EducationCounsel Alert for November 24, 2026

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

1. Senate Republicans Propose FY27 Appropriations Bill for Education
2. Court Dismisses Lawsuit Challenging IES Actions on Procedural Grounds
3. Supreme Court Declines to Hear the Administration's Appeal of "DEI" Grant Termination Decision
4. HHS Finalizes Head Start Rule on Staff Compensation
5. Court Vacates DHS "Duration of Status" Rule for International Student Visas
6. Other Significant Updates
7. Table of Proposed Federal Rules
APPENDIX: Federal Education Funding Table for FY26 Final Amounts and FY27 Proposals

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

1. Senate Republicans Propose FY27 Appropriations Bill for Education

On 11/16/26, the Senate Appropriations Committee released its FY27 Labor, Health and Human Services, Education, and Related Agencies (Labor/HHS) appropriations bill, explanatory statement, and summary. The bill was introduced only by Republicans, who still hold the majority during this lame duck session. This is just one step in the FY27 appropriations process, and any final package will require both resolving significant differences with the House's parallel bill (see our 6/11/26 Alert) and securing enough bipartisan support to meet the 60-vote threshold for passage in the Senate. The current Continuing Resolution (CR) keeping the federal government operating at the FY26 funding levels will expire on 12/11/26. At that time, Congress must either enact FY27 appropriations laws or agree to a new CR (of any length) in order to avoid a government shutdown. Given the significant difference in proposed funding levels for defense and domestic priorities between both parties and the short amount of time to finalize FY27 bills, a CR (likely of 3-4 months) seems to be the most likely outcome at present, with a shutdown as the next most likely.

Overall Funding Levels: The Senate's bill would provide $93.9 billion for USED, an increase of $15.1 billion (19.2%) above FY26 levels. Most of the Senate's proposed increase above USED's FY26 funding level comes from an additional $15 billion for the Pell Grant program to address an estimated shortfall in the program by the end of FY27. (The maximum Pell Grant award amount would remain the same for the 2027-28 award year.) Even accounting for the additional Pell Grant funds, the Senate's proposal would fund USED at higher levels than the President proposed in his FY27 budget request and House Republicans proposed in their FY27 appropriations bill.

Specific Funding Levels: The Senate would maintain current funding levels for most of the major education programs. Specific program funding levels are available in the Appendix at the end of this Alert. In early childhood, for example, the bill proposes $50 million increases for both Head Start and the Child Care and Development Block Grant (CCDBG) and level funding for the Preschool Development Grants program. The Senate would maintain funding at FY26 enacted levels for almost all K-12 programs with some increases

including for special education, career and technical education, and charter schools. In addition to the additional Pell funds mentioned above, the higher education section of the Senate bill includes a decrease for the Fund for the Improvement of Postsecondary Education and level funding for programs supporting Hispanic-Serving Institutions. Funding for education research and civil rights enforcement would remain mostly at FY26 levels.

Policy Provisions: As they did during the FY26 appropriations process, both the House and Senate FY27 appropriations bills reject President Trump's request to create a block grant for a large number of K-12 grant programs and another for special education programs. Among other policy riders, the Senate bill includes in its explanatory statement language that would continue FY26's requirement that the Administration regularly brief Congress on the implementation of the interagency agreements (IAAs) the Administration is using to move funds and functions to other federal agencies as part of an overall effort to dismantle USED. The Senate Republican bill's language describing what must be included in these briefings and what information must be shared publicly is significantly more detailed than what is required in the current FY26 language (see pages 339-340 of the explanatory statement).

The Senate bill does not appear to include language to block the Office of Management and Budget's proposal to overhaul how federal agencies award and manage grants, the finalizing of which Congress prohibited via the current CR through 12/11/26. Appropriators will likely revisit this issue (and perhaps USED's related proposal to overhaul EDGAR, the agency's own grantmaking rules) as part of negotiations around a final bill. Additionally, appropriators will need to resolve differences between House and Senate policy riders because the House included several riders aligned with the Administration's priorities missing from the Senate bill, such as provisions blocking funding to any school allowing transgender women to participate in women's sports.

