advancement for Hispanics, Native Americans, and Black Americans, and to strengthening Tribal Colleges and Universities and Hispanic Serving Institutions;
 - Ensured the Census counted non-citizens;
 - Established the first-ever Gender Policy Council, dedicated to coordinating interagency efforts to promote equity of opportunity, particularly for women; and
 - Advanced DEI in the federal workforce.

- lens to federal policies and programs, or focus on the welfare of any particular group of people.
- Notably, certain other EOs from the Biden
 Administration were retained, including the EO on
 Increasing Access to High-Quality Care and
 Supporting Caregivers. This EO drove actions across
 the federal government to support the care economy,
 including child care. While many directives from that
 EO have been achieved, some remain outstanding.

Notes

- During his term, President Biden released approximately 160 EOs. These initial rescissions effectively cut the number of effective EOs issued by President Biden in half.
- As discussed in an earlier row above, President Trump also separately <u>rescinded</u> a 1965 executive order (EO 11246) from the Lyndon B. Johnson Administration that has been a hallmark of the civil rights era by ensuring anti-discrimination protections for employees of federal contractors and subcontractors.
- On 2/10/25, USED initiated rulemaking to reverse recent changes by the Biden Administration to CTE reporting requirements under Perkins.

TOPIC 5: MANAGEMENT OF THE FEDERAL GOVERNMENT AND WORKFORCE

"Continuing the Reduction of the Federal Bureaucracy" EO (3/14/25)	
Summary	Analysis
 Reduces several federal entities to minimize their functions Eliminates the "non-statutory components and functions" of the seven entities 	 The EO eliminates(or greatly diminishes) IMLS, an independent federal agency that administers more than \$200 million in grants to libraries and museums
including the Institute of Museum and Library Services (IMLS).	across the country. IMLS grantees promoted literacy and fostered ties to

• Reduces the "performance of their statutory functions and associated personnel to the minimum presence and function required by law."

strengthen school libraries. According to its <u>authorizing statute</u>, all library programs supported by IMLS must "[p]romote literacy, education, and lifelong learning, including by building learning partnerships with school libraries in our nation's schools . . . and developing resources, capabilities, and programs in support of state, Tribal, and local efforts to offer a well-rounded educational experience to all students."

- The EO's language about "minimum presence" and "statutory functions" echoes the Administration's statements about the USED RIF and other efforts to reduce the federal government. As in that context, legal challenges may arise from whether the Administration's cuts and layoffs go too far.
- On 3/31/25, there were multiple media reports that all or nearly all IMLS staff have been placed on administrative leave for up to 90 days. News reports indicate that many, if not all, IMLS grants have been terminated as well.
- **LAWSUIT:** On 4/4/25, twenty-one states <u>filed</u> a lawsuit challenging this EO and have since moved for a preliminary injunction. On 5/6/25, the court issued a <u>preliminary injunction</u> preventing the federal government from enforcing the EO against the IMLS, MBDA, and FMCS.
- **LAWSUIT:** On 4/7/25, the American Library Association <u>filed</u> a similar suit in Washington, DC, and sought a preliminary injection. At a 4/30/25 hearing, the plaintiff converted the request to a TRO. On 5/1/25, the court issued a <u>temporary restraining order</u> prohibiting further terminations during the proceedings.

Department of Health and Human Services Suspends Notice and Comment Rulemaking (2/28/25)		
Summary	Analysis	
 Abandons long standing HHS practice allowing for public comment on new rules and regulations Releases a federal notice immediately suspending notice and comment rulemaking for any HHS rules that relate to agency management and personnel, public property, loans, grants, benefits, and contracts. Indicates that HHS may also take advantage of current "good cause" exemptions in the Administrative Procedure Act (APA) that allow the agency to avoid notice and comment rulemaking when the agency finds the procedure "impracticable, unnecessary, or contrary to the public interest." 	 HHS, and other agencies, have engaged in notice and comment rulemaking for most matters to gather meaningful input from the public before taking certain actions relating to the agency's administration and the programs it oversees. The former general counsel to HHS believes that this will affect rules relating to the Administration for Children and Families, and the Substance Abuse and Mental Health Services Administration. In the past several years, ACF finalized substantial rules that benefited from public input facilitated by the notice and comment process, including rules relating to Head Start, the Child Care & Development Block Grant, and child welfare. 	

