

EducationCounsel Alert for October 28, 2025

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

1. **Government Shutdown Effects Increase**
2. **Trump Administration's Proposed Higher Education Compact Rejected by More Universities**
3. **Administration Seeks to Transfer Special Education out of USED**
4. **Federal Judge Grants Preliminary Injunction to Restore BSCA Grants**
5. **Other Significant Updates**
6. **What's Coming Next?**

You can also find summaries and brief analysis of many other developments in our ongoing [Executive Actions Chart](#), which is continuously updated. 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. Government Shutdown Effects Increase

As a full month of the federal government shutdown draws to a close, our [10/15/25 Alert](#)'s overview still describes the general state of affairs in Congress. But the effects of the ongoing shutdown are growing as we head into November, with interruptions to government funding and support ratcheting up the impact on the education and child care sectors:

- **Head Start** programs serving about 58,600 children in 134 centers will not receive their grant funds as expected on 11/1/25, joining the smaller number of grantees (serving more than 6,500 children) that have been without funding since 10/1/25. Because federal grants are typically the primary source of funding for Head Start programs, they may have to close for the remainder of the shutdown unless they can find alternative funds. Head Start serves about 750,000 children across America. For more details on the state-by-state impacts to Head Start programs, please click [here](#).
- School districts that receive **Impact Aid** funding will miss the monthly payments they count on to compensate for lost tax revenue because their geographic boundaries include non-taxable lands (e.g., military bases or tribal lands). For more details on the Impact Aid program, click [here](#). About one in seven public K-12 students are enrolled in districts that receive Impact Aid funding.
- Millions of children will lose all or some of their **Supplemental Nutrition Assistance Program (SNAP)** benefits for the month of November, which total about \$8 billion. Many states have already issued warnings that they would be unable to use state funding to bridge the lapse in federal funding, especially without assurances of reimbursement. Although the U.S. Department of Agriculture (USDA) in its shutdown contingency plan (available [here](#) despite no longer appearing on USDA's [website](#)), initially planned to tap \$5-6 billion in multi-year contingency funds in the event the shutdown continued into November, the agency issued a [memo](#) on 10/24/25 stating that it will not use the contingency funds for this purpose. Despite this interruption of monthly benefits, SNAP recipients will

be subject to new work requirements enacted through the One Big Beautiful Bill Act that go into effect on 11/1/25. About one in eight people receive SNAP benefits, including 16 million children.

- On 10/28/25, twenty-five states [filed a lawsuit](#) challenging USDA's decision not to tap its contingency funds or other available resources to provide SNAP benefits during the shutdown.
- According to the [Food Research & Action Center](#), the **National School Lunch Program, School Breakfast Program, and the Child and Adult Care Food Program** may experience disruptions with reimbursements if the shutdown goes past 11/1/25.

2. Trump Administration's Proposed Higher Education Compact Rejected by More Universities

Since our [10/15/25 Alert](#), six universities announced they were joining [MIT](#) in declining to sign onto the Administration's [Compact for Academic Excellence in Higher Education](#) (Compact): [University of Arizona](#), [Brown University](#), [Dartmouth College](#), the [University of Pennsylvania](#), the [University of Southern California](#), and the [University of Virginia](#). [Vanderbilt University](#) announced it was providing feedback on the draft Compact, as the Administration's initial [letter](#) requested. The University of Texas at Austin has not responded publicly. [Reporting](#) indicates the Administration recently expanded its initial outreach to also include Arizona State University, Washington University in St. Louis, and the University of Kansas; of those, [Washington University](#) announced it would not agree to the Compact. On 10/27/25, [New College of Florida](#) became the first institution of higher education (IHE) to announce it *would* sign, although it was not reported to be part of the Administration's initial or additional outreach.

In its initial letter, the Administration explained its planned next steps for the Compact: "After receiving feedback, schools that show clear alignment and a strong readiness to champion this effort will be invited to the White House to finalize language and be initial signatories. We are aiming to have a signed agreement by no later than November 21, 2025."