2. Court Dismisses Lawsuit Challenging IES Actions on Procedural Grounds

On 11/18/26, a federal court in Maryland granted summary judgment to the Trump Administration in a lawsuit brought by American Education Research Association and Society for Research on Educational Effectiveness to challenge the Administration's actions to dismantle USED's Institute of Education Sciences (IES). The lawsuit argued that by terminating 90% of its staff and by cancelling a large number of its contracts for data collections, research studies, and support for critical processes such as peer review, data access, and research dissemination, IES was failing to fulfill its congressionally mandated responsibility for education research and statistics and had acted arbitrarily. In ruling for the government, the court did not decide whether the government's actions were legal. Instead, it ruled that the plaintiffs lacked standing to bring the lawsuit because the court did not have the authority to redress the identified harms.

The court did recognize that the Administration's actions "severely hampered the agency's capacity to fulfill its various statutory duties," and noted that its "paper-thin" explanations for the mass terminations of IES contracts and staff left the court "struggling to understand exactly how the Government made its determinations that certain contracts and entire sections of IES should be terminated." IES already reversed some of the challenged actions while the litigation proceeded, and other lawsuits challenging the Administration's broader actions to dismantle USED (including but not limited to IES) are still pending.

3. Supreme Court Declines to Hear the Administration's Appeal of "DEI" Grant Termination Decision

On 11/16/26, the Supreme Court declined to hear the Trump Administration's appeal of a lower court's decision in favor of University of California (UC) researchers who challenged the termination of their federal grants. The researchers argued that, by canceling their grants on anti-"DEI" grounds, the Administration had engaged in viewpoint discrimination prohibited under the First Amendment.

The dispute began in April 2025, when various federal agencies began implementing the president's executive orders prohibiting diversity, equity, inclusion, and accessibility as well as "gender ideology" initiatives (including EOs 14151 and 14173). After receiving termination letters stating their existing federal awards no longer aligned with agency goals or priorities, a group of UC researchers sued in federal district court and, on 6/23/25, secured a preliminary injunction ordering the agencies to reinstate the terminated grants. In its order, the district court recognized two groups impacted by the notices: grants terminated under the DEI and "gender ideology" executive orders and, separately, grants terminated through form notices that did not include grant-specific explanations or address the recipients' reliance on continuation.

On appeal, the Ninth Circuit upheld the injunction only for the first set of grants, holding that plaintiffs were likely to succeed on their claim that specific grants were targeted for termination based on their viewpoint in violation of the First Amendment. (The appellate court overturned the district court's injunction on the second set of grants, holding that those involved procedural claims that likely belonged in the Court of Federal Claims under the Tucker Act and the Supreme Court's 2025 decision in *NIH v. APHA*.) The Trump Administration had sought Supreme Court review of the First Amendment claims, but now the injunction restoring those grants will remain in place as the underlying litigation proceeds.

4. HHS Finalizes Head Start Rule on Staff Compensation

On 11/16/26, the U.S. Department of Health and Human Services (HHS) released a final rule, "Restoring Flexibility to Support Head Start Program Access," that rescinds workforce compensation and benefit requirements established in a 2024 final rule. The changes eliminate requirements for local programs to provide education staff wages comparable to public preschool teachers, ensure salaries cover basic living costs, and offer specified benefits. HHS estimates the rescissions will save Head Start programs more than $2 billion and argues that greater local flexibility will help preserve program enrollment and access to services. Removing compensation standards will shift responsibility to local programs to address the underlying structural problem of inadequate funding for competitive wages. As a result, many programs may continue to offer noncompetitive compensation, exacerbating recruitment and retention challenges and related availability of slots. The new rule, which HHS did not change in response to public comments on the proposed version, takes effect on 1/15/27. Importantly, the rule does not require programs to reduce existing employee wages or benefits, leaving those decisions to individual Head Start grant recipients. See this Deep Dive for greater detail on the likely impact of the rule.