• HHS was able to do this by rescinding a waiver (known as the Richardson waiver) that had been in place since 1971. Under the Richardson waiver, HHS did not take advantage of a flexibility available in the APA that exempted certain topics from notice and comment rulemaking. Under this new approach, HHS will take full advantage of that APA flexibility.

"Implementing the President's 'Department of Government Efficiency' Cost Efficiency Initiative" EO (2/26/25)

Summary

Initiates reviews of every type of federal payment with a priority on education contracts and grants

- Creates new requirements for how agencies prepare and approve any payment of federal funds, including submitting "brief written justifications" for every single payment that can be reviewed by the Agency heads.
- Orders each agency, within 30 days (i.e., 3/28/25) and in consultation with DOGE, to "review all...contracts and grants and, where appropriate and consistent with applicable law, terminate or modify (including through renegotiation) such covered contracts and grants to reduce overall Federal spending or reallocate spending to promote efficiency and advance the policies of my Administration."
 - Prioritizes for that review all of the contracts and grants to "educational institutions and foreign entities" to identify any "waste, fraud, and abuse" (emphasis added).
- Orders each agency, within 30 days (i.e., 3/28/25) to also comprehensively review its contracting policies, procedures, and personnel. During this review, the EO directs agencies not to issue or approve new contracts without an Agency head's approval.

Analysis

- The increased requirements for processing federal payments, combined with the reductions in staffing, may create frequent delays in payments to funding recipients.
- The new requirements could also potentially provide the infrastructure for more frequent interference with implementation of federal education grants/contracts as well as more frequent terminations.
- The explicit prioritization of reviewing—and potentially terminating or modifying—grants and contracts to educational institutions (and foreign entities) could be a reference to DOGE's initial focus on IES (and USAID) and/or it could pave the way for more terminations as part of the 30-day review.

"Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative" EO (2/19/25)

Summary

Initiates a government-wide effort to reduce regulations, pull back on enforcement of existing rules, and limit new rulemaking

Begins a process to rescind existing regulations by requiring every agency
to provide OMB within 60 days (i.e., 4/19/25) a list of regulations that fall
into any of seven categories, including "unconstitutional" rules but also
those "based on anything other than the best reading of the underlying
statutory authority" or ones that "harm the national interest by
significantly and unjustifiably impeding technological innovation,

Analysis

• Two of the seven categories draw from recent Supreme Court decisions about the power of federal agencies to regulate. Category (iii)'s reference to "best reading" matches the language in the recent Loper Bright decision overturning the Chevron doctrine and its longstanding deference to federal agencies' interpretation of ambiguous statutory language. Category (iv)'s reference to "significance" likely is invoking the Court's "major questions" doctrine that constrains what agencies can address via regulation.

- infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives" (see the full list in the Notes column to the right).
- Directs OMB to consult with the agency heads to develop a Unified Regulatory Agenda to "rescind or modify these regulations, as appropriate."
- Announces that agencies should "de-prioritiz[e] actions to enforce
 regulations that are based on anything other than the best reading of a
 statute and de-prioritiz[e] actions to enforce regulations that go beyond
 the powers vested in the Federal Government by the Constitution."
- Directs agencies to—"on a case-by-case basis and as appropriate and consistent with applicable law"— terminate existing enforcement actions if those proceedings "do not comply with the Constitution, laws, or Administration policy."
- Inserts DOGE into any new rulemaking, requiring agencies to consult with the DOGE Team Leads (and OMB) in deciding whether to promulgate any new rules.

