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FEDERAL POLICY UPDATE

September 2025[1] | Quarter 3

EducationCounsel's Quarterly Federal Policy Update is intended to provide a deeper understanding of key early childhood, K-12, and higher education policy priorities that have been advanced at the federal level by the Administration and Congress over the past quarter and how they could continue to play out in the coming months.

EXECUTIVE BRANCH ACTION

BY: ELLIE CASH AND DAN GORDON

President Trump and his Administration continue to take numerous executive actions that together seek to dramatically remake the federal role in early childhood, K-12, and higher education. Congress has also taken significant actions, and the courts are playing a major role as well. We are comprehensively tracking the Administration's actions affecting education—with summaries and initial analyses—in our Executive Actions Chart and other resources for the field.

IN THIS ISSUE:

We begin this Update by continuing to summarize the status of ten critical Trump Administration priorities. For each area, we briefly describe the issue, summarize the state of play, and, where appropriate, identify what might happen next. We also recently released a summary of actions in each of these areas over the first six months of the Trump Administration, and we plan to update this document periodically.

1. Eliminate the U.S. Department of Education & Reduce Other Agencies
2. Minimize the Federal Role/Requirements & Transfer Power to States
3. Reduce Federal Education Funding & Programs for Public Schools and Safety Net
4. Expand Funding for Private Schools, Including for Religious Schools
5. Dismantle "DEIA" & Reverse Civil Rights Enforcement
6. Reverse Gender Equity Rights
7. Disrupt Higher Education
8. Increase Immigration Enforcement & Deny Benefits to Noncitizens
9. Limit Education R&D and Data
10. Advance Select Education Priorities

1. Eliminate U.S. Department of Education & Reduce Other Agencies

The Trump Administration continues to advance its stated goal of eliminating the U.S. Department of Education (USED). Although the main actions the Administration has taken—a March 20 Executive Order (EO) instructing Secretary McMahon to "take all necessary steps to facilitate the closure of [USED]" and a massive 50% reduction in force (RIF) announced in early March—were originally halted by a federal judge, the Supreme Court on July 14 allowed the RIF to take place while the case proceeds toward a final resolution. (A separate injunction is still in place halting the RIF at USED's Office for Civil Rights.) Meanwhile, USED and Department of Labor (DOL) entered the first agreement to transfer USED functions to other agencies by

[1] This Federal Policy Update is current as of September 4, 2025.

placing DOL in charge of managing $2.6B in career and technical education (CTE) and workforce grants the Congress assigned to USED. There may be additional inter-agency agreements announced in the coming months as the Administration seeks to persuade Congress that the Department should be officially eliminated—and there may likely be legal challenges to these transfers as well.

2. Minimize the Federal Role/Requirements & Transfer Power to States

The Trump Administration in some areas wants to minimize the federal role in education, whether or not it succeeds in eliminating USED itself. President Trump's Fiscal Year 2026 (FY2026) budget request proposes giving states more authority to direct their federal funding by consolidating 18 federal education programs (while cutting funding for those programs by 70%) and consolidating some special education programs as well. (However, the Senate's bipartisan appropriations bill rejected this approach; see *Budget and Appropriations* for more details.) In Secretary McMahon's proposed supplemental competitive grant priorities, "returning education to the states" is one of four priorities—if finalized, this may allow USED to direct more federal funding to state-directed or -endorsed projects. (See #10 for more information on the priorities).

In a potentially significant development, USED issued a Dear Colleague Letter (DCL) that encourages state education agencies (SEAs), local education agencies (LEAs), schools, and tribal leaders "to seek creative and effective [Every Student Succeeds Act (ESSA)] waivers for improving student academic achievement and maximizing the impact of Federal funds." Three states—Indiana, Iowa, and Oklahoma—have already proposed (but not yet all submitted) waiver requests with varying levels of changes to the implementation of ESSA programs and funds. Notably, Indiana's request proposes waiving allowable uses of funds under several ESSA provisions, making the case that waiving certain provisions will allow the state and its LEAs to operate within something closer to a block grant focused on state and local priorities. Oklahoma's focuses on waiving the core federal requirement for a single statewide assessment. How USED handles these (and other) requests will likely be a major theme of the next several months, as the Secretary must respond to each submitted request within 120 days.

3. Reduce Federal Education Funding & Programs for Public Schools and Safety Net

Federal agencies continue to make significant cuts to federal education funding in a variety of ways, especially where those funds are (even tenuously) connected to efforts to advance diversity, equity, and inclusion. There have been and continue to be widespread terminations of existing grants and contracts, decisions not to continue multiyear grants, and pauses on administering new grant competitions (which may lead to unobligated funds expiring at the end of the fiscal year on September 30). The education-related funding actions began primarily with the Institute of Education Sciences (IES) and several USED competitive grants but also include other grants and contracts funded by, among others, the National Science Foundation (NSF), AmeriCorps, Institute of Museum and Library Services, and USED's mental health grants pursuant to the Bipartisan Safer Communities Act. The cuts are being challenged by multiple federal lawsuits, some of which have secured preliminary injunctions to halt the Administration's actions while the lawsuits proceed (e.g., restoration of the Equity Assistance Center-South and extension of USED's approval of the late liquidation of ESSER funds). But a recent Supreme Court ruling in a case involving National Institutes for Health (NIH) grants may mean that lawsuits seeking reinstatement of federal funding must be brought in the Federal Court of Claims and litigated as a contract dispute. This new procedural ruling may make it harder for federal grantees to win back canceled federal awards and easier for the Administration to reduce federal funding, especially for programs and research that it views as "not aligned with the Administration's priorities." (Relatedly, in July the Administration released almost $7 billion in education funding that it had been withholding, asserting that "additional guardrails" are now in place to ensure the funds are spent in alignment with President Trump's EOs and other statements of the Administration's policies.)