The letter and draft Compact describe an "agreement" with an "opportunity presented" for the invited institutions of higher education (IHEs) that would, among other things, provide signatories with "multiple positive benefits for the school, including allowance for increased overhead payments where feasible, substantial and meaningful federal grants, and other federal partnerships." However, it is worth noting that some of the Compact's draft language—"[i]nstitutions of higher education are free to develop models and values other than those below, if the institution elects to forego federal benefits"—and the Administration's [public statements](#)—"[a]s long as they are not begging for federal funding, universities are free to implement any lawful policies they would like"—raise the possibility that the Administration may attempt to convert the final version of the Compact to a set of policies that *all* IHEs must adopt to access any federal funding. (In that scenario, there would likely need to be additional regulatory action. It is also unclear whether federal financial aid would be part of the affected funding.)

3. Administration Seeks to Transfer Special Education out of USED

On 10/21/25, the Administration [confirmed](#) that it "is exploring additional partnerships with federal agencies to support special education programs without any interruption or impact on students with disabilities." Prior statements by Administration officials (including President Trump), along with widespread rumors in the days leading up to the public statement quoted above, point to the Department of Health & Human Services as the agency most likely to take over administering and monitoring implementation of IDEA and other special

education grant programs. However, the Administration has not yet publicly confirmed which agency would receive the transferred work and/or funding.

Although the article linked above reports that no inter-agency agreement (IAA) has been finalized, this potential development comes in the wake of the Administration initiating a [new reduction-in-force \(RIF\)](#) that would terminate almost every USED staff member in the [Office of Special Education and Rehabilitative Services](#). (See the first “Other Significant Update” below for more information about a federal court’s halting of the RIF.)

To date, USED has entered into one IAA to help implement a 3/20/25 [executive order](#) directing Secretary McMahon, “to the maximum extent appropriate and permitted by law, take all necessary steps to facilitate the closure of the Department of Education.” That initial IAA moved substantial responsibility for career and technical education and adult education from USED to the Department of Labor. See our [6/13/25 Alert](#) for more details.

4. Federal Judge Grants Preliminary Injunction to Restore BSCA Grants

On 10/27/25, a federal judge [issued](#) a preliminary injunction against USED in a lawsuit challenging USED’s decision this summer to discontinue about \$1 billion in mental health grants made pursuant to the Bipartisan Safer Communities Act (BSCA). In April, USED [notified](#) almost all of the grantees under two BSCA grant programs that they would not receive additional years of funding they had been awarded under the original five-year grant because their programs “reflect the prior Administration’s priorities and policy preferences and conflict with those of the current Administration.” Sixteen states filed [suit](#) in June arguing that the abrupt terminations “have already caused and will cause immediate and devastating harm to Plaintiff States.” The plaintiff states include CA, CO, CT, DE, IL, ME, MD, MA, MI, NY, NV, OR, RI, WA, and WI.

The court found that the plaintiffs are likely to succeed in proving that the discontinuation decisions were arbitrary and capricious in violation of the Administrative Procedure Act. The preliminary injunction will restore funding for a total of 49 grantees in those states while the lawsuit proceeds; the list of restored grants appears on page 25 of the court’s [order](#). (Note that although Nevada is part of the lawsuit, it does not have a grantee among those listed.) Additionally, the injunction prevents USED from awarding the contested funds to different grantees through two [new BSCA grant competitions](#) that USED launched in September, applications for which are due on 10/29/25.

5. Other Significant Updates

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

Federal Judge Extends Pause on New Reductions in Force: Reduction-in-force (RIF) notices impacting 4,000 federal workers—including [466 from USED](#)—were further halted by a federal judge on 10/28/25, who converted a 10/10/25 [temporary restraining order](#) against the federal government into a preliminary injunction that (absent a successful appeal) will remain in place for the duration of the lawsuit challenging the RIFs. (A written order is expected to be posted to the [online docket](#) shortly.)