- There may be significant variation among agencies in terms of how they interpret the seven categories—especially the "best reading" and "harm the national interest" ones—and apply them to agencies' existing regulations. The EO calls on OMB to issue implementation guidance, which may provide more clarity on these categories.
- The EO says agencies should "prioritize review" of the type of major rules that are also covered by the Congressional Review Act (CRA), which allows a new Congress to overturn some regulations if they were finalized in the last few months of the prior Congress.
 - But the EO does not mention the CRA in its provision about what OMB and the agencies will do with the lists provided to them.
 - Regarding the CRA's timing, the <u>Congressional Research Service</u> estimates that Congress could submit resolutions of disapproval by March and take advantage of CRA fast-track procedures to disapprove regulations in May or June. Depending on the speed of OMB's work implementing this EO, they may be able to identify regulations that are in the CRA window (i.e., those finalized after August 2024) and overturn them with just majority votes in Congress.
- With limited resources, agencies always have to make decisions about what
 enforcement actions to prioritize; however, the inclusion of "Administration policy"
 alongside the Constitution and laws in the EO suggests enforcement decisions may
 treat those as equally weighted in making enforcement decisions.

- The seven categories are:
 - (i) unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution;
 - (ii) regulations that are based on unlawful delegations of legislative power;
 - (iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition;
 - (iv) regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority;
 - (v) regulations that impose significant costs upon private parties that are not outweighed by public benefits;
 - (vi) regulations that harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and
 - (vii) regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.
- On 4/9/25, President Trump issued a <u>memo</u> that provides additional instructions to federal agencies implementing this EO. The memo directed the evaluation of existing regulations under ten recent Supreme Court decisions, including *Loper Bright, SFFA*, and *Carson v. Makin*. Notably, the memo states the deregulation will take place "without notice and comment, where doing so is consistent with the 'good cause' exception in the [APA]."

"Implementing The President's 'Department of Government Efficiency' Workforce Optimization Initiative" EO (2/11/25)

Summary

Seeks to reduce the federal workforce through replacement ratios, hiring approval, and reductions in force.

- Requires OMB to submit a plan to reduce the size of the federal government's workforce, requiring "that each agency hire no more than one employee for every four employees that depart."
- Places a DOGE Team Lead at the top of each agency's hiring plans just below the agency lead (e.g., Secretary), with authority to decide which vacancies an agency can fill and to consult on every individual career hire.
- Instructs all agencies to prepare for "large-scale reductions in force, consistent with applicable law," prioritizing offices not mandated by statute or law, including "all agency diversity, equity, and inclusion initiatives; all agency initiatives, components, or operations that my Administration suspends or closes; and all components and employees performing functions not mandated by statute or other law who are not typically designated as essential during a lapse in appropriations" (i.e., a "government shutdown").
- Directs agency heads within 30 days to submit a report that, among other things, addresses "whether the agency or any of its subcomponents should be eliminated or consolidated."
- Exempts "any position [Agency Heads] deem necessary to meet national security, homeland security, or public safety responsibilities."

Analysis

- Regarding the impact of the reductions in force, each agency varies in the number and percentage of employees designated "essential." According to a March 2024 memo, 90% of USED employees would have been furloughed during a potential government shutdown, keeping only 10% to perform necessary "exempt" and "excepted" activities. A similar percentage was outlined in a 2023 contingency plan. The Administration for Children and Families at HHS would have only been able to retain 40% of its staff, based on contingency planning conducted by HHS. But running USED and other critical child-serving agencies in normal times and running them during a government shutdown are quite different undertakings. Should USED and ACF be reduced to 10% and 40% capacity, respectively, the agencies will likely be unable to provide support to states and districts and to carry out Congressional mandates.
- Reductions in force could also significantly limit oversight at every agency, including civil rights protections at the USED, technical assistance and oversight operations at HHS for programs relating to early childhood, as well as research activities at IES and NSF.