Continuing his efforts to reduce federal education funding, President Trump sent Congress his Fiscal Year 2026 budget request that proposes a 15% cut, or $66.7 billion, in funding for USED. However, the Senate Appropriations Committee recently approved the FY2026 Labor-HHS-Education bill that mostly level-funded USED, rejecting the Administration's proposed cuts. (See more under *Budget and Appropriations*.)

Most significantly, the One Big Beautiful Bill Act (OBBBA)—the Republican budget reconciliation bill—was enacted in July and includes significant cuts to, among many things, Medicaid, SNAP, and student financial aid for higher education (as discussed in several sections below). The law also restricts some of its benefits, such as Medicaid and the Child Tax Credit, to only those children (and at least one parent) with Social Security Numbers. (See more under *Early Childhood Education.*)

4. Expand Funding for Private Schools, Including for Religious Schools

This priority is advancing in different ways and at different paces across the three branches of government. Congress has taken the most significant step by creating in OBBBA a new 100% tax credit of up to $1,700 per year—with no national cap—for taxpayers' donations to "scholarship-granting organizations" that provide scholarships to qualifying elementary or secondary school students attending private, religious, or public schools who can then use the money for a range of purposes. The Department of Treasury will implement the tax credit beginning in 2027, likely promulgating regulations to further define critical details about the program. Given that there is no national cap on the tax credit, the new program could represent one of the largest federal investments in K-12 education and have significant implications for public education and student supports. (See *K-12 Education* for more on the new tax credit program.) In an early EO, President Trump directed multiple agencies to develop plans to maximize use of existing federal funds to promote school choice, including via both formula and competitive programs. USED has continued to release guidance documents highlighting existing authorities under Direct Student Services, Unsafe Schools, Title I School Improvement, and Equitable Services.

5. Dismantle "DEIA" & Reverse Civil Rights Enforcement

The Administration continues to use multiple strategies to characterize and seek to prohibit as "unlawful discrimination" a wide array of efforts to advance diversity, equity, inclusion, and accessibility (DEIA). Almost all of them are subject to legal challenges. Some courts have found that the Administration's policies and approaches are unlawful, most recently with a federal court in Maryland permanently vacating OCR's Dear Colleague Letter and anti-"DEI" certification. Others are opting not to enjoin the Administration while the lawsuits proceed. More recently, DOJ issued government-wide, non-binding guidance about how the Trump Administration construes federal antidiscrimination laws in the context of "DEI programs." To understand how the DOJ's guidance misstates and misleads about the law, see EducationCounsel's in-depth analysis, "*Mis*guidance."

Beyond guidance, OCR and other federal agencies have continued to conduct several Title VI investigations related to allegations of improper considerations of race in admissions and scholarships, of shared ancestry discrimination against Jewish students, and of other efforts to advance diversity, equity, and inclusion in both K-12 and higher education. Finally, even as the Administration continues to discourage the use of disaggregated data in several contexts, President Trump recently ordered USED to collect and share publicly disaggregated data from selective IHEs' admissions and financial aid processes including quantitative measures such as GPA and standardized test scores. The Administration justifies the new data collection on "concerns" that IHEs are using "'diversity statements' and other overt and hidden racial proxies" to consider applicants' racial or ethnic status in making admissions decisions in defiance of the Supreme Court's 2023 ruling in *Students for Fair Admissions v. Harvard*.

6. Reverse Gender Equity Rights

The Administration continues to focus significant federal resources on reversing federal protections for the LGBTQ+ community, especially transgender youth and students. Title XI investigations have been launched against state departments of education (e.g., California, Illinois, Maine, Minnesota, and Oregon), school districts, and universities regarding trans-inclusive policies that the Administration considers as Title IX violations, especially with respect to transgender students' participation in athletics and access to bathrooms and locker rooms that align with their gender identity. USED has also begun investigating states and school districts for potential violations of the Federal Educational Rights and Privacy Act (FERPA) with respect to parental access to information about their children's gender identity at school (e.g., changes in names or pronouns). Multiple lawsuits have been filed related to the legality of some of the Administration's enforcement actions and guidance documents in this priority area, and the DOJ is pursuing legal action to terminate federal education funding from multiple states, some of which have proactively sued the Administration. In July, the Supreme Court agreed to hear two cases about transgender girls and women in athletics – one case challenging a policy in higher education (Boise State University) and the other in K-12 education (West Virginia). Most recently, South Carolina filed an emergency appeal in the Supreme Court in a case challenging the state's law prohibiting transgender students from using gender-aligned bathrooms.

7. Disrupt Higher Education

The Trump Administration's attacks on higher education have continued to gain momentum with high-profile "settlements" with Columbia University, University of Pennsylvania, and Brown University that included the universities paying fines or committing to other financial investments and agreeing to implement policy changes ranging from increasing protections for Jewish students to reversing trans-inclusive policies to, in Columbia's case, being subject to an outside monitor. The Administration's multi-pronged battle with Harvard University continues, with a federal court recently ruling that the Trump Administration acted unlawfully in freezing $2.6 billion of Harvard's federal research funding. The Administration is expanding its enforcement efforts to other institutions and broadening its demands to higher education more broadly, such as a new demand for disaggregated admissions data from all selective institutions. The Administration has also issued an EO to reform accreditation, with a focus on holding accountable those accrediting bodies that advance what the administration views as "unlawful DEI." Regarding financial aid, OBBBA made significant changes and cuts to student loans, including, among many things, new limits on the maximum amounts of parent and graduate student loans, a new "Workforce Pell" program for short-term programs, and new program accountability regarding graduates' earnings. And the Administration has proposed a significant change to the Public Service Loan Forgiveness (PSLF) program to implement the President's EO on updating PSLF. (See more under *Higher Education*.)

