

EducationCounsel Alert for September 30, 2025

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

- 1. FY26 Continuing Resolution and Shutdown Update**
- 2. FY25 Grant Non-Continuations and Cancellations Update**
- 3. Court Allows OCR RIF to Proceed**
- 4. USED Seeks Public Comment on IES Redesign**
- 5. USED Secretary McMahon Proposes Two Additional Secretarial Priorities**
- 6. USED Threatens School Districts with Loss of Magnet School Funds**
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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. FY26 Continuing Resolution and Shutdown Update

As of this Alert's publication, Congress is still at an impasse regarding how to fund the federal government once Fiscal Year (FY) 2026 begins on Wednesday (10/1/25). The government will shut down unless Congress enacts a continuing resolution (CR) that would provide temporary funding while further budget negotiations take place. Any CR requires 60 votes in the Senate and thus cannot be passed without support by Democrats. But Senate Democrats want the CR to be negotiated and include an extension of health care funds while Senate Republicans want them to accept the CR that passed the House with Republican support (and only one Democratic vote). Meanwhile, the House currently remains out of session and would need to be called back to consider any other version of a CR that might be able to pass the Senate.

In anticipation of a possible shutdown, the Trump Administration has begun publishing contingency plans that identify how each federal agency will respond, including which staff and functions will be designated as "essential" and thus will continue despite the shutdown and which will be "non-essential," with those staff being furloughed and those functions likely paused for the duration of the shutdown (or until the agencies amend their plans).

- The U.S. Department of Education (USED) [contingency plan](#) calls for furloughing up to 95% of the (non-federal student aid) staff still remaining after the massive reduction in force (RIF) that reduced the agency's workforce by about half earlier this year. The remaining staff and parts of the student aid workforce would remain in place as "essential" workers. The plan notes that the agency would not award any new grants and would halt investigations of civil rights complaints.
- The Department of Health and Human Services (HHS) [contingency plan](#) calls for furloughing 41% of staff, with Operating Divisions that have a substantial direct service component retaining relatively more of their staff during the shutdown. For the Child Care & Development Block Grant (CCDBG)

program, states have two years to obligate discretionary funds—and they receive more than \$3 billion each year in mandatory funding that is not subject to the yearly appropriations process. States should thus have sufficient funds on-hand to maintain current enrollments. Impacts to Head Start should be muted as grantees receive funding (grant awards) on a rolling basis. Only a handful of Head Start programs are due to receive their federal grant funds on 10/1/25. These grantees have indicated to the Administration for Children and Families in the past that they can operate in the event of a shutdown. However, a prolonged shutdown lasting beyond 11/1/25 would likely result in some disruption to services.

For a variety of reasons, public education as a sector tends to be less affected by shutdowns. Most notably, many federal education programs such as Title I, Title II, IDEA, and Perkins are “forward-funded,” meaning some funds for the new school year have already been disbursed, and “advance-funded,” meaning additional funding is still scheduled to go out to states (and then from them to districts) on 10/1/25, despite any shutdown. (USED’s plan specifically commits to making Title I and IDEA available as scheduled and notes that the others “may continue” depending on how long the shutdown lasts and the need for the funding.) Other programs, like Pell Grants, receive a combination of discretionary and “mandatory” funding. Due to the extended availability of some discretionary funding and ongoing availability of “mandatory” funding, awards can continue to be disbursed, even during a shutdown. And of course, the vast majority of K-12 education funding comes from state and local sources anyway. But some federal programs will be immediately affected or will soon be once available funding runs out, such as [Impact Aid](#).

That said, it is harder to predict how this shutdown will affect the early childhood, K-12, and higher education sectors given a number of unusual circumstances and factors. For example, the Administration has [indicated](#) an intention to not just furlough non-essential workers during a shutdown, as has been common practice, but to instead permanently terminate them. This shutdown also arrives in the context of an ongoing effort by the Administration to “[facilitate the closure](#)” of USED.

2. FY25 Grant Non-Continuations and Cancellations Update

In this last part of the federal fiscal year (FY), the Administration continues to take numerous actions regarding remaining FY25 funds that are due to expire at midnight on 9/30/25. While some grants are being quickly disbursed, others are being canceled, discontinued, and/or repurposed. There are also some FY25 education grant programs that do not expire on 9/30/25 but instead provide agencies with additional time to disburse the funds, such as FY25 Education Innovation and Research grants and Preschool Development Grant Birth through Five grants, both of which must be sent out by 12/31/25. And, as noted above, other education grants are disbursed on a different timeline such as Title I, which is forward- and advance-funded.