5. Court Vacates DHS "Duration of Status" Rule for International Student Visas

On 11/16/26, a federal court in Massachusetts granted summary judgment against the U.S. Department of Homeland Security (DHS) in a lawsuit challenging the agency's rule limiting the duration of international students' visas. Accordingly, these visas will continue to be valid for the full length of these students' academic programs, rather than the across-the-board four-year time period that DHS had sought to

institute. As discussed in our 9/16/26 Alert, the court had previously issued a nationwide preliminary injunction blocking implementation of the rule. In this final ruling on the merits, the court affirmed its prior conclusions about the several ways DHS had acted illegally and added two more rationales for vacating the rule. The Administration may decide to appeal the decision; an earlier appeal of the preliminary injunction is still pending even though the court proceeded to issue this new ruling on the merits.

6. Other Significant Updates

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

CMS Announces Optional "Hold Harmless" Period for Medicaid Work Requirements: On 11/13/26, HHS's Centers for Medicare and Medicaid Services (CMS) announced an option for states to provide a "hold harmless" period as they implement the new Medicaid work requirements called for by the One Big Beautiful Bill Act and that go into effect for most individuals on 1/1/27. For those states opting into it, the hold harmless period will last through 6/30/27. During the hold harmless, states will begin assessing whether individuals meet the work requirements or are exempt from them, but the states will not be required to deny applications or disenroll individuals based on those determinations. CMS designed the option to give states time to update their systems and processes necessary to implement the new requirements. States must notify CMS by 12/11/26 if they intend to use the optional transition period. See this Deep Dive on how Medicaid's new work requirements will likely affect home-based child care providers.

OCR Launches Investigations into Teacher Prep Programs: On 11/16/26, USED's Office for Civil Rights (OCR) announced investigations under Title IX (prohibiting sex discrimination) and Title VI (prohibiting discrimination on the basis of race, color, and national origin) into four entities that operate teacher preparatory programs. OCR will assess whether the institutions—City University of New York, University of Maryland's School of Education, Minnesota Department of Education, and Minnesota Office of Higher Education—violated federal law by attempting to diversify the teaching profession in part through "sex or race-specific recruitment, support, and financial opportunities for candidates." At the same time, OCR announced investigations into 11 other institutions of higher education to determine whether they operate "race- or sex-exclusive programs and activities," including the provision of scholarships.

Lawsuits Challenge HUD Rule Excluding Some Mixed Immigration Status Families from Housing Assistance: On 11/12/26, the U.S. Department of Housing and Urban Development (HUD) issued a final rule that will effectively exclude some mixed immigration status families from receiving federal housing assistance. Since 1996, HUD has prorated assistance amounts based on the number of eligible family members in a household, so families who have varying immigration statuses can continue living together while also complying with legal restrictions on assistance eligibility. The new rule will instead require everyone in the household to verify their U.S. citizenship or an immigration status that is eligible for HUD assistance. This will likely force some families—including an estimated 36,000 children who are eligible for housing support—to choose between continuing to receive housing assistance and continuing to live together as a family. HUD's rule, which goes into effect 12/14/26, is being challenged by one federal lawsuit brought by a coalition of individuals and community-based organizations and another brought by a group of 22 states.

Updates on Public Hearings about Proposed Regulations: The U.S. Department of the Treasury recently announced changes to two upcoming public hearings about proposed regulations. First, the public hearing

about the Federal Scholarship Tax Credit scheduled for 12/15/26 at 10:00 am ET will no longer be an in-person hearing and will instead be conducted by telephone only. Second, Treasury announced it was adding a second public hearing about its proposed rule allowing the Internal Revenue Service to end federal tax-exempt status for any private school or private institution of higher education that engages in racial discrimination. These hearings will take place (by telephone) on 12/2/26 and 12/3/26, both at 10:00 am ET.

