EducationCounsel Alert for July 23, 2026

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

In addition to this week's Alert, please also see the following new resources:

➔ ***Making Medicaid Work Requirements Work for Home-Based Child Care Providers*** analyzes how new Medicaid work requirements and recent federal implementation guidance may affect home-based child care providers' ability to maintain health coverage. This resource provides background on the importance of home-based child care, explains considerations related to documenting income and work hours, identifying exemptions, and demonstrating compliance with new requirements. The piece also highlights opportunities to reduce administrative burden during implementation specifically as it relates to home-based child care providers.

➔ ***The Inclusion-of-All-Talent Framework*** supports strategic action by education and research leaders to lawfully recognize all promise and include all talent, in both words and deeds. This resource includes an overview of the framework along with model language that leaders can use as a customizable template to help describe institution- or organization-specific inclusive missions in a range of contexts. The framework and model language are companion resources to EducationCounsel's *Wise Courage* and *Navigating the Post SFFA Federal Landscape*, which provide more detailed guidance with examples of many lawful and wise actions that remain legally available to help advance inclusive policies, systems, and programs.

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

1. USED and HHS Eliminate Disparate Impact Provisions from Title VI Regulations

On 7/23/26, the U.S. Departments of Education (USED) and Health and Human Services (HHS) both issued final rules—without notice and comment rulemaking—rescinding several provisions of their longstanding regulations under Title VI of the Civil Rights Act of 1964 that prohibit disparate impact discrimination. (Click to access USED's press release and unpublished rule and HHS's press release and unpublished rule. Both rules are scheduled to be officially published in the Federal Register tomorrow, which is also when they will go into effect.) USED's and HHS's rules follow similar actions by other agencies, including the U.S. Departments of Justice (DOJ) and Labor (DOL).

In contrast to situations where there is explicit evidence of *intentional* discrimination, the disparate impact standard has been used to identify facially neutral policies or practices that have an unlawful discriminatory *effect* under federal civil rights laws. USED's press release mischaracterizes the standard by claiming that under the rescinded regulations "demographic data alone" could establish a Title VI violation and that OCR has, under prior administrations, found discrimination "solely because data indicated the school disciplined more minority students." But under the disparate impact standard, disparity alone does not prove discrimination. Rather, a recipient of federal funds could be found to have violated the (now-rescinded) Title VI disparate impact standard when (1) the recipient's facially-neutral actions result in a significant disparate impact by race, color, or national origin, *and* either (2) those actions do not serve a legitimate purpose, or (3) there are equal or better alternatives that fulfill the recipient's legitimate purpose but with a lesser disparate impact.

These regulatory rescissions by USED, HHS, and other agencies are part of the Trump Administration's government-wide effort to eliminate the disparate impact standards from federal civil rights enforcement, as called for in the President's 4/23/25 executive order, "Restoring Equality of Opportunity and Meritocracy." As we noted in our summary and analysis of that EO, the President did not only call on the federal government to stop using the disparate impact standard in its civil rights enforcement work. The EO also called on the DOJ to identify other laws or decisions—including at the *state* level—that are about disparate impact and report back to the President about "any appropriate measures to address any constitutional or other legal infirmities." Along with another provision regarding "Future Agency Action," the EO instructs the DOJ to explore pathways for imposing throughout the nation (not just the federal government) the President's view that the disparate impact standard itself is discriminatory.

That said, the immediate effect of today's deregulatory actions is on the federal civil rights enforcement work of USED's and HHS's Offices of Civil Rights. Given that explicit evidence of intent can sometimes be hard to uncover, the disparate impact standard has been an essential tool for the federal government to remove unjustified barriers that can interfere with students' access to educational opportunities. But regardless of how OCR approaches its enforcement responsibilities, all recipients of federal funding must still comply with Title VI's prohibition of discrimination "on the ground of race, color, or national origin." Further, all USED grantees must also comply with the congressional mandate for equity in section 427 of General Education Provisions Act.[1] For more on the implications for education of the rescission of the disparate impact standard, please see our discussion of the DOJ's parallel move at the end of 2025.