The following are some recent FY25 funding actions that have been announced or reported. Unlike other recent grant cancellations and cuts that were [redirected](#) to programs the Administration prefers, there is not yet any public information about what USED will do with the funding involved in these actions.

- On top of the discontinuations of IDEA Part D grants [covered](#) in our prior Alert, new [reporting](#) has identified discontinuations of dozens of individual grantees across six additional programs, including [Gaining Early Awareness and Readiness for Undergraduate Programs](#) (GEAR UP), [TRIO Programs](#), [Magnet Schools Assistance Program](#), [Assistance for Arts Education](#), [Innovative Approaches to Literacy](#), and [American History and Civics](#). (Note that the non-continuations of grants for several American History and Civics projects came at the same time that USED [announced](#) \$153 million in new awards under the same program, albeit with a new focus aligned to the Administration’s priorities.)

- Additionally, on 9/18/25, USED [withdrew](#) the Notices Inviting Applications (NIAs) and cancelled the FY25 competitions for two higher education programs designed to assist migratory or seasonal farmworkers (or immediate family members of such workers): [College Assistance Migrant Program](#) (CAMP) (\$5 million) and [High School Equivalency Program](#) (HEP) (\$6 million).

Relatedly, on 9/26/25, the U.S. Supreme Court [paused](#) a lower court's injunction, effectively allowing the Administration to withhold nearly \$4 billion in foreign aid funding via a contested procedure known as a "[pocket rescission](#)" that Congress will not act on before the end of the fiscal year. Although the decision does not represent a final decision on whether the Executive Branch can withhold Congressionally-authorized funding in this way, the decision may result in the Administration succeeding in refusing to spend additional FY25 funds before the deadline. Although the funding in this decision was not for education programs, enabling a "pocket rescission" in this instance may set a precedent that affects education funding in the future.

3. Court Allows OCR RIF to Proceed

On 9/29/25, the First Circuit Court of Appeals [allowed](#) USED to move forward with its reduction in force (RIF) of more than half of the staff of the Office for Civil Rights (OCR) while a lawsuit challenging the terminations proceeds to a final resolution. The appellate court ruled that the U.S. Supreme Court's [7/14/25 decision](#) to allow the overall USED RIF to move forward applied equally to this separate lawsuit focused just on OCR. The plaintiffs may still ultimately win the case, especially if they can prove that such a massive RIF makes it impossible for OCR to fulfill its Congressionally-mandated duties, but in the meantime, 7 of 12 OCR regional offices will be closed and USED's capacity to address civil rights complaints throughout the country will be significantly diminished.

4. USED Seeks Public Comment on IES Redesign

On 9/25/25, USED issued a [Request for Information \(RFI\)](#) seeking public feedback by 10/15/25 on its redesign of the Institute of Education Sciences (IES) "to ensure that its core functions—research, statistics, evaluation, and dissemination—are carried out in ways that maximize relevance, timeliness, and usability for the education stakeholders who rely on them." Among other things, the RFI identifies seven goals for the redesign and invites comments on how IES might approach the following four specific areas of interest:

1. Prioritize and streamline federal data collections to balance burden and benefit.
2. Leverage its grantmaking to advance impactful, practitioner-relevant research on pressing topics, with specific input on the identification of those topics.
3. Improve the reach and utility of evidence dissemination.
4. Support states and districts through more responsive technical assistance and capacity building, including building states' capacity for using evidence and creating a culture of continuous improvement.

It is worth noting that the RFI arrives at a precarious time for IES: about 90% of the workforce was terminated via USED's RIF, large numbers of research grants and data contracts were canceled (with DOGE's assistance), and the President's proposed budget calls for a 67% reduction in IES funding. It is unclear how the agency could be redesigned absent funding or staff.

5. USED Secretary McMahon Proposes Two Additional Secretarial Priorities

On 9/25/25, USED Secretary Linda McMahon [announced](#) two new proposed Secretarial Priorities for discretionary grants: “Expanding Career Pathways and Workforce Readiness” and “Meaningful Learning Opportunities.” Both of these proposed priorities are open for public comment until 10/27/25 (via the links in the bullets below). They join two other proposed priorities—“Artificial Intelligence” and “Promoting Patriotic Education”—and three finalized priorities—“Evidence-Based Literacy,” “Educational Choice,” and “Returning Education to the States.” Once finalized, Secretarial Priorities can be used in any USED competitive grant competition. See our [updated Deep Dive](#) for more information on this topic in general and the Secretary’s priorities in particular.

