

EducationCounsel Alert for April 30, 2026

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

- 1. Administration Announces USED (not DOL) will Distribute FY26 ESSA Formula Funds**
- 2. President Trump Fires All Members of the National Science Board**
- 3. USED Proposes Rules for Higher Education Accountability**
- 4. Other Significant Updates**

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 sometimes change rapidly, and *this Alert and all our materials are meant to provide general guidance and do not constitute specific legal advice.*

1. Administration Announces USED (not DOL) will Distribute FY26 ESSA Formula Funds

Despite the interagency agreement previously announced by the U.S. Department of Education (USED) and the U.S. Department of Labor (DOL), USED on 4/17/26 sent a letter to state superintendents of education announcing that FY26 formula funds under the Every Student Succeeds Act (ESSA) (e.g., Title I, Title II, Title IV-A, and other K-12 formula grant programs) will continue to be disbursed via USED's grant platform based on "concerns regarding the July 1 formula grant timeline" raised by state leaders. The letter was not issued publicly but has been widely [reported](#) on.

With USED continuing to administer these large formula funds through its grants management system, the funds should be distributed in a timely manner this summer to states, districts, and schools unless the Administration withholds funds for other reasons, as it did with [almost \\$7 billion in FY25 formula funds](#) for several weeks last July. USED's letter does not address plans for other disbursements of ESSA funds, including a second tranche of these same formula funds on 10/1/26 or other formula-funded grant programs that have been transferred to agencies besides DOL, such as Native American grant programs that will be administered by the Department of the Interior.

Meanwhile, other aspects of the IAAs moving funds and functions from USED to other federal agencies continue to move forward:

- DOL recently [announced](#) two more K-12 discretionary grant competitions, Supporting Effective Educator Development Grant Program and the Charter Schools Program Grants to State Entities.
- On 4/22/26, the U.S. Department of Health and Human Services (HHS) [launched](#) the first grant competition it is administering pursuant to the USED-HHS IAA. The competition is for Child Care Access Means Parents in School (CCAMPIS), a grant program that President Trump has proposed eliminating for FY27 in his recent budget request.
- Finally, in her recent Senate [testimony](#) regarding the FY27 budget, USED Secretary McMahon confirmed that the Administration still plans to move special education to another agency but is "still evaluating where those programs would best be located."

2. President Trump Fires All Members of the National Science Board

On 4/24/26, the White House terminated all 22 members of the National Science Board (NSB), the independent board that oversees the National Science Foundation (NSF). Among other things, NSF is the largest source of federal funds for education research and development.

Under [statute](#), members of the NSB are appointed by the President to serve six-year terms, which are typically staggered so a portion of the board rotates every two years rather than all at once. The board is usually composed of 24 members drawn from academia, industry, and other scientific fields, selected for their expertise and national leadership in “the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs.” This staggered appointment system is designed to ensure continuity across administrations and preserve the board’s independence from political shifts.

3. USED Proposes Rules for Higher Education Accountability

On 4/17/26, USED [announced](#) for public comment its [Notice of Proposed Rulemaking](#) (NPRM) implementing the One Big Beautiful Bill Act’s (OBBBA) “Do No Harm” accountability provisions for higher education institutions and modifying existing regulations for Gainful Employment (GE) and the Student Tuition and Transparency System (STATS) (formerly known as financial value transparency (FVT)). These are rules governing the performance and value of postsecondary education programs, particularly whether certificate and degree programs provide median earnings for graduates above the average high school graduate (for undergraduate programs) or the average bachelor’s degree holder (for graduate programs) in the state the program operates.

The NPRM is substantively equivalent to the consensus language reached by a negotiated rulemaking committee in January. It would eliminate the GE debt-to-earnings metric; apply STATS reporting and disclosure requirements across all Title IV programs; and establish and harmonize GE and OBBBA minimum earnings accountability, with programs that do not meet minimum earnings in two out of three consecutive years losing Direct Loan eligibility. (See our [1/21/26 Alert](#) for more details about the proposed regulations.)

Notwithstanding the lack of substantive changes to the proposed regulatory text from what was agreed to during the negotiated rulemaking process, the NPRM provides three important new takeaways:

1. USED estimates the proposed framework will add roughly \$6 billion in federal costs stemming from federal student aid over ten years—about \$1 billion in Direct Loan costs and \$5 billion in Pell costs. This means that relative to current policy, more student loans and Pell grants will be awarded at relatively low-earning programs because:
 - a. The metrics and thresholds in the new rule are less exacting than the GE policy it replaces, and
 - b. USED estimates that many low-earnings programs will continue to operate and disburse Pell grants to enrolled students.