- LAWSUIT: Labor unions have <u>sued</u> to challenge this EO. On 3/6/25, 20 states <u>sued</u> in a Maryland federal court to challenge this EO and block massive RIFs it calls for.
- Multiple agencies, including <u>USED/IES, HHS</u>, <u>NSF</u>, and the <u>Bureau of Indian Education</u> have carried out mass layoffs of probationary employees. The impact differs across agencies, with NSF reportedly losing 11% of the overall staff.
- On 2/28/25, USED reportedly offered its staff a \$25,000 "Voluntary Separation Incentive Payment" to leave the agency "in advance of a very significant Reduction in Force." Staff were given until the end of 3/3/25 to accept the offer.
- **LAWSUIT:** On 2/27/25, a federal judge in California <u>issued</u> a TRO ordering the Office of Personnel Management (OPM) to rescind its previous directives to more than two dozen agencies to terminate probationary employees. The TRO halts further terminations but does not affect the status of those already terminated.
- **LAWSUIT:** On 3/13/25, two federal judges ordered almost all federal agencies (including USED) to immediately reinstate the fired probationary employees (TRO in <u>Maryland</u>; preliminary injunction in <u>California</u>).
 - o On 3/24/25, the Administration asked the Supreme Court to intervene in the California case. The TRO in the Maryland case has been left in place by an appeals

court, but the judge is considering whether to narrow the scope of the initial TRO.

- **LAWSUIT:** On 4/28/25, a group of unions, localities, and other entities <u>filed suit</u> in California seeking an injunction and/or vacatur of RIFs across various agencies. The court has scheduled a TRO hearing on 5/9/25.
 - NEW: On 5/22/25, the court issued a preliminary injunction halting RIFs and reorganizations at 22 federal agencies including OMB, OPM, DOGE (USDS), USDA, Commerce, Energy, HHS, HUD, Interior, Labor, State, Treasury, Transportation, VA, AmeriCorps, Peace Corps, EPA, GSA, NLRB, NSF, SBA, and SSA. The injunction halts these actions while the lawsuit proceeds; the Administration has appealed the ruling to the Ninth Circuit Court of Appeals. On 6/2/25 the 9th Circuit Court of Appeals denied the Administration's request for a stay, leaving the injunction in place while the district court hears the full case.

"Restoring Accountability to Policy-Influencing Positions within the Federal Workforce" EO (1/20/25)

Summary

Reinstates and amends the prior Trump EO establishing a new classification of federal employees involved in policy-influencing roles to make them at-will employees (previously "Schedule F").

- Moves civil servants in policy-influencing roles (i.e., those that are "confidential, policy-determining, policy-making, or policy-advocating [in] character") to the excepted services under the new schedule "Policy/Career." This removes certain civil service protections and makes it easier to hire and remove individuals from these roles.
- States, as a basis for the EO, that "there have been numerous and well-documented cases of career federal employees resisting and undermining the policies and directives of their executive leadership."
- Instructs the heads of federal agencies to conduct a full review of all positions within 210 days (i.e., 8/18/25) and determine which positions should be reclassified under this new schedule.

Analysis

- The EO could significantly affect employees at federal agencies, including USED, by altering the employment status of "policy-influencing" career employees. Conversion to this new schedule will subject them to at-will employment, which may lead to increased turnover that would impact the sustainability, efficacy, and operations of federal programs.
- Substantively, the career employees likely affected by this EO often play
 a critical role in ensuring agencies implement laws consistent with how
 they are written, acting as impartial "referees." Replacing them or
 making them more subject to political pressure could have significant
 implications for agency hiring, implementation, rulemaking, etc.
- The EO gives each agency head broad authority to make determinations about which employees should be covered by this new schedule.

Notes

- LAWSUIT: The National Treasury Employees Union representing federal workers at 37 federal agencies filed a lawsuit seeking to reverse the EO.
 - o At least three other parallel lawsuits have been filed challenging this EO.
- The Office of Personnel Management has begun <u>formal rule-making</u> to implement this EO.