- The “[Expanding Career Pathways and Workforce Readiness](#)” priority would help the Administration shift more USED funding to a “range of education pathways that meet the needs of a rapidly changing economy.” Specifically, the priority includes a list of potential strategies that could be incorporated into future competitive grants, including “workforce development programs that are aligned with State priorities,” “career and/or college exploration and advising opportunities,” “financial tools to compare the cost and benefits of the career options and educational pathways,” and “development of talent marketplaces (including credential registries, skills-based job description generators, and learning and employment records) that connect employers, students, and jobseekers.”
- The “[Meaningful Learning Opportunities](#)” priority identifies a long list of academic strategies and instructional practices that, according to USED, are designed to “prepare students for success in an increasingly complex, interconnected and technology-rich world and ensure all students are prepared for employment, enrollment, enlistment, or entrepreneurship.” Once finalized, the proposed priority would allow USED to direct more competitive grant funding to particular instructional priorities not covered by the other priorities.

6. USED Threatens School Districts with Loss of Magnet School Funds

According to [reporting](#), on 9/16/25, OCR notified Chicago Public Schools (CPS), New York City Public Schools, and Fairfax County Public Schools that the districts stand to lose access to \$65 million in [Magnet School Assistance Program](#) (MSAP) grants due to “civil rights compliance issues.” LEAs under desegregation plans are eligible to apply for MSAP grants (outlined in ESSA Title IV, Part D) to assist in the “the elimination, reduction, or prevention of minority group isolation in schools with substantial proportions of minority students,” among other purposes. OCR regularly reviews MSAP grantees to ensure that they are complying with grant requirements and abiding by federal nondiscrimination laws.

The 9/16/25 [letter to CPS](#), for example, called for changes by 9/19/25 to the district’s Black Student Success Plan (which OCR asserts violates Title VI) and gender-affirming policies (which OCR says violate Title IX). OCR previously announced district-wide investigations—beyond the MSAP program—on both counts (see 3/20/25 Title IX [announcement](#) and 4/29/25 Title VI [announcement](#)). In response to CPS’s [request](#) to discuss the MSAP letter and pending investigations before making changes to its policies and programs, USED [terminated](#) CPS’s MSAP funding on 9/25/25.

The letters to NYC and Fairfax specifically focused on the districts’ gender affirming policies, demanded policy changes within three days, and, when the districts declined to comply, [resulted](#) in MSAP terminations. Like with CPS, OCR is already enforcing Title IX against Fairfax for these same policies: the district has been [placed on “high risk” status](#) as a federal grantee. Fairfax is currently [appealing](#) an [initial ruling](#) in its lawsuit against USED.

7. Other Significant Updates

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

Agriculture Department Cancels Hunger Survey: On 9/20/25, USDA [announced](#) it was discontinuing a 30-year-old annual data collection, the [Household Food Security Reports](#). USDA's decision to stop studying hunger levels comes before the agency begins [implementing changes](#) to the Supplemental Nutrition Assistance Program (SNAP) program included in the One Big Beautiful Bill Act. The Congressional Budget Office (CBO) [estimates](#) that the SNAP changes will reduce eligibility by 2.4 million people due to new work requirements (300,000 of whom live with children aged 14 and over). The CBO also predicts that a new provision requiring states to share the costs of the program will reduce or eliminate benefits for an additional 300,000 people. According to reports, USDA will still publish the 2024 report later this month but will not collect the data moving forward.

HHS Initiates Process to Bar Harvard from All Federal Funding: On 9/29/25, HHS [announced](#) additional actions against Harvard University, stemming from HHS OCR's 6/30/25 finding that Harvard had violated Title VI of the Civil Rights Act of 1964 because of how it responded to antisemitism on campus. Specifically, HHS OCR has referred Harvard to the suspension and debarment process, which allows the federal government to determine that an institution is not responsible enough to continue to access federal funding. If the process results in such a designation by HHS, it would apply government-wide and prohibit Harvard from receiving funding from any federal agency.

This represents another unusual development in the Administration's multi-pronged legal and administrative [confrontation](#) with Harvard. It is also worth noting that, per [OMB's guidance](#) about suspension and debarment, "[a]n exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment."

USED OCR and HHS OCR Find that Minnesota's Trans-Inclusive Policies Violate Title IX: On 9/30/25, the USED and HHS Offices for Civil Rights [issued](#) a rare no joint finding of violation against the Minnesota Department of Education (MDE) and the Minnesota State High School League (MSHSL) following an investigation into policies that allow transgender students in the state to play sports and access facilities consistent with their gender identity. The announcement follows USED OCR's 6/12/25 [elevation](#) of this investigation to the Title IX Special Investigations Team, a partnership between USED and DOJ. The new notice gives MDE and MSHSL only ten days (until 10/9/25) to accept a proposed agreement that includes adopting "biology-based definitions of 'male' and 'female,'" statewide policy changes, sending a "letter of apology" to cisgender female students who competed with transgender girls, and more. This policy dispute is already subject to litigation because Minnesota [filed](#) a proactive lawsuit on 4/22/25 against the Trump Administration. Minnesota claims that the Administration failed to engage in required rulemaking before interpreting Title IX this way and that OCR's efforts improperly preempt Minnesota state laws protecting transgender people. The suit remains ongoing.