8. Increase Immigration Enforcement & Deny Benefits to Noncitizens

The Administration's overall priority on dramatically increasing immigration enforcement has significant effects for students, families, and education systems. These effects are likely to expand as a result of several OBBBA provisions that increase support for immigration enforcement and make sweeping changes to Medicaid, the Supplemental Nutrition Assistance Program (SNAP), and taxes. (For more details on how OBBBA's social safety net and immigration provision will impact the early care and education (ECE) sector, see our recent Deep Dive.) Five federal agencies recently initiated policy changes that will further exclude undocumented children and students from additional federal benefits, including Head Start and dual enrollment courses. USED also rescinded joint guidance it had issued with DOJ in 2015 that described how SEAs and LEAs can meet their obligations to serve English Learner Students under Title VI. Despite a procedural victory in the Supreme Court regarding the availability of universal injunctions, President Trump still cannot implement his EO on eliminating birthright citizenship because of a new class action lawsuit that at least temporarily protects every potential baby whose citizenship would be called into question by the EO. Finally, the Administration has taken multiple actions to restrict immigrants' access to higher education, including by preventing undocumented students from accessing in-state tuition rates; investigating scholarships designed for students who are ineligible for federal student aid because of their immigration status (e.g., Deferred Action for Childhood Arrivals (DACA) or undocumented students) as Title VI violations; declining to defend the legality of congressionally authorized funding for Hispanic-Serving Institutions (HSIs); and placing a number of additional burdens on international students.

9. Limit Education R&D and Data

The Trump Administration wants to either dismantle or, perhaps, reinvent the federal research and development (R&D) and data infrastructure. Multiple lawsuits have been launched challenging the Administration's massive RIFs at IES and NSF as well the sudden cancellations of contracts and grants issued by both agencies, although the plaintiffs' ability to regain their federal funding may now depend on bringing separate claims in the Court of Federal Claims (as discussed above in #3). Likewise, the Supreme Court separately allowed the USED RIF to proceed, resulting in 90% of IES staff being terminated. A recent EO, "Improving Oversight of Federal Grantmaking" initiated sweeping changes to the way the federal government manages discretionary grants, which are the primary mechanism for federal investments in education R&D. The EO's provisions increasing the role for political appointees (and decreasing the role of peer review panels) and making federal grants subject to termination for convenience—including because of a determination that the grants are not aligned with the Administration's priorities—could dramatically undermine the quality and stability of R&D and the independence and academic freedom of research institutions. Meanwhile, the Administration is engaged in a planning process, including some stakeholder input meetings, regarding the future of the Institute for Education Sciences, with potential recommendations coming later this fall.

10. Advance Select Education Priorities

The Trump Administration also is seeking to advance select education policy priorities. For example, following USED Secretary Linda McMahon's original proposed supplemental grant priorities published on May 20, a fourth priority was added in July—advancing artificial intelligence (AI) in education—which could be used for future competitive grant programs. USED later issued guidance highlighting the allowable uses of existing federal education formula and discretionary grant funds to support AI in education. To support AI growth and development and integration of AI in education, the Administration has taken several actions, including publishing an "AI Action Plan" that prioritizes AI skill development as a "core objective" of relevant education and workforce funding streams at USED, DOL, and other agencies. Secretary McMahon is also highlighting the Administration's education priorities during a 50-state "Returning Education to the States Tour."

BUDGET AND APPROPRIATIONS — BY: JENNIFER CASTAGNA

Senate and House at odds over approach to fiscal year (FY) 2026 Labor/HHS Appropriations bill resulting in some key differences despite some areas of alignment

Senate Appropriations Committee Chairwoman Susan Collins (R-ME) and Ranking Member Patty Murray (D-WA) have been working in good faith to draft bipartisan FY2026 appropriations bills, despite the current political climate. As evidence of this, Senate Republican and Democratic Appropriations Committee members joined together on a *bipartisan basis* to advance the FY2026 Labor, Health and Human Services, Education, and Related Agencies (Labor/HHS) Appropriations bill and report out of Committee, which proposes essentially level funding for USED of $79 billion.

Across the Hill, it is a much different story with House Republicans passing out of Subcommittee a *partisan* FY2026 Labor/HHS Appropriations bill on a vote of 11-7, which would match the President's budget request in calling for a more than 15% decrease in overall funding for USED to $66.7 billion. A reduction of that scale to overall funding led to some key differences between the proposed FY2026 House and Senate bills – chief among those being funding for Title I, which provides funding to K-12 schools serving low-income students. While the FY2026 Senate bill includes a $50 million increase for Title I, the FY2026 House bill would cut funding for Title I by $4.7 billion. Additionally, to reach the same funding level as the President's budget request, the FY2026 House bill includes several program eliminations, such as funding for Title II (Supporting Effective Instruction State Grants), Title III (English Language Acquisition Grants), and State Assessments[2], among other programs. In contrast, the FY2026 Senate bill would maintain funding for Title II, Title III, and State Assessments. Related to higher education, the FY2026 House bill proposes to reduce Federal Work-Study funding by $451 million and to eliminate the Supplemental Educational Opportunity Grants (SEOG) program, where again the FY2026 Senate bill would maintain funding for both programs. For a more detailed table on funding levels for specific programs, please see the Appendix.