"Restoring Accountability for Career Senior Executives" EO (1/20/25)

Summary

Creates more accountability for senior executive service officials.

- Seeks to provide greater oversight and transparency into the performance and conduct of Senior Executive Service (SES) officials through certain actions.
- Requires the Office of Personnel Management (OPM) to create SES performance plans within 30 days (i.e. 2/20/25) that agencies must adopt.
- Directs agency heads to "reassign agency SES members to ensure their knowledge, skills, abilities, and mission assignments are optimally aligned to implement my agenda."
- Notes that those "who engage in unauthorized disclosure of Executive Branch deliberations, violate...constitutional rights..., refuse to implement policy priorities, or perform their duties inefficiently or negligently should be held accountable."
- Underscores that agency heads should take action, including removal, against SES officials whose performance does not align with the principles outlined in the EO or their statutory duties.

Analysis

 The EO's statement that SES employees should be reassigned to ensure alignment with the Administration's agenda may mean that certain officials would be moved from their current position if there are perceived obstacles. It also may function to intimidate career officials, whose role in our nonpartisan civil service includes not acting in accordance with executive pressure when that contradicts federal law.

"Reforming the Federal Hiring Process and Restoring Merit to Government Service" EO (1/20/25)

Summary

Overhauls federal hiring practices to purportedly prioritize merit.

- Criticizes procedures as "broken, insular, and outdated," asserting they no longer emphasize "merit, practical skill, and dedication to the Constitution."
- References specific factors in hiring that may indicate a "commitment to illegal racial discrimination under the guise of 'equity'" and the "invented concept of 'gender identity."
- Mandates the development of a Federal Hiring Plan by 120 days (i.e., 5/20/25), crafted by several offices including the new United States DOGE Service (USDS).
- The Plan would reduce the government-wide time to hire to under 80 days, and "prevent the hiring of individuals based on their race, sex, or religion, and prevent the hiring of individuals who are unwilling to defend the Constitution or to faithfully serve the Executive Branch."

- Coupled with the actions to remove civil service protections from career federal employees and end all remote work, this EO could create a roadmap for the streamlining of government operations and reducing the overall size of the federal workforce. This could, in turn, reduce the frequency and/or quality of services provided by federal agencies to learners in early childhood settings, K-12 schools, and institutions of higher education. It may also hinder agencies' ability to conduct meaningful oversight of federal programs or to provide technical assistance to grantees.
- Reducing the time for hiring to 80 days could help quickly refill the ranks in government offices that experience attrition or high vacancies owing to eliminations carried out by the Administration.

Notes

- President Trump also <u>issued an EO</u> requiring agency heads to take all appropriate steps to have federal employees return to in-person work full time. This may drive staff attrition at some agencies.
- President Trump also <u>issued an EO</u> establishing a hiring freeze and requiring the head of the Office of Management and Budget to establish a plan to reduce the size of the federal government.

"Establishing and Implementing the President's 'Department of Government Efficiency" EO (1/20/2025)

Summary

Establishes the United States DOGE Service (USDS) as a temporary organization within the Executive Office of the President, replacing the existing United States Digital Service.

- Establishes the role of a USDS Administrator who will begin an effort to "improve the quality and efficiency of government-wide software, network infrastructure, and information technology (IT) systems."
- Charges the USDS Administrator to work with other federal agencies to promote interoperability between agency networks and systems, ensure data integrity, and facilitate responsible data collection and synchronization.

Analysis

While the focus of this EO is on IT efficiency and data interoperability, it also references President Trump's "DOGE agenda," which likely maintains DOGE's role – as widely reported prior to the Inauguration – in seeking to recommend substantial cuts to the federal budget. Although USED is a relatively small federal agency, this EO could be part of a larger effort to shrink or even dismantle USED.