This shows that fewer students and taxpayer dollars will be protected by the new provisions compared to prior GE regulations established during the Biden Administration.

2. USED provides additional detail on the types of programs more likely to lose student loan eligibility relative to current policy, including undergraduate public and nonprofit degree programs in religious studies, some liberal arts programs, some education programs, drama, and music, and graduate programs in religious studies, some liberal arts programs, mental/social health services, and some health-related programs.

3. USED lays out its legal justification for allowing many failing GE programs that lose student loan eligibility to nevertheless retain Pell eligibility. This approach to the GE regulations is likely to be challenged in litigation, given the novel legal interpretation that underpins the policy decision.

USED will [accept comments on the rule](#) until 5/20/26 and will publish final regulations likely before 7/1/26.

4. Other Significant Updates

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

States Sue USDA over Anti-DEI Requirement in Current and Future Grants: On 3/28/26, 21 state Attorneys General [sued](#) the U.S. Department of Agriculture (USDA) over a [memorandum](#) issued by Secretary Rollins on 12/31/25. The memo aimed to establish a standardized set of general terms and conditions across all grants and cooperative agreements administered by USDA that, among other things, would prohibit the use of funds to promote “DEI.” As justification for updating its grant terms, USDA pointed to an earlier [executive order](#) instructing agency heads to revise grant terms to become “consistent with relevant Executive Orders or other Presidential directives.” In their lawsuit, the states allege that USDA grant recipients and parties to cooperative work agreements, including land grant universities and researchers, have begun receiving documents from USDA implementing these changes. They requested a preliminary injunction to prevent USDA from further action, but on 4/23/26, a federal judge scheduled a hearing in June, which means USDA will have additional time to implement the changes before a court considers the request for preliminary relief.

Lawsuit Challenges Anti-DEI Executive Order for Federal Contracts: On 4/20/26, a coalition of groups representing nonprofit organizations, university professors, and federal contractors and subcontractors [filed a lawsuit](#) in a federal court in Maryland challenging the legality of President Trump’s recent anti-DEI [executive order](#) (EO) regarding federal contracts. (See our [4/1/26 Alert](#) for more information about the EO.) The plaintiffs argue, among other claims, that the EO chills their First Amendment rights of free speech and association.

Court Expands Preliminary Injunction Delaying ACTS Data Submission Deadline: On 4/24/26, a federal court [broadened](#) a preliminary injunction in the lawsuit challenging USED’s expanded collection of college admissions data to include, under the injunction, members of six higher education associations and six private nonprofit institutions of higher education (IHEs). The injunction began with public IHEs in the 17 plaintiff states and now includes almost 180 IHEs across the country.

DOJ Postpones Compliance Deadline for Web and Mobile App Accessibility: On 4/20/26, DOJ issued an [interim final rule](#) that delayed the deadline for complying with April 2024 regulations implementing Title II of the ADA in the context of web content and mobile app accessibility. Under the DOJ’s new rule, state and local government entities with a total population of 50,000 or more will see their compliance date shift from 4/24/26 to 4/26/27. For entities with a total population of less than 50,000 or any “[special district government](#),” the compliance deadline will shift from 4/26/27 to 4/26/28. The 2024 [regulations](#), “Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities,” outlined technical requirements for web content and mobile apps that state and local government entities “provide or make available, directly or through contractual, licensing, or other arrangements.” DOJ also noted that, while the new rule addressed the compliance deadlines, the agency also “plans to engage in future rulemaking processes related to the substantive requirements of the 2024 final rule.”

USED Finds Four Kansas Districts’ Trans-Inclusive Policies Violate Title IX and FERPA: On 4/17/26, USED [announced](#) that OCR’s investigations into four Kansas school districts, [launched](#) in August 2025, have concluded that the districts’ policies around students’ gender identity violate Title IX. OCR found that Topeka Public Schools, Shawnee Public Schools, Olathe Public Schools, and Kansas City, Kansas Public Schools’ policies and practices run counter to Title IX by permitting students to participate in sports and access restrooms and locker rooms based on their gender identity rather than their sex assigned at birth. Additionally, USED’s Student Privacy Protection Office (SPPO) concluded that the districts violated the Family Educational Rights and Privacy Act (FERPA) by limiting parents’ access to information about their students’ transgender status. On 3/28/25, USED [issued](#) a Dear Colleague Letter stating that “schools must allow parents to review all education records of their student, including any document related to a student’s ‘gender identity,’” to comply with FERPA. OCR and SPPO issued proposed resolution agreements to the districts, but did not publicly specify a deadline to avoid further consequences.

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 April 30, 2026 at 8:00 am ET.