- On a procedural point, USED and HHS each issued this as final without first proposing a rule and accepting public comment on it. To justify skipping the notice-and-comment typically required by the Administrative Procedures Act (APA), both agencies point to an exception in the law for "matters relating to agency management or personnel or to public property, loans, grants, benefits,

[1] "The Secretary [of Education] shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age." 20 U.S.C. § 1228a(b).

or contracts." As discussed in our 7/9/26 Alert, USED has indicated in its updated regulatory agenda that it plans to similarly proceed directly to a final rule for three other upcoming regulations addressing Title VI investigation and enforcement procedures, the application of Title VI to DEI initiatives, and the definition of "sex" under Title IX. It is possible that USED will rely on the same exception for those regulations as well.

2. House Republicans Advance Bills to Partially Dismantle USED

On 7/15/26, the House Education and Workforce Committee passed ten bills, with only Republican votes, that would permanently reassign significant functions and funds out of USED and into other federal agencies. The bills are structured identically, and each tracks one of the interagency agreements (IAAs) the Administration has been using to further its stated goal of dismantling USED by moving implementation of its major programs to other agencies absent congressional authority. The bills would thus go beyond codifying the IAAs—which divide responsibilities between USED and the partnering agencies—to completely cut out USED from any role in the following areas:

- Elementary and secondary education (H.R. 9610), higher education programs (H.R. 9611), and career and technical education and adult education (H.R. 9607), which would all move to the U.S. Department of Labor;
- Federal student aid (H.R. 9609), which would move to the U.S. Department of the Treasury;
- Child Care Access Means Parents in School program (H.R. 9606), foreign medical school accreditation (H.R. 9605), and family engagement programs (H.R. 9608), which would all move to the U.S. Department of Health and Human Services (HHS);
- International education programs (H.R. 9603) and oversight of foreign gifts reporting (H.R. 9602), which would both move to the U.S. Department of State; and
- Tribal education programs (H.R. 9604), which would move to the U.S. Department of the Interior.

The Committee's votes to advance the bills for full consideration by the House (if and when Speaker Johnson brings them to the floor) represent the first meaningful moves in Congress to act on President Trump's executive order calling for the elimination of USED. However, even if the full House were to pass them, these bills are unlikely to pass the Senate as 60 votes would be required.

It is notable that the House Committee did not consider bills that track the two most recent IAAs, which moved special education programs to HHS and civil rights enforcement to the U.S. Department of Justice. For additional context about the Administration's use of IAAs, see EducationCounsel's legal analysis, Beyond "The Maximum Extent Permitted By Law".

3. Federal Court Prohibits Terminating Grants on the Basis of New Priorities

On 7/17/26, a federal court in Massachusetts ruled in favor of a coalition of 24 states in their lawsuit challenging one of the Trump Administration's most utilized methods of terminating federal grants: citing the current administration's priorities to justify terminating grants awarded by prior administrations as "no longer effectuat[ing] agency priorities."

The court held that the Trump Administration was misusing a federal rule that allows agencies to terminate grants under certain circumstances. The court concluded: "After review of the plain language, regulatory scheme, regulatory history, the Spending Clause of the U.S. Constitution, and Defendants' argument regarding the implementation of the President's vision, the court agrees with Plaintiffs and finds that the Termination Clause does not permit agencies to terminate grants based on program goals and agency priorities identified after grants were awarded."

- In a related development, a week before the Massachusetts court issued its ruling, a coalition of 15 states filed a second lawsuit to block a second attempt by USED to terminate federally funded school mental health grants awarded pursuant to the Bipartisan Safer Communities Act (BSCA). Through the states' successful initial lawsuit, a federal court had prohibited USED from discontinuing the grants based on the Trump Administration's current priorities. According to the states' new lawsuit, however, USED plans to cancel "some or all" of the grants by using their authority to "terminate" grants in the middle of a budget period rather than their authority to "discontinue" them at the start of a new period. The new ruling from Massachusetts will likely be relevant to how this BSCA lawsuit proceeds.