The FY2026 House bill also includes several policy riders related to education that are not included in the FY2026 Senate bill, such as: preventing policies or programs intended to promote diversity, equity, or inclusion; blocking funding from going toward efforts related to critical race theory; and blocking federal funds from an "educational institution" that allows transgender girls and women to compete in athletic programs or activities. The FY2026 House bill would also block USED from implementing a final rule promulgated during the Biden Administration (but vacated by a federal court) preventing sex discrimination and sex-based harassment at schools or issuing a final rule to clarify policies about athletics participation. Additionally, the FY2026 House bill would block USED from implementing regulations finalized during the Biden Administration related to postsecondary financial value transparency, gainful employment, student loan forgiveness, and income-driven repayment plans.

Despite these key differences, there are a few areas of alignment between the FY2026 House and Senate bills. Both bills reject the President's budget request to create a "K-12 Simplified Funding Program," which would have consolidated 18 K-12 education programs. Additionally, both bills maintain the maximum Pell Grant award of $7,395, while the President called for a $1,685 reduction to the maximum Pell Grant award. Additionally, both bills maintain level funding for 21st Century Community Learning Centers (summer and after school programs), Education for Homeless Children and Youth, TRIO, and GEAR UP, among other programs. The FY2026 House bill would also maintain funding for both Child Care and Development Block Grants (CCDBG) and Head Start, while the FY2026 Senate bill would also continue funding for these programs, but with an increase of $85 million for each program.

Whether the House and Senate can resolve their differences in conference in order to advance a final FY2026 Labor/HHS Appropriations bill, will primarily come down to if an agreement can be reached on the overall level of funding for domestic (also known as discretionary) funding, as well as controversial policy riders not being included in a final bill. Without these agreements, there is a strong possibility of another long-term CR to fund USED and HHS for FY2026 (more on this below).

[2] The Every Student Succeeds Act (ESSA) includes a trigger provision, which states that if funding for the Statewide Assessments program falls below $369.1 million then statewide assessments do not need to be administered. As a result of the Statewide Assessments program being eliminated in the FY2026 House Labor/HHS bill, states would no longer be required to administer statewide assessments.

With federal funding set to expire on September 30, a short-term path forward begins to take shape but could be upended by Trump Administration actions to continue to exert control over federal spending

With only a little more than 10 legislative calendar days in the House and Senate before the end of this fiscal year, Congress must decide how to extend funding for the federal government beyond September 30 or face a federal government shutdown. A possible path forward appears to be beginning to take shape, with both the Chair of the House Appropriations Committee Tom Cole (R-OK) and the Ranking Member of the Senate Appropriations Committee Patty Murray (D-WA) speaking from the same playbook in calling for a short-term Continuing Resolution (CR) until November to allow appropriators additional time to negotiate full-year funding for federal agencies.

The fact that the Republican and Democratic leaders of the Appropriations Committee appear for now to still be working together to reach an agreement on a short-term CR in order to buy time to produce final FY2026 appropriations bills may signal some reason for optimism. Ranking Member Murray has expressed throughout this appropriations cycle that she is committed to the passage of bipartisan, final appropriations bills, saying recently, "I believe Congress should decide how to spend taxpayer dollars, not [Office of Management and Budget (OMB) Director] Russ Vought or the President…If we want to keep that power, we have to defend it by doing the hard work of coming together hammering out deals and sticking to them." More specifically, she has advocated for a bipartisan approach to avoid a full-year CR, which if passed similarly to last year, could hand over vast authority to the Trump Administration to decide funding levels for some education programs.

Despite this, there is reason to worry that the appropriations process could quickly unravel. Ranking Member Murray recognized this herself during her remarks in reference to Republican passage of a rescission package earlier this year, which rescinded prior bipartisan appropriations, including approximately $8 billion in foreign aid and $1 billion for the Corporation for Public Broadcasting. At the time, Ranking Member Murray said, "I do have to acknowledge the elephant in the room here. It is no secret the path to advancing more of our bills is going to be harder because of the unprecedented, partisan rescissions bill that Republicans just passed." Further, the current political climate has only become more complicated with the Trump Administration recently issuing a "pocket rescission"[3] of $5 billion in foreign aid funding, which is currently being challenged in the courts. Additionally, the Trump Administration is threatening possible impoundment – or the delay or permanent withholding – of some remaining FY2025 funds, which may also play out in the courts.

Given these factors – as well as calls from the White House to pass a short-term CR into early next year and the possibility that some Democrats may want to use a federal shutdown as a leverage point – House and Senate leadership will need to make a decision in the coming days as to whether to embrace the path laid out for a short-term CR by the Appropriations Committee leaders, and then whether they can reach agreement on top-line spending levels for FY2026, which will be critical to advancing a final FY2026 Labor/HHS Appropriations bill and providing full-year funding for USED.

[3] According to the Government Accountability Office (GAO), "a pocket rescission occurs when a president asks Congress to rescind (or cancel) funds very close to the end of the fiscal year—so close that the funds expire before they can be used for new obligations." On August 6, 2025, GAO issued a report finding that a pocket rescission is illegal; however OMB Director Vought has continued to defend the legality of a pocket rescission.