Notes

- LAWSUIT: At least 18 lawsuits have been filed to challenge this EO and various actions taken by the DOGE team across multiple agencies. One suit by the University of California Student Association is challenging DOGE access to USED data systems, including federal student aid; on 2/17/25 the judge denied the motion for a temporary restraining order, finding that mere "access" to data does not cause irreparable harm. That lawsuit was dismissed on 4/16/25.
- **LAWSUIT:** The AFT and four other unions <u>filed</u> a similar suit in Maryland. On 2/24/25, the court <u>issued</u> a temporary restraining order preventing USED and OPM from sharing the plaintiffs' personal information with DOGE (finding likely violations of the Privacy Act and the APA).
 - on 3/24/25, the court <u>replaced</u> the TRO with a preliminary injunction that will be in place throughout the remainder of the lawsuit, protecting the plaintiffs' (and their members') personal information.

TOPIC 6: OTHER ACTIONS AFFECTING CHILDREN, STUDENTS & FAMILIES

"Establishment of the Religious Liberty Commission" EO (5/2/25)

Summary

Creates a commission to advise the White House Faith Office and the Domestic Policy Council on religious liberty policies

- Tasks the newly-formed Commission with, among other responsibilities, producing a report on the history and contemporary threats to domestic religious liberty and recommended strategies for addressing concerns.
- Includes in the topics of the report the following education items: "the First Amendment
 rights of teachers [and] students;...vaccine mandates; parents' authority to direct the care,
 upbringing, and education of their children, including the right to choose a religious
 education; permitting time for voluntary prayer and religious instruction at public schools;
 [and] government displays with religious imagery."

Analysis

- While the EO does not specifically address education, nearly half of the topics assigned to the Commission build on long held conservative education priorities (including school choice and religious expression in public schools) and newer causes (like vouchers for religious education and vaccine exemptions).
- The Commission itself does not have the authority to enact its recommendations but a <u>companion fact sheet</u> connects its work to cross-government efforts to counter antisemitism and the newly established DOJ "<u>Task Force to Eradicate Anti-Christian Bias</u>."

Notes

• INEW: On 5/17/25, USED dismissed a \$37.7 million fine against Grand Canyon University (GCU), the largest Christian school in the country, after GCU presented during the Religious Liberty Commission's first meeting. USED levied the fine in 2023 after finding that the school misrepresented the cost of its postgraduate programs to prospective students. The university claimed it was "unjustly targeted" because of its religious affiliation.

"Advancing Artificial Intelligence Education for American Youth" EO (4/23/25)

Summary

Prioritizes "appropriate integration" of AI in K-12 education through multiple initiatives, policy shifts, and partnerships to help students and teachers achieve "AI literacy and proficiency" and to develop an "AI-ready workforce"

- Establishes a White House Task Force on Artificial Intelligence Education chaired by the Director of the Office
 of Science and Technology Policy and including the Secretaries of Agriculture, Labor, Energy and Education;
 the Director of the NSF, and the Special Advisor for Al & Crypto.
- Charges the Task Force with implementing the EO including, among other things, establishing public-private
 partnerships to develop resources "focused on teaching K-12 students foundational AI literacy and critical
 thinking skills," and better connecting SEAs and LEAs to existing federal funding to help advance AI
 integration.
- Establishes a "Presidential Artificial Intelligence Challenge" competition to "encourage and highlight student and educator achievements in AI, promote wide adoption of technological advancement, and foster

- The EO establishes AI as a K-12 education priority for the Administration, centering AI literacy and "competency" as a foundational skill across subjects, though the EO does not propose new investments for this purpose.
- There is a potential tension between this new federal education priority and the Administration's other efforts to reduce the federal role in education, including likely efforts to reduce or eliminate the same federal teaching training programs that the EO identifies as key means for advancing the EO's goals.