4. DHS Finalizes Public Charge Rule

On 7/20/26, the Department of Homeland Security (DHS) finalized a rule rescinding the 2022 Public Charge regulation and thus restoring broader discretion for immigration officers to determine whether applicants for lawful permanent residence are likely to become dependent on certain government benefits in the future, which would make them a "public charge." This rule will go into effect on 9/18/26. The new rule eliminates the 2022 regulation that limited how officers can consider someone's participation in public benefits programs. Instead, officers will make a determination based on the "totality of the circumstances," with fewer regulatory guardrails governing which factors can be considered.

- In its new rule, DHS indicates that immigration officials may consider participation in a broad range of means-tested public benefits, including programs such as free and reduced school lunches, Head Start, child care subsidies, early intervention services, school meal programs, Medicaid, and WIC.

- The final rule also permits consideration of benefits received not by the person applying for residency but by their dependents and household members, raising concerns that benefits received by U.S. citizen children could influence immigration decisions involving their parents.

The broadening of immigration officers' discretion could create a chilling effect for eligible immigrant families, including those with U.S. citizen children, from accessing early learning, health care, nutrition, and housing assistance out of concern that doing so could jeopardize their immigration status. Although the change applies to a relatively narrow group of individuals seeking lawful permanent resident status, the effects of the new rule will likely extend well beyond those directly subject to a public charge review since even the possibility that participation in public programs could be considered in immigration decisions will likely lead eligible families to avoid services for which they qualify.

5. HHS Rescinds Funding Freeze on Five States & Related Updates on Child Care

On 7/8/26, HHS rescinded its January decision to freeze access to $10 billion in Child Care and Development Fund (CCDF), Temporary Assistance for Needy Families (TANF), and the Social Services Block Grant (SSBG) funding for California, Colorado, Illinois, Minnesota, and New York (an example of the agency's communication can be found here). HHS also withdrew the state data requests and funding restriction letters that had prompted litigation earlier this year and resulted in a federal court injunction preventing the agency from withholding funds or imposing additional reporting requirements. (See our 2/19/26 Alert for more information.) This action ends the challenged review processes and restores access to federal child care and family assistance program funds in these states. Related developments include:

- On 7/20/26, the ACLU and other civil rights groups filed a lawsuit against HHS over its failure to respond to a Freedom of Information Act (FOIA) request seeking communications between HHS officials and the social media influencer whose videos of the Minnesota child care providers initially prompted the Administration's review of state child care programs and the (now-rescinded) freeze on federal funds. The groups argue that public disclosure is necessary to better understand the basis for HHS's decision to restrict funding earlier this year.

- On 7/14/26, Senators Cassidy (R-LA) and Tuberville (R-AL) introduced the "Strengthening Transparency and Oversight to Prevent (STOP) Child Care Fraud Act." This legislation would increase federal oversight of the Child Care and Development Block Grant (CCDBG) funds. This bill closely follows the discussion draft released by Cassidy and Tuberville in March (see our analysis on the discussion draft here). This legislation would, among other things, increase eligibility verification requirements, expand federal oversight and reporting requirements, and increase federal control over state-administered child care programs.

6. DOJ Advances Investigations into Medical School Admissions

On 7/20/26, DOJ concluded its investigation into the use of race (or its proxies) in admissions by University of California San Diego School of Medicine (San Diego Med). Investigators reviewed admissions data from 2022–2025, including the period before and after the Supreme Court's 2023 ruling in *Students for Fair Admissions v. Harvard*, as well as university records to determine San Diego Med violated Title VI. Notably, San Diego Med changed its admissions practices after *SFFA* to no longer factor in an applicant's membership in an "underrepresented minority" group to determine whether they would receive an interview. The school instead implemented a race-neutral "hardship" consideration, such as geographic location or parental education or income—a practice that DOJ in its letter of findings deemed an impermissible "racial proxy, specifically to achieve [San Diego Med's] diversity agenda."