7. Table of Proposed Federal Rules

The following table includes information about a number of significant pending proposed rules from various federal agencies. Background information and links for submitting public comments appear in each row.

Agency & Notice of Proposed Rulemaking (NPRM)	**EducationCounsel Resources**	**Status & Deadline for Submitting Comments**
Treasury: **Federal Scholarship Tax Credit** (NPRM)	• Unpacking Treasury's Proposed Regulations • FSTC Primer • Considerations for State-Level Leaders	*ACCEPTING PUBLIC COMMENTS* Submit public comments here for a 60-day period through **12/1/26**.
USED: Proposed Priorities and Definitions-**Secretary's Supplemental Priorities** and Definitions (NPRM)	• Unpacking the Secretary of Education's Supplemental Priorities for Competitive Grants (9/30/25 version to be updated soon)	*ACCEPTING PUBLIC COMMENTS* Submit public comments here for a 60-day period through **12/7/26**
NPRMs No Longer Accepting Comments / Awaiting Final Rule		
USED: Accreditation, Innovation, and Modernization: The Secretary's Recognition of **Accrediting Agencies** (NPRM)	• Alert from 8/20/26 about the NPRM • Alert from 5/29/26 about the rules emerging from negotiated rulemaking	*WAITING FOR FINAL RULE* 2,822 comments were submitted by the 9/21/26 deadline.
USED: Education Department General Administrative Regulations (**EDGAR**) (NPRM)	• Overview & FAQs of USED's Proposed Changes to EDGAR • Alert from 9/3/26	*WAITING FOR FINAL RULE* 5,510 comments were submitted by the 9/23/26 deadline.
HHS: Reducing Federal Burden for **Head Start** Programs (NPRM)	• Unpacking the NPRM to Overhaul the Head Start Program Performance Standards • Alert from 8/20/26	*WAITING FOR FINAL RULE* 40,089 comments were submitted by the 10/6/26 deadline.
Commerce: Decennial **Census** of the Population of Americans (NPRM)	• Alert from 10/29/26	*WAITING FOR FINAL RULE* 149,926 comments were submitted by the 11/2/26 deadline.
Treasury: Racial Nondiscrimination in **Private Schools** (NPRM)	• Alert from 9/3/26	*WAITING FOR FINAL RULE* 2,640 comments were submitted by the 11/3/26 deadline.
FCC: FCC To Review **E-Rate** Program To Ensure Congress's Vision (NPRM)	• Alert from 8/20/26	*WAITING FOR FINAL RULE* 18,395 comments and 719 replies were submitted by the 10/13/26 and 11/12/26 deadlines.

APPENDIX: Federal Education Funding Table for FY26 Final Amounts and FY27 Proposals

Topic Area	Select Programs	FY26 Final Amounts	FY27 House Bill	FY27 Senate Bill[1, 2]	Comparing FY27 Senate to FY26 Final	Comparing FY27 Senate to FY27 House
USED	**Overall funding levels for USED**	**$78.8 billion[3]**	**$70.7 billion[4]**	**$93.9 billion[5]**	Increase of $15.1 billion (19.2%)	Increase of $23.3 billion (32.9%)
K-12 Education	Title I	$18.4 billion	$16.5 billion	**$18.4 billion[6]**	No Change	Increase of $1.8 billion (11.5%)
	Title II (Supporting Effective Instruction State grants)	$2.2 billion	Eliminated[7]	**$2.2 billion**	No Change	Increase of $2.2 billion
	Title IV (Student Support & Academic Enrichment)	$1.4 billion	$1.4 billion	**$1.4 billion**	No Change	Decrease of $5 million (-0.4%)
	Title IV (21st Century Community Learning Centers)	$1.3 billion	$1.3 billion	**$1.3 billion**	Increase of $5 million (0.4%)	Increase of $5 million (0.4%)
	State Assessments	$380 million	Eliminated[8]	**$380 million**	No Change	Increase of $380 million

[1] The FY27 Senate report urges USED to issue guidance to State educational agencies and local educational agencies on the thoughtful use of artificial intelligence and other advanced technologies in schools, including professional development to equip educators with the skills and knowledge needed to use these technologies, among other issues.