One Big Beautiful Bill Act (OBBBA) moves into the implementation stage as talk begins of a next budget reconciliation package

On July 4, President Trump signed his Administration's first key domestic policy bill, H.R. 1, the "One Big Beautiful Bill Act" (OBBBA). The bill represents major changes to a wide range of domestic policies, including many that affect students, families, and education systems and institutions. Specifically, the bill includes an estimated over $900 billion cut to Medicaid and imposes work requirements for parents with children over 14 years old; expands work requirements for the Supplemental Nutrition Assistance Program (SNAP) and requires states with payment error rates over 6% to begin sharing SNAP costs; creates a new dollar-for-dollar federal income tax credit aimed at expanding school choice options; and makes changes to student loan limits, student loan repayment plans, Pell Grant eligibility, and institutional accountability, as well as creating new Workforce Pell Grants – among many other provisions. The Trump Administration must now begin implementing OBBBA, which has varying start and end dates across the Act. For more detailed information on OBBBA and the beginning of its implementation, see the sections below on *Early Childhood Education, K-12 Education,* and *Higher Education*.

With OBBBA now entering the implementation phase, talk in Congress has turned to whether House and Senate Republicans will move forward with advancing a second budget reconciliation bill and on what timeline. Speaker of the House Mike Johnson (R-LA) touted efforts to pass successive budget reconciliations packages even before OBBBA passed and as recently as the week of September 1 noted that the House has begun work on a second budget reconciliation package, with House committees having a deadline of that week to put together proposals. When pressed on what could be included in a next budget reconciliation proposal, Speaker Johnson said that the package could include items, "left on the cutting room floor during the last reconciliation bill," according to *Punchbowl News*. However, questions have started to arise as to whether House and Senate Republicans feel pressure to advance a second budget reconciliation package that, at least currently, is not obviously connected to a major goal of the Republican agenda and would face challenges in finding ways to pay for it. This will be an issue to watch.

EARLY CARE AND EDUCATION — BY: MARIO CARDONA

Over the last several months, the Administration and Congress have taken significant actions that impact early care and education (ECE). These include actions to: restrict access to federal programs, reduce support through the social safety net, and introduce volatility in the administration of federal funds. Additionally, Congress has taken steps to shore up funding for ECE programs.

Administration announces forthcoming rules relating to child care and Head Start

The Office of Child Care announced on July 22 that it would propose a new rule for public comment later this year aiming to increase state flexibility. This could impact current Child Care and Development Block Grant (CCDBG) regulations focused on reducing child care costs, improving provider payment practices, building child care supply for hard-to-reach populations, and streamlining enrollment. Subsequently, the Administration released on September 4 its Spring 2025 Unified Agenda, which provides information on regulatory actions under development by the Trump Administration. The Administration announced that it intends to publish a Notice of Proposed Rulemaking (NPRM) titled, "Restoring Flexibility to the Child Care and Development Fund (CCDF)," in February 2026. The intent of the proposed rule will be to "modify the CCDF regulations to increase parental choice and reduce burden in administering the CCDF program." Please find an EducationCounsel memo of the potential impact of a rule change here.

Additionally, the Administration announced that it intends to publish in November 2025 a NPRM, titled, "Restoring Flexibility to Support Head Start Program Access and Quality." The intent of the proposed rule will be "to modify the Head Start Program Performance Standards to reduce costs and burden for Head Start programs, as well as streamline and clarify requirements. More specifically, the NPRM proposes to revise costly requirements for staff wages, benefits, family child care staff qualifications, and increase flexibility throughout the existing standards." Based on the description, the proposed rule may seek to modify or eliminate new requirements advanced through a 2024 final rule promulgated by HHS, which sought to increase wages for Head Start teachers and staff, among other improvements.

As HHS is releasing these as proposed rules, they are likely to seek public comment.

OBBBA enacts significant changes to early childhood programs

While early care and education (ECE) programs were not deeply addressed, OBBBA has significant impacts related to children, families, and providers through its changes to Medicaid, SNAP, taxes, and immigration enforcement, including with regard to CCDBG and Head Start:

- OBBBA restricts Medicaid and Supplemental Nutrition Assistance Program (SNAP) access. Medicaid imposes work requirements for parents of children over 14 and mandates eligibility redeterminations every six months, raising the risk of coverage disruptions. Medicaid access has significant impacts on early childhood educators, as an estimated 28% of child care workers rely on Medicaid for their health insurance. As a result of these changes, the burden of covering health insurance will likely shift to employers, forcing some programs to either absorb higher costs or pass them on to families.
- Among other changes, SNAP will now require adults with dependents 14 and over to work (prior law exempted parents with dependent children). OBBBA also restricts SNAP eligibility so that certain lawfully present immigrants, including refugees and survivors of trafficking, may no longer access the benefit.
- OBBBA Increases certain tax ECE-related tax deductions, including:
    - The Child and Dependent Care Tax Credit (CDCTC) was increased from $600 to $1050 for one child and $1,200 to $2,100 for two or more children. However, the credit is non-refundable and will thus not benefit low-income families who do not bear significant tax obligation but nevertheless have child care expenses that constitute a significant portion of their income.
    - The Dependent Care Assistance Program, which allows employees to set aside additional tax-free funds for care-related expenses, was increased from $5,000 annually to $7,500. Approximately half of U.S. workers have access to tax-free savings accounts through their employer. However, these employees are more likely to be higher income earners that work for larger businesses that offer such benefits.
    - The Employer Provided Child Care Tax Credit (45f), which increases a business tax credit for employers that offer child care, was increased from its maximum annual $150,000 to $600,000 for small businesses and $500,000 for larger businesses. These changes are the most significant of those made to child care tax credits and may lead to an increase in employer-supported child care. Though, based on the underutilization of this tax credit it may not.
- The Child Tax Credit (CTC) was increased beginning in 2025 by making permanent the $2,0000 CTC and increasing the non-refundable Child Tax Credit by $200, resulting in modest increases for some families. However, the CTC will now require a Social Security Number for the qualifying child and at least one parent, denying coverage to certain immigrant communities.