This announcement follows DOJ's recent findings that the University of California at Los Angeles, Yale University, and University of California, Davis all considered race in medical school admissions in ways that violate *SFFA*. As previously noted in our 5/14/26 and 5/29/26 Alerts, those DOJ letters reflect a limited, often incomplete analysis. Additionally, on 7/22/26, USED's Office for Civil Rights announced new investigations on the same bases into Dartmouth College Geisel School of Medicine, East Carolina University Brody School of Medicine, St. Louis University School of Medicine, Western University of Health Sciences, and William Carey University College of Osteopathic Medicine. These investigations are part of a joint effort with HHS OCR and DOJ's Civil Rights Division.

7. USED Launches Initiative to Combat Sexual Abuse in K-12 Schools

On 7/10/26, USED announced a national effort to address sexual abuse and harassment in K-12 schools, with an emphasis on misconduct by school employees against students and situations where employees accused of misconduct take new jobs in different districts. A new Dear Colleague Letter outlines districts' obligations under the Elementary and Secondary Education Act (ESEA) and Title IX of the Education Amendments of 1972 (Title IX). The letter does not create new obligations, but it directs districts to review their policies and practices to ensure compliance with ESEA and Title IX, provide the necessary training for district employees to recognize and address misconduct, and align grievance procedures with applicable federal regulations.

Additionally, OCR opened 20 directed investigations, which do not originate with a complaint being filed, into school districts to assess the districts' Title IX policies and procedures around incidents of sexual abuse and harassment against students and data reporting practices. The announcement did not identify the districts but stated that they were selected for investigation based on OCR determinations that their "2023-24 Civil Rights Data Collection…submissions contained responses that suggest that districts might not be addressing staff on student sexual misconduct appropriately."

8. NACIQI Recommends USED Deny Recognition to Cosmetology Accreditor

On 7/22/26, the National Advisory Committee on Institutional Quality (NACIQI) voted 9-3 to recommend that USED deny federal recognition to the National Accrediting Commission of Career Arts and Sciences (NACCAS), a major accreditor of cosmetology and career arts institutions. Several members of NACIQI noted that NACCAS was not meeting 17 federal recognition criteria, including achievement standards (such as graduation rates and job placement rates) and maintaining transparency with their accredited institutions.

If USED agrees with the recommendation and withdraws federal recognition of NACCAS, all of its member institutions would be required to secure new accreditation or lose eligibility to disburse federal student aid funds like Pell grants and student loans. Although USED will make the final determination, NACIQI's advisory vote is notable given that NACCAS oversees one in every seven Title IV-eligible institutions (although those institutions enroll a small percentage of the overall number of postsecondary students). NACCAS losing its federal recognition would have broad implications for its members' students, who are disproportionately students of color and low-income. Note, however, that NACCAS institutions are disproportionately ones that leave those students with low earnings: approximately 90 percent of programs with sufficient earnings data at those institutions are at risk of failing the new Do No Harm and Gainful Employment accountability rules—though the final regulations gave such programs at least a one-year reprieve from consequences.

This action comes amid broader scrutiny of accreditors from the Administration, including an executive order on accreditation, forthcoming regulations, and warnings issued to specific accreditors. In his opening remarks, Under Secretary Nicholas Kent stated that three other accreditors voluntarily withdrew from federal recognition rather than undergo continued review, arguing that "Accreditors know they are being held to a higher standard under the Trump administration, and some are either unwilling or unable to meet it." He also said that he "welcomes" the withdrawals, because "[v]oluntary withdrawal saves me from having to fire poor performing accreditors from their status as federally recognized arbiters of educational quality." (See our 5/29/26 Alert for more on the Administration's significant agenda for overhauling the federal accreditation system.)