USED Encourages Use of Ed-Flex Program for SEAs to Waive Rules for LEAs: On 9/17/25, USED sent a [Dear Colleague Letter](#) (DCL) to chief state schools officers describing the [Educational Flexibility \(Ed-Flex\)](#) program. Ed-Flex, which was first authorized through the Education Flexibility Partnership Act of 1999 and reauthorized in ESSA, allows the Secretary to delegate to state educational agencies (SEAs) the authority to grant district- or school-level waivers of certain statutory or regulatory requirements "in exchange for enhanced accountability of the performance of students." The DCL includes information on how SEAs can apply to become an Ed-Flex state and notes the eleven states that currently have Ed-Flex authority. Although USED notes that the most common uses of the authority have focused on Title I, Part A carryover limitations and the mandatory spending

minimums for each of Title IV, Part A's content areas, the Ed-Flex authority extends to provisions under Title I, Parts A, C, and D; Title II, Part A; Title IV, Part A; and the Carl D. Perkins Career and Technical Education Act of 2006. The DCL also lists un-waiveable requirements including, but not limited to, any IDEA requirements, ESSA's standards, assessments, and accountability requirements, distribution of funds to states or to districts, and maintenance of effort requirements.

USED Announces Civics Education Coalition: On 9/17/25, USED [announced](#) the launch of the [America 250 Civics Education Coalition](#), "dedicated to renewing patriotism, strengthening civic knowledge, and advancing a shared understanding of America's founding principles in schools across the nation." The coalition includes more than 40 national and state-based organizations, co-led by the America First Policy Institute, Turning Point USA, and Hillsdale College. In its first roundtable, the coalition described a "robust" programming agenda that will feature events on college campuses, including a "Fundamental Liberties College Speaker Series" and a 50-state speaking tour.

USED Expands PPRA Enforcement to Abortion Context: On 9/29/25, USED's Student Privacy Policy Office [initiated](#) an enforcement action against Fairfax County Public Schools under the Protection of Pupil Rights Amendment (PPRA). The action involves allegations that a high school social worker facilitated two students' access to abortion services without notifying their parents. This marks the first time the Trump Administration has publicly announced PPRA enforcement beyond the [context](#) of notifying parents about changes to students' pronouns, name, or other gender-affirming practices at school.

USED Invites Applications for Mental Health Grants: On 9/29/25, USED announced two new competitions authorized by the Bipartisan Safer Communities Act (BSCA) to increase the number of mental health professionals in schools: the School-Based Mental Health Services Grant Program ([final priorities](#); [notice inviting applications](#)) and the Mental Health Service Professional Demonstration Grant Program ([final priorities](#); [notice inviting applications](#)). In April, USED [discontinued](#) most of the existing grant awards under these programs, and in July, the Department [initially proposed](#) the design of the new competitions. Notably, the new grants will only support increasing school psychologists whereas the Biden Administration's version also included school counselors and social workers. Additionally, new grantees will be prohibited from "using program funds for: (1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races."

Federal Court Restores UCLA's Federal Grants: On 9/22/25, a federal district court in Northern California issued a [preliminary injunction](#) restoring frozen federal grants that the University of California, Los Angeles (UCLA) was awarded by the National Institutes of Health and the Departments of Defense and Transportation. This decision follows [multiple court orders](#) that have restored hundreds of other UC research grants from multiple agencies. The Trump Administration initially suspended federal funding to UCLA over allegations the campus broke civil rights law, including by failing to adequately protect Jewish students from harassment.

- Furthering the Administration's enforcement actions against California's higher education system, new [reporting](#) indicates the Equal Employment Opportunity Commission has launched an investigation into alleged antisemitism at all 22 campuses of the California State University System.

8. 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
10/9	"Implementing The President's 'Department of Government Efficiency' Workforce Optimization Initiative" EO	Directs the USDS [DOGE] Administrator to submit a report to the President regarding implementation of this order, including a recommendation as to whether any of its provisions should be extended, modified, or terminated.
10/20	"Advancing Artificial Intelligence Education for American Youth" EO	Requires the AI Task Force to work to ensure federal funding mechanisms, including discretionary grants, are ready for use in K-12 instruction following the Task Force's formal announcement of the first slate of public-private partnerships.

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 September 30, 2025 at 12:00 pm ET.