[2] The FY27 Senate report directs USED to provide biweekly briefings on implementation of interagency agreements (IAAs). The Department is also directed to provide the Appropriations Committee and make available on USED's website a detailed analysis and report on the actual and estimated obligations for implementing each IAA.

[3] Includes a rescission of $160 million from USED's Nonrecurring Expenses Fund.

[4] Includes a rescission of $250 million from USED's Nonrecurring Expenses Fund.

[5] Includes a rescission of $179 million from USED's Nonrecurring Expenses Fund.

[6] The FY27 Senate bill increases the amount of Title I funds that states may reserve for administration of parts A, C, and D of title I of the Elementary and Secondary Education Act (ESEA). New bill language provides each state with administrative resources of the greater of $500,000 (previously $400,000) or 1 percent of its allotment under such parts of Title I and each outlying area with a reservation of $60,000 (previously $50,000). The new bill language also requires the 1 percent reservation calculation to be updated to reflect the FY15 enacted appropriations for such programs.

[7] The FY27 House bill also includes a rescission of $1.681 billion in FY26 funds from the Supporting Effective Instruction State Grants program (Title II).

[8] By eliminating this program, states would no longer be required to administer statewide assessments because ESSA includes a trigger provision that eliminates the assessment requirement if funding for Statewide Assessments falls below $369.1 million.

Topic Area	Select Programs	FY26 Final Amounts	FY27 House Bill	FY27 Senate Bill[1, 2]	Comparing FY27 Senate to FY26 Final	Comparing FY27 Senate to FY27 House
	Education for Homeless Children and Youth	$129 million	$129 million	**$129 million**	No Change	No Change
	Title III (English Language Acquisition)	$890 million	Eliminated	**$890 million**	No Change	Increase of $890 million
	Migrant Education (State Agency Programs)	$376 million	Eliminated	**$376 million**	No Change	Increase of $376 million
	Charter Schools	$440 million[9, 10]	$500 million[11]	**$500 million[12]**	Increase of $60 million (13.6%)	No Change
	IDEA Grants to States	$14.2 billion	$14.3 billion	**$14.3 billion**	Increase of $45 million (0.3%)	Increase of $10 million (0.1%)
	Career & Technical Education State Grants	$1.4 billion	$1.5 billion	**$1.4 billion**	Increase of $10 million (0.7%)	No Change
	Equity Assistance Centers	$6.6 million	Eliminated	**$6.6 million**	No Change	Increase of $6.6 million
Student Financial Assistance & Post-Secondary	Pell (Discretionary Funds)	$22.5 billion	$22.7 billion[13]	**$37.5 billion[14]**	Increase of $15 billion (66.9%)	Increase of $14.8 billion (65.1%)

[9] USED is permitted to transfer up to $60 million from a nonrecurring expenses fund to the Charter School Program (CSP) for CSP activities. This would bring the total to $500 million in the final FY26 bill.

[10] Includes not more than $140 million for replication and expansion of high-quality charter schools through the Charter Management Organization (CMO) program.

[11] Includes not more than $140 million for the CMO program.

[12] Includes not more than $140 million for the CMO program.

[13] The FY27 House bill eliminates the authority to make Federal subsidized loans to undergraduate students and reinvests the budgetary savings into the Pell Grant program to address a projected budgetary shortfall at the end of FY27.

[14] Includes an additional $15.043 billion for the Pell Grant program to address an estimated shortfall in the program at the end of FY27. While not specifically noted in the FY27 Senate bill the shortfall is likely, in part, paid for through changes in mandatory programs under HHS (e.g., rescissions from CHIP) and a $3 billion rescission to the Unaccompanied Alien Children program under HHS.