- collaboration between government, academia, philanthropy, and industry to address national challenges with AI solutions."
- Requires USED, within 90 days (i.e., 7/22/25), to issue guidance on the use of existing formula and discretionary grant funds for AI in education, "including but not limited to AI-based high-quality instructional resources; high-impact tutoring; and college and career pathway exploration," and to take action to leverage existing R&D programs to help advance AI integration.
- Requires USED, NSF, and USDA, within 120 days (i.e., 8/21/25), to enhance teacher training on the use of Al in education, including via discretionary grant programs and research programs.
- Requires DOL to prioritize Registered Apprenticeships in Al-related occupations, encourage states to use
 Workforce Innovation and Opportunity Act funding to develop Al skills and related work-based learning, and
 collaborate with USED and NSF to promote high-quality Al courses and certifications.

- The EO does not include definitions of key terms such as AI "literacy," "competency," and "proficiency."
- Across all sections, the EO relies on existing funding or programs, many of which have also been targeted for cuts or elimination.
- The EO includes notable specificity regarding implementation. For example, resources developed via new public-private partnerships must be "ready for use in K-12 instruction" within 180 days (i.e. 10/20/25) of the announcement of such partnerships.

"Preparing Americans for High-Paying Skilled Trade Jobs of the Future" EO (4/23/25)

Summary

Initiates an effort to improve workforce development programs with priorities for aligning to "in-demand" skills and occupations, Registered Apprenticeships, and outcomes transparency.

- Establishes U.S. policy "to optimize and target Federal investments in workforce development to align with our country's reindustrialization needs and equip American workers to fill the growing demand for skilled trades and other occupations." The EO further establishes a policy to "protect and strengthen Registered Apprenticeships."
- Requires from USED, DOL, and Commerce a comprehensive workforce development strategy, within 90 days (i.e., 7/22/25), that must identify:
 - Opportunities for reforming and consolidating programs to improve integration, alignment to the modern economy, and program quality;
 - Proposals to improve or eliminate ineffective programs;
 - Statutory authorities to promote innovation and system integration;
 - Ways to "upskill[] incumbent workers to meet rapidly evolving skill demands" including the use of AI;
 - Plans to identify more "alternative credentials and assessments to the 4-year college degree"; and
 - Ways to streamline data collection.
- Requires USED, DOL, and Commerce to submit a plan within 120 days (i.e., 8/21/25) to surpass one million new active
 Registered Apprentices, including ways to expand this workforce model to new sectors, improve and scale it, and better
 connect it to K-12 CTE programming.

- Strengthening the workforce development system has generally enjoyed broad support, including a bipartisan bill that has made some progress in Congress and supportive questions and answers during confirmation hearings for the Secretaries of Education and Labor.
- The EO's emphasis on Registered Apprenticeships for new industries and occupations represents a shift from the first Trump Administration.
- The EO reinforces GOP support for alternative credentials aligned to the needs of employers rather than a pathway to a 4-year college degree, including upskilling workers to succeed in the use of AI in the workplace.

Requires USED, DOL, and Commerce to improve outcomes transparency including on the performance outcomes of
workforce development programs and credentials supported through federal investments, including earnings and
employment data.

"Transparency Regarding Foreign Influence at American Universities" EO (4/23/25)

Summary

Establishes as a priority stronger enforcement of the HEA requirement that institutions of higher education disclose significant sources of foreign funding.

- Directs USED to take several actions, including:
- Undoing related actions by the Biden Administration,
- Requiring more specific details from IHEs about foreign funding (including the "true source and purpose of the funds"),
- Providing the public with more access to the disclosed information, and
- Working with other agencies to conduct audits and investigations that may also lead to referrals to DOJ for enforcement.
- Requires USED and other agencies to ensure that IHEs certify their compliance with HEA's foreign funding disclosure requirements as a "material condition" under the False Claims Act and/or for purposes of potentially rescinding federal funding from the IHE.