9. Other Significant Updates

All recent updates will appear in the Executive Actions Chart, but some of note include:

DHS Issues Final Rule Limiting Student Visas: On 7/16/26, DHS announced a final rule that ends the "duration of status" policy, which since 1978 has allowed international students to remain in the U.S. for as long as they were enrolled in an academic program. Under the new rule, F-1 student visas and J-1 exchange visitor visas will only be granted for the length of a specific program, which also cannot exceed four years—even though many advanced degrees (e.g., PhDs) require more time to complete. After this time, students must seek a federal extension to continue their studies. The rule also creates new restrictions that will make it harder for international students to change academic programs or institutions. Finally, the rule would reduce from 60 to 30 days the post-graduation grace period to leave the country.

Multiple Updates on Challenges to In-State Tuition for Undocumented Students: DOJ has continued its effort to challenge state laws that allow certain undocumented students to qualify for in-state tuition rates, claiming that these state laws violate a federal law that prohibits providing postsecondary benefits to students without lawful immigration status when those same benefits are not available to U.S. citizens residing outside of the state. DOJ recently filed new lawsuits against **Massachusetts** and **Rhode Island** on 6/29/26 and against **Maryland** on 7/17/26, bringing the total number to 13. Additional updates include the following:

- On 6/24/26, **Kansas** Governor Laura Kelly filed a motion to intervene in the case recently brought by the DOJ against the state. As summarized in our 6/24/26 Alert, the Kansas Attorney General refused to defend the law and instead joined the DOJ in proposing a joint consent decree that would prohibit undocumented students from accessing in-state tuition rates. The Governor is petitioning the court to allow her to defend the state law at issue.

- On 6/30/26, in the **Texas** litigation, the U.S. Court of Appeals for the Fifth Circuit affirmed (in a split decision) the denial of immigration advocates' motion to intervene. Similar to the Kansas case, the potential intervenors sought to defend the in-state tuition law after the Texas government immediately joined the DOJ in seeking to end the lawsuit with an agreement not to enforce its law. In its decision, the Fifth Circuit ruled that intervention was "futile" because the court agreed with the DOJ and Texas that federal law preempts the state's law.

FCC Proposes to Reform the Administration of Affordable Connectivity Programs, Including E-Rate: On 7/16/26, the Federal Communications Commission (FCC) released a draft Notice of Proposed Rulemaking (NPRM) entitled "Maximizing Efficiencies in Universal Service Administration" that it plans to consider during its 8/6/26 open meeting. The NPRM will seek input on a number of issues related to the administration of the Universal Service Administrative Company (USAC), the non-profit organization that administers and oversees the Universal Service Fund (USF), which itself includes four separate programs that increase access to affordable broadband and telecommunications services, including the E-Rate program for schools and libraries. Among other things, the NPRM focuses on:

- How USAC administers the USF and how the FCC conducts oversight of it;
- Whether USAC should remain the administrator for USF;
- Issues related to USAC's Board of Directors and whether the Board should continue to include

representatives with expertise on schools, libraries, and other programmatic areas covered by the USF;

- Allowing USAC to suspend or delay support for programs seeking connectivity subsidies (such as E-Rate recipients) if the beneficiary does not provide adequate verification; and
- Amending in several ways how USAC recovers payments determined or alleged to be improper, including by seeking comment on whether to require beneficiaries—such as schools or libraries receiving E-Rate funds—alleged to have received improper payments to repay those funds to USAC amid pending appeals, which could constitute a substantial financial burden for some beneficiaries that may ultimately be found not to have received improper payments.

If approved during the FCC's upcoming 8/6/26 open meeting, the NPRM regarding USAC administration will publish the NPRM in the Federal Register and enter a 30-day public comment period followed by a 60-day "reply comment period," which enables the public to reply to others' comments. Note that, as summarized in our 7/9/26 Alert, the FCC is also proposing a comprehensive review of the federal E-Rate program itself. That separate NPRM has not yet been published, so the public comment period has not yet begun.