Topic Area	Select Programs	FY26 Final Amounts	FY27 House Bill	FY27 Senate Bill[1, 2]	Comparing FY27 Senate to FY26 Final	Comparing FY27 Senate to FY27 House
Education Programs	Pell Grants (max., actual $)[15]	$7,395	$7,445	**$7,395**	No Change	Decrease of $50 (-0.7%)
	Federal Work-Study	$1.2 billion	$908 million	**$1.2 billion**	No Change	Increase of $322 million (35.5%)
	TRIO Programs	$1.2 billion	$1.2 billion	**$1.2 billion**	Increase of $6 million (0.5%)	No Change
	Supplemental Educational Opportunity Grant	$910 million	$546 million	**$910 million**	No Change	Increase of $364 million (66.7%)
	Developing Hispanic-Serving Institutions	$232 million	$232 million	**$232 million**	No Change	No Change
	Teacher Quality Partnership (TQP)	$70 million	Eliminated	**$65 million**	Decrease of $5 million (-7.1%)	Increase of $65 million
	Postsecondary Student Success Grant (PSSG)[16]	$45 million	$45 million	**$45 million**	No Change	No Change
	Basic Needs for Postsecondary Students[17]	$10 million	$5 million	**$10 million**	No Change	Increase of $5 million (100%)
Other USED Programs	Office for Civil Rights	$140 million	$140 million	**$140 million**	No Change	No Change
	Institute for Education Sciences	$790 million	$493 million	**$790 million**[18]	No Change	Increase of $297 million (60.2%)

[15] This level reflects the total maximum Pell Grant level, including a combination of discretionary and mandatory appropriations.

[16] Funding for PSSG is included under the Fund for Improvement of Postsecondary Education (FIPSE).

[17] Funding for Basic Needs is included under FIPSE.

[18] Within 180 days of enactment, the FY27 Senate report requests that the Department provide a detailed plan to the authorizing and appropriations committees to conduct a comprehensive review (including congressional and stakeholder input) of NCES data collections to determine priority topics; a resources plan on the number of FTEs needed for NCES to efficiently and cost-effectively carry out its statutory duties; and a detailed plan to enable NCES to publish more timely statistics.

Topic Area	Select Programs	FY26 Final Amounts	FY27 House Bill	FY27 Senate Bill[1, 2]	Comparing FY27 Senate to FY26 Final	Comparing FY27 Senate to FY27 House
	Education Innovation & Research	$235 million	$235 million	**$235 million**	No Change	No Change
	Child Care Access Means Parents in Schools (CCAMPIS)	$75 million	$75 million	**$75 million**	No Change	No Change
	IDEA Part C (Grants for Infants and Toddlers)	$540 million	$550 million	**$545 million**	Increase of $5 million (0.9%)	Decrease of $5 million (-0.9%)
Early Childhood Education (Funded by HHS)	Child Care & Development Block Grant (CCDBG)	$8.8 billion	$8.8 billion	**$8.9 billion**	Increase of $50 million (0.6%)	Increase of $40 million (0.5%)
	Head Start	$12.4 billion	$12.4 billion	**$12.4 billion**	Increase of $50 million (0.4%)	Increase of $40 million (0.3%)
	Preschool Development Grant Birth through Five (PDG B-5)	$315 million	Eliminated	**$315 million**	No Change	Increase of $315 million

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DISCLAIMER: Consistent with our mission, EducationCounsel is working to update and support the field as federal actions consequential to education are unfolding. The information provided above does not serve as legal counsel and, given the pace of action, could be outdated quickly. Nonetheless we hope this information is helpful. If you have any suggestions or feedback please send it to info@educationcounsel.com. Updates in this Alert are current as of November 24, 2026 at 10:00 am ET.