To learn more, including actions state and local stakeholders can take, EducationCounsel published a new resource analyzing the impacts of the OBBBA on ECE, specifically.

Administration excludes certain immigrants from multiple federal program benefits

On July 10 and 11, the Administration announced a series of new federal agency interpretations of what constitutes a federal "public benefit" under the Personal Responsibility and Work Opportunity Reconciliation Act's (PRWORA), which only United States citizens and "qualified aliens" can access, thus excluding undocumented individuals as well as those in the country under temporary protected status or who are part of DACA, among other categories. Among the programs newly restricted by the Administration's interpretation are Head Start and the Women, Infants, and Children's (WIC) nutrition program. Note that many other federal benefits are already restricted in this way, either by law or prior agency guidance, such as SNAP, (nonemergency) Medicaid, and Temporary Assistance for Needy Families (TANF). By contrast, other education-related federal benefits are exempted from these newly expanded PRWORA restrictions, such as basic K-12 education (exempted by the Supreme Court's *Plyler v. Doe* decision) and school meals (exempted directly by PRWORA). These federally funded benefits continue to be available to all students regardless of their immigration status.

The Administration's reinterpretation of what is encompassed in the definition of a "federal public benefit" is subject to a lawsuit filed by nearly two dozen state attorneys general. As a result, the Trump Administration has agreed to stay enforcement of its interpretations (meaning they will not seek compliance from any federal grantees) across the country until September 10th. Unless the stays are extended or the court enjoins the agencies' reinterpretations, after September 10th the Administration may begin to implement its interpretation of what constitutes a "federal public benefit." The notices of the government's stay are embedded in their press releases for USED and HHS.

The Administration for Children and Families (ACF) revises grant rules

ACF has updated its terms and conditions applicable to its grant awards, including formula and competitive grants. Starting on October 1, the agency purports to be able to terminate grants when "for whatever reason continued funding would not be in the best interests of the Federal government (including when a grant no longer effectuates the program goals or agency priorities)." This is consistent with the recently issued Executive Order on oversight of federal grantmaking, which instructed federal agencies to enhance the government's ability to terminate grant awards that do not meet the Administration's priorities. The new terms and conditions also include a new "Antidiscrimination Laws and Requirements" term, which states that by accepting federal funds grant recipients "certify compliance with all federal antidiscrimination laws and these requirements." This replaces previous language released in the Spring that indicated recipients of federal grants must certify that they do not run programs promoting DEI, DEIA, or "discriminatory equity ideology" in ways that violate federal anti-discrimination laws. For additional information, please review an EducationCounsel memo here.

Efforts by the Trump Administration to dismantle the U.S. Department of Education, congressional establishment of a new federal tax credit for school vouchers, and USED's recent encouragement to states to consider applying for ESSSA waivers, create significant new risks and opportunities for state leadership in education.

Department of Education invites states to apply for waivers from ESSA requirements, potentially undermining federal assessment and accountability efforts

As part of the Trump Administration's efforts to "return education to the states" as spelled out in the President's March Executive Order, the Department on July 29 issued guidance encouraging states, districts, and tribal leaders to submit "creative and effective" waiver requests related to requirements under the Every Student Succeeds Act (ESSA).

The guidance explains that Title VIII of ESSA gives the Secretary of Education broad authority to waive many requirements under the Act. (Other federal education laws, such as the Individuals with Disabilities in Education Act (IDEA), do not include such broad authority.) Waivers are intended to "advance student academic achievement" by providing flexibility primarily to states and Indian tribes. While there is broad authority, the Secretary is prohibited from waiving a number of core provisions in ESSA – including the distribution rules for formula grants, the rules defining Title I schools, key fiscal requirements, and civil rights protections.

Following this invitation, at least three states—Indiana, Iowa, and Oklahoma—have moved to submit waiver requests. Indiana released for public comment its draft waiver on July 25 that proposes significant changes to use of federal funds, including consolidating allowable uses of funds across multiple ESSA programs into a "block grant." In the application, they cite the "streamlined and flexible federal funding structure" of the COVID-relief Elementary and Secondary Education Emergency Relief Fund as a model. Indiana makes the case that waiving the allowable use provisions will allow the state and its school districts to focus more on state and local priorities. Indiana also seeks to waive federal accountability requirements in favor of a "unified school grading system" administered by the Indiana State Board of Education. The state's plan asks to waive school improvement and support grant requirements to facilitate school choice by redirecting funds from schools identified for support and improvement. Instead, Indiana proposes that students attending the schools under improvement would be provided increased access to Indiana's "growing ecosystem of effective, innovative school models." Oklahoma announced its intent to seek a waiver from ESSA's annual assessment requirements. The state proposes allowing districts to substitute statewide testing with approved benchmark assessments. Iowa has also submitted a similar waiver request on consolidating funding and using new assessments.