Taken together, the NPRM regarding USAC administration and the NPRM conducting a top-to-bottom review of E-Rate have the potential to fundamentally reshape—and potentially dramatically reduce access to—federal support for broadband in schools and libraries.

DOJ Will No Longer Enforce Guidance on Community Integration for People with Disabilities: On 7/20/26, DOJ announced that it will no longer enforce longstanding guidance around the rights of people with disabilities to live, work, and receive services in integrated settings under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. Since 1999, the U.S. Supreme Court's decision in *Olmstead v. L.C. ex rel. Zimring* has been understood to recognize that Congress created an "integration mandate" that required states to treat people with disabilities in the most integrated setting appropriate to their needs. DOJ's Office of Legal Counsel issued an opinion on 6/18/26 that concluded *Olmstead* did not create an integration mandate and that federal agencies thus lack the authority to enforce it on states. (See our 6/24/26 Alert for more information about the OLC opinion.) The guidance DOJ will no longer enforce was initially released in 2011 and last updated in 2020. It details what qualifies as the most integrated setting under the ADA and *Olmstead*, who should be able to access services in the community, and more. Although the guidance applied beyond the education context, it clarified protections for students against being unnecessarily placed in restrictive specialized programs or institutional settings. In its announcement, DOJ noted that the agency intends to revisit the guidance at a later date.

OCR Eliminates Civil Rights Compliance Program for Career & Technical Education: On 7/22/26, OCR issued a final rule that eliminates the longstanding Methods of Administration (MOA) program that focused on the role of state education agencies (SEAs) in proactively ensuring career and technical education (CTE) programs comply with federal civil rights laws, rather than waiting to respond to complaints. The original MOA guidelines were established in 1979 in response to a federal lawsuit and OCR's own "evidence of continuing unlawful discrimination in vocational education programs." In its announcement rescinding the MOA program, OCR reinforced that CTE programs must still comply with federal civil rights laws, OCR will enforce those laws in CTE just as it does with other programs, and SEAs may still choose to conduct the type of proactive compliance reviews that they were previously required to do under the MOA program.

- Citing the same exception to the APA as it did in the disparate impact context discussed in item #1 above, OCR issued this action without first collecting public comment on a proposed rule.

DOJ Reaches Agreement with New Jersey Magnet School Over Race-Based Admissions: On 7/9/26, the U.S. Department of Justice (DOJ) announced an agreement with Jersey City Public Schools over allegations that Dr. Ronald E. McNair Academic High School, a college prep magnet school, discriminated on the basis of race in violation of Title VI of the Civil Rights Act of 1964. In an effort to increase racial diversity among its student body, the school had a practice of extending initial offers to equally divided groups of applicants that self-identified as "Black," "White," "Hispanic," or "Other." Any remaining seats were filled without regard to the student's race. To resolve the investigation, the school district agreed to end the practice for the upcoming admissions cycle. The investigation and settlement about a K-12 admissions policy is particularly notable given how much of DOJ's and OCR's work in this area has focused on higher education.

DOL Approves New National Guideline Standards for Tutor Registered Apprenticeship Programs: On 7/14/26, DOL approved new National Guideline Standards for Tutor Registered Apprenticeship programs. The standards provide a model for developing local and state apprenticeship programs registered through the Office of Apprenticeship (OA) or a State Apprenticeship Agency (SAA) for a competency-based pathway for an occupation as a tutor. The standards build on previously-approved standards for both principal and teacher registered apprenticeship programs. New tutoring apprenticeship programs based on these standards will be competency-based but will still require minimums of at least 2,000 hours of on-the-job training and 144 hours of related instruction per year over two years. Instruction will cover areas such as demonstrating knowledge of students, setting instructional outcomes, creating an environment of respect and rapport, and engaging students in learning, among other categories. By the end of their program, apprentices will be required to acquire competencies in three categories: planning (including lesson planning, materials, and interventions); relationship building; and instruction.