Indiana Submits ESSA Waiver Request: On 10/17/25, the **Indiana Department of Education** [submitted](#) to USED a request to waive a number of requirements in the Every Student Succeeds Act (ESSA). The waiver seeks to establish a “block grant” approach for state and district funding, which would maintain the existing distribution of funds to districts as required by law but would allow the state set-aside funds and the district funds to be

combined at those respective levels for broader uses. The waiver also proposes to broaden the list of eligible recipients of school improvement funds to include local education agencies that do not operate schools identified for improvement, and it seeks to use Indiana's state accountability system for federal accountability purposes. We summarized Indiana's initial draft waiver [here](#). USED has 120 days to respond to the waiver request.

Indiana joins Iowa as the only two states to submit ESSA waivers following Secretary McMahon's invitation to states to do so. The **Iowa Department of Education** submitted its revised [waiver request](#) to USED after first sharing a draft for public comment in August. Among other things, Iowa's request also seeks to implement a version of a "block grant" approach for state set-aside funds and at the district level. Additionally, the new state superintendent of the **Oklahoma State Department of Education** [announced](#) that statewide testing would proceed as normal this year, after the former superintendent called for a different assessment method in a previously published draft waiver proposal. Previous Alerts have summarized the [Iowa](#) and [Oklahoma](#) requests.

University of Virginia Settles Multiple Federal Civil Rights Investigations: On 10/22/25, the University of Virginia (UVA) became the first public university to sign an [agreement](#) with the Trump Administration regarding five federal Title VI civil rights investigations. The agreement pauses the investigations and allows the university to continue receiving federal funding on equal terms as other universities. In exchange, UVA agreed to, among other things, apply DOJ's "[Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination](#)" but only "so long as that Guidance remains in force and to the extent consistent with relevant judicial decisions," a significant caveat given the DOJ's interpretation of current law. (See our Deep Dive, "[Misguidance](#)," for more information.) UVA will also provide regular updates about its compliance with the agreement (and current civil rights law) through 12/31/28. The agreement explicitly addresses the question of academic freedom, stating that "no provision of this Agreement...shall be construed as giving the United States authority to dictate the content of academic speech or curricula." Although it is not mentioned in the agreement, it is worth noting that four months before UVA entered into this agreement, UVA President James Ryan [announced](#) that he would step down in response to DOJ's demands for policy and personnel changes at UVA, including Mr. Ryan's resignation.

New York City Public Schools Sues Over Magnet Schools Funding: On 10/15/25, New York City Public Schools (NYCPS) [filed suit](#) against USED, challenging the termination of \$47 million in [Magnet Schools Assistance Program](#) (MSAP) grant funds. LEAs under desegregation plans are eligible to apply for MSAP grants to assist in the "the elimination, reduction, or prevention of minority group isolation in schools with substantial proportions of minority students," among other purposes, and USED regularly reviews grantees for compliance. In a 9/16/25 letter, the Office for Civil Rights notified NYCPS that its grant funding would be discontinued because the district's gender identity policies are inconsistent with Title IX, as interpreted by the Administration. (See our [9/30/25 Alert](#) for more information, including similar MSAP termination letters to Chicago Public Schools and Fairfax County Public Schools.)

6. What's Coming Next?

Our [Executive Actions Tracker](#), which is different from our [Executive Actions Chart](#), includes a comprehensive list of specific actions called for in President Trump's various EOs affecting education. The table below highlights a few particularly significant *upcoming deadlines*. Consult the Tracker for a full list of the EOs' requirements and deadlines.

Date	Executive Order	Action Expected
11/14	"Ensuring Continued Accountability In Federal Hiring"	Directs each agency to create a Strategic Hiring Committee that will approve the creation and filling of agency positions and "ensure that agency hiring is consistent with the national interest, agency needs, and the priorities of [the Trump] Administration."
12/14		Requires each agency to submit an Annual Staffing Plan "to ensure that new career appointments in the upcoming fiscal year are in the highest-need areas and aligned with the priorities of [the Trump] Administration."

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 October 28, 2025 at 4:00 pm ET.