New federal education tax credit will dramatically impact how and where education funds are spent

OBBBA created a new dollar-for-dollar tax credit for charitable contributions to "scholarship granting organizations" that provide scholarships or vouchers to elementary or secondary school students from families earning up to 300% of an area's median income. The scholarships could be used for a range of educational expenses including, but not limited to, private or religious school tuition. Other expenses, such as tutoring and extended-day programs may also be eligible expenses.

During debate in the House and in response to parliamentary objections in the Senate, the tax credit program underwent significant changes that will likely dramatically impact spending on the program, likely including tens of billions of dollars or more per year. The tax credit requires that states voluntarily choose to participate in the program through the governor or other official designated by law. Those states with Republican governors or those in support of school vouchers, or where an existing statewide voucher or similar tax credit program are in place, are expected to opt in. But even governors that oppose private vouchers will have to consider participating given the significant financial incentives and the chance to support federally funded "vouchers" for public-school-related programs.

The Treasury Department is empowered to issue regulations for the program, which is scheduled to begin in the 2027 tax year. With so many questions and unresolved issues about the new program, states, foundations, education organizations, and advocates will likely work to shape the direction – and thus the expected size and reach of the program – over the coming year and a half.

Trump Administration announces a number of new AI policies, with a priority on AI "dominance" and growth

Over the past few months, the Administration has made several announcements to support AI growth, development, and integration of AI in education, including an expansive "AI Action Plan" and a new focus on AI in Department of Education competitive grants.

On July 23, the Administration released a comprehensive AI strategy, "Winning the AI Race: America's AI Action Plan." The plan, which was called for in a January Executive Order, identifies more than 90 federal policy recommendations and actions, including repealing federal regulations that "unnecessarily hinder" AI development and factoring in a state's "regulatory stance" in determining federal grants. The strategy calls for removing references to "misinformation, DEI, and climate change" from federal AI guidance and in ensuring AI systems are "ideologically neutral." Alongside the action plan, the Administration announced an Executive Order, "Preventing Woke AI in the Federal Government," that mandates Federal AI procurement adhere to "unbiased AI" principles that are neutral and free from "ideological dogmas."

For education, the action plan focuses on prioritizing AI skill development as a "core objective" of relevant education and workforce funding streams at USED, DOL, and other agencies; encourages workforce systems to support the creation of industry-driven training programs, apprenticeships, and early career programs that prioritize AI infrastructure occupations; and calls for guidance to state and local career and technical education systems to ensure AI infrastructure occupations are prioritized. At the same time, the Department of Education announced a new secretarial priority for competitive grants that calls for integrating AI into teaching, including for personalization and differentiated instruction, expanding AI and computer science education, and supporting professional development for teachers on using AI in the classroom. The proposed priority also encourages schools and districts to adopt AI to "enhance classroom efficiency, reduce administrative burdens, and improve teacher training and evaluation." To support the new priority, the Department issued guidance to grantees highlighting the allowable uses of existing federal education formula and discretionary grant funds to support AI in education. These include, among other things, using federal funds for instructional materials, high-impact tutoring, and college and career pathway "exploration and navigation" that incorporate AI.

Passage of budget reconciliation results in the most significant changes to federal higher education policy in a generation

The education portion of the OBBBA focuses entirely on higher education, providing an estimated spending reduction of approximately $300 billion over fiscal years 2025-2034. The modifications in this bill represent significant changes to federal financial aid programs, particularly with respect to graduate and parent borrowing, loan repayment, and programmatic eligibility. Among other things, the law:

- Eliminates Grad PLUS loans but provides for some new, more-limited loan eligibility for graduate programs,
- Scales back Parent PLUS loans and slightly modifies undergraduate loan eligibility,
- Eliminates nearly all current repayment plans for new borrowers and replaces them with a standard payment and a new income-based "Repayment Assistance Program,"
- Eliminates Pell Grant eligibility for certain students,
- Establishes a new "Workforce Pell Grant" for very short programs, and
- Creates a new accountability regime for all *degree* programs with low earnings, similar to Gainful Employment, but that would not cover certificate programs, which typically have the lowest earnings.

Most of the changes are slated to become effective on July 1, 2026. However, the true timeframe for many of these provisions could be months or years longer, with delays caused by rulemaking, data collection, and institutional reporting likely.

Trump Administration kicks off lengthy rulemaking to implement key changes, including from budget reconciliation bill

The Trump Administration has begun the process of negotiated rulemaking on several higher education policy areas. Beginning in April, USED initiated rulemaking on scaling back employer eligibility for the Public Service Loan Forgiveness (PSLF) program. After convening a negotiated rulemaking committee that did not reach consensus on proposed regulations, USED released on August 18 a Notice of Proposed Rulemaking (NPRM) that excludes from program eligibility any employer that engages in "activities that have a substantial illegal purpose." This includes violations of federal immigration law, facilitating cartels, child trafficking, "engaging in a pattern of aiding and abetting illegal discrimination," engaging in a pattern of public nuisance or vandalism, or the use of puberty blockers or sex hormones with individuals under age 19. Those proposed rules are now open for public comment, and comments must be submitted by September 17, 2025.

Following the passage of OBBBA, USED initiated another rulemaking process to implement those provisions of law. On July 24, USED announced two negotiated rulemaking sessions to address changes to student loans and workforce Pell in OBBBA. The Reimagining and Improving Student Education (RISE) Committee will address federal student loan-related changes, with sessions in September and November, and the Accountability in Higher Education and Access through Demand-driven Workforce Pell (AHEAD) Committee will address Workforce Pell and institutional and programmatic accountability, beginning in December. Following the meetings of the rulemaking committees, USED will publish NPRMs and eventually final regulations. The effective date of most of these provisions will be July 1, 2027, and it may not be until 2030 or later that programs begin seeing consequences for poor performance.