Analysis

- Section 117 of HEA "establishes foreign gift and contract reporting requirements for certain domestic public and private institutions that: (1) offer a bachelor's degree or higher (or offer a transfer program of at least two years), (2) are accredited by a nationally recognized accrediting agency, and (3) receive federal financial assistance. IHEs must report all foreign gifts and contracts that alone, or in combination with all others from the foreign source, total \$250,000 or more in a calendar year."
- There has been some bipartisan support in the House for expanding oversight and
 disclosure requirements related to foreign sources of funding and IHEs. On 3/27/25,
 the House passed H.R. 1048 (the DETERRENT ACT) by a bipartisan vote of 241-169,
 with 31 Democratic members joining all but one Republicans.
- The EO's elevation of potential liability under the False Claims Act parallels USED's
 recent request that SEAs and LEAs submit a "DEI" certification (since enjoined by
 federal courts). This and other threats to federal funding are part of an ongoing effort
 to pressure certain IHEs to change policies and practices disfavored by the
 Administration.

- On 4/18/25, the week before this EO was issued, USED <u>requested</u> records from Harvard University related to this same disclosure requirement; the request included a federal funding threat for noncompliance: "Noncompliance risks [DOJ] enforcement, including civil actions, or loss of federal funding eligibility."
- On 4/25/25, USED <u>announced</u> that it has initiated a "Notice of Investigation and Records Request" to the University of California, Berkeley. USED took this formal step following earlier exchanges with the university, alleging Berkeley has a "fundamental misunderstanding regarding its Section 117 reporting obligations."
- On 5/8/25, USED announced a similar Section 117 investigation into the University of Pennsylvania.

"Establishing the President's Make America Healthy Again Commission" EO (2/13/25)	
Summary	Analysis

Creates new commission to address childhood disease

- Establishes the President's Make America Healthy Again Commission, chaired by the Secretary of HHS and includes the Secretary of USED and other agency heads.
- Instructs the Commission within 100 days to submit an assessment on childhood chronic disease, including efforts to "assess the threat that potential over-utilization of medication, certain food ingredients, certain chemicals, and certain other exposures pose to children with respect to chronic inflammation or other established mechanisms of disease," as well as identifying best practices for preventing childhood health issues, and evaluating the effectiveness of current Federal Government childhood health data and metrics, among other information.
- Charges the Commission to develop corresponding government-wide policies and strategies.
- Requires within 100 days (i.e., 5/24/25) an assessment by the Commission that includes a report on best practices with respect to childhood health.
- Requires within 180 days (i.e., 8/12/25) a strategy by the Commission that includes "adding powerful new solutions that will end childhood chronic disease."

 The Commission is chaired by the Secretary of HHS, but includes other federal agencies, such as the Department of Agriculture (AG). The inclusion of AG may lead to recommendations associated with child nutrition, including potential changes to the Supplemental Nutrition Assistance Program (SNAP) and the special supplemental nutrition program for Women, Infants, and Children (WIC).

Notes

• On 2/18/25, Sec. Kennedy said during <u>public remarks</u> that the commission would investigate the use of vaccinations to see if they contribute to the rise of chronic illness.

"Keeping Education Accessible and Ending COVID-19 Vaccine Mandates in Schools" EO (2/15/2025)

Summary

Seeks to prevent federal funds from supporting schools and institutions of higher education that require students to receive COVID-19 vaccine for in-person education programs.

- Directs the Secretary of Education to issue guidelines to K-12 and higher ed institutions "regarding those entities' legal obligations with respect to parental authority, religious freedom, disability accommodations, and equal protection under law, as relevant to coercive COVID-19 school mandates."
- Requires USED and HHS within 90 days to develop a plan to end COVID-19 school
 mandates, consistent with applicable law. The plan shall include a process for
 rescinding funds from non-compliant entities as well as legislative proposals.

- Reporting suggests that there are relatively very few K-12 systems or higher education institutions that still have COVID-19 vaccine mandates:
 - No states mandate this vaccine in K-12, and several states have already banned such a mandate.
 - According to <u>one advocacy group</u>, only 15 institutions of higher education have a COVID-19 vaccine mandate as of 2/15/25.
- The EO does not establish a timeline for compliance.
- Both the EO and the <u>fact sheet</u> released with it include mentions of government overreach and parental rights.