Significant federal investigations of higher education continue; some institutions settle while others challenge the Administration's actions

Since the beginning of the Trump Administration, postsecondary education has faced numerous challenges. There have been broad grant cancellations by NSF and NIH that have been delayed by litigation, but most recently the Supreme Court allowed grant cancellations to move forward at NIH while litigation proceeds. These cancellations have caused major impacts to the nation's research efforts across many institutions, resulting in furloughs and layoffs. Several other budgetary challenges, including proposed changes to indirect cost rates (currently blocked by a federal court) still remain outstanding.

Individual institutions are also facing investigations for discrimination under Title VI of the Civil Rights Act and other allegations. Some institutions, including Columbia University and the University of Virginia, have chosen to settle in the face of Trump Administration demands by paying penalties, agreeing to Administration oversight, and forcing key leaders to resign. Others, such as the University of California system, have investigations still pending. Harvard has so far chosen to litigate threats to its funding and recently secured a ruling that the Administration violated the First Amendment and the Administrative Procedures Act in freezing Harvard's research funding. (The Administration will likely appeal the ruling.) Higher education will face significant threats to academic freedom and budgetary challenges more broadly should Harvard decide to drop its pending litigation and reach an agreement with the Trump Administration. For more information on the Administration's investigations and actions against Harvard, see EducationCounsel's resource here.

Six southern states signal intention to form new accreditor

On June 26, six state public university systems (Georgia, Tennessee, Florida, North Carolina, South Carolina and Texas) announced their intention to form a new accreditor, named "the Commission for Public Higher Education," and that they would work to secure federal recognition. "Our work with the Commission for Public Higher Education aims to keep Georgia's universities among the best in the nation by focusing on high standards and real value for students and families," University System of Georgia Chancellor Sonny Perdue said in a statement accompanying the announcement. "Collaborating with neighboring states lets us put resources where they make the biggest difference, and I look forward to the success of an effort that increases accountability and drives meaningful innovation." The focus of the new accreditor is "on academic excellence, student outcomes, process efficiency, and the pursuit of quality assurance for public postsecondary education." The creation of a new accreditor would enable institutions to potentially secure access to federal student aid with less rigorous oversight, and the Trump Administration and USED have clearly signaled their intention - including through President Trump's Executive Order on Accreditation - to quickly approve new accreditors.

Nicholas Kent confirmed as USED's Under Secretary, will oversee federal higher education policy

On August 1, the Senate voted 50-45 to confirm Nicholas Kent as the Under Secretary of Education. Kent, who will oversee all of USED's work in postsecondary education, vocational and adult education, and federal student aid, formerly served as the Virginia deputy secretary of education and as a lobbyist for for-profit colleges and trade schools. In his statement accompanying his confirmation, Under Secretary Kent laid out his priorities to "refocus the mission of higher education on serving students rather than protecting entrenched interests." These include ensuring taxpayer funds directly impact high school graduates' ability to contribute to the workforce, working to limit tuition increases, increasing competition among institutions and accountability for poor performance, and advancing alternatives to traditional four-year degrees.

APPENDIX: FY2026 PROPOSED FUNDING LEVELS

Below are some of the proposed funding levels for USED overall and for key early learning, K-12, and higher education programs in the FY2026 Senate and House Labor/HHS bills, along with current funding levels for comparison:

Topic Area	Select Programs	Senate Bill Funding Levels	House Bill Funding Levels	Current Levels*
USED	**Overall funding levels for USED's budget**	**$79 billion**	**$66.7 billion**	**$79 billion**
Early Childhood Education	Child Care & Development Block Grant (CCDBG)	$8.8 billion	$8.7 billion	$8.75 billion
	Head Start	$12.4 billion	$12.3 billion	$12.27 billion
	Preschool Development Grant Birth through Five (PDG B-5)	$315 million	Eliminated	$315 million
	Child Care Access Means Parents in Schools (CCAMPIS)	$75 million	Eliminated	$75 million
K-12 Education	Title I	$18.46 billion	$13.7 billion	$18.41 billion
	Title II - Supporting Effective Instruction State Grants	$2.2 billion	Eliminated	$2.2 billion
	Title III - English Language Acquisition	$890 million	Eliminated	$890 million
	State Assessments	$380 million	Eliminated**	$380 million
Student Financial Assistance	Pell Grants	Maintains the max Pell Grant at the FY2025 level of $7,395		$7,395
	Federal Work-Study	$1.2 billion	$779 million	$1.2 billion
	Supplemental Educational Opportunity Grant	$910 million	Eliminated	$910 million
Other Education Programs	Institute for Education Sciences	$793 million	$740 million	$793 million
	Office for Civil Rights	$140 million	$91 million	$140 million

* Note that some of the funding levels in the table include the amount in the FY2025 Continuing Resolution while others are compared to the FY2024 level, given that USED has not published its final FY2025 spending plans.
** ESSA requires annual statewide assessments only if Congress appropriates a minimum amount of funding ($369.1 million). So the House bill, if enacted, would also lead to the removal of this federal testing requirement.

For more information, please contact Jennifer Castagna (jennifer.castagna@educationcounsel.com) or Elysa Cash (elysa.cash@educationcounsel.com).