

EducationCounsel Alert for August 5, 2026

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

- 1. Senate Advances Bipartisan Bill to Prohibit Moving Many USED Functions and Funds to Other Agencies**
- 2. Secretary McMahon Requests Public Statements of Principles from All Institutions of Higher Education**
- 3. HHS Prepares to Propose Major Revision to Head Start**
- 4. USED Takes Multiple Actions to Enforce Parents' Rights**
- 5. 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 are sometimes changing rapidly, and *this Alert and all our materials are meant to provide general guidance and do not constitute specific legal advice*.

1. Senate Advances Bipartisan Bill to Prohibit Moving Many USED Functions and Funds to Other Agencies

On 7/30/26, the Senate Health, Education, Labor, and Pension (HELP) Committee approved, with bipartisan support, several education bills, including [S. 5046](#), to prohibit the Administration from transferring any of the functions or funds from the following four U.S. Department of Education (USED) offices to other federal agencies, whether via interagency agreements or other means: the Office of Elementary and Secondary Education (OESE), the Office of Postsecondary Education (OPE), the Office of Special Education and Rehabilitative Services (OSERS), and the Office of Indian Education (OIE). Although the HELP Committee adopted an amendment to the bill requiring additional reporting on the costs of interagency agreements, it rejected one amendment to prohibit transfers of any USED office's work and it tabled another amendment that would have added the Office for Civil Rights (OCR) to the list of four offices protected by the bill.

The bill passed by a 13–9 vote with Republican Senators Murkowski (R-AK) and Collins (R-ME) joining with all Committee Democrats to advance the bill. This bipartisan action in the Senate HELP Committee takes the opposite approach of the partisan bills recently voted out of the House Education and Workforce Committee to permanently move ten of USED's offices (not including OSERS) to other agencies. (See our [7/23/26 Alert](#) for more information on these House bills.) For either approach to advance, leadership in the House and the Senate would have to bring their respective bills to the floor for full consideration, and they would all ultimately require 60 votes to pass the Senate.

The HELP Committee also advanced the following bills, as amended, with bipartisan support:

- [S. 2511](#), *The College Transparency Act* (21-1), which would improve the federal postsecondary student data system to provide better and clearer information about college costs, completion rates, and workforce outcomes while protecting student privacy;
- [S. 3010](#), *The 21st Century Dyslexia Act* (12-10), which would promote earlier screening and identification of dyslexia using a federally-recognized definition;
- [S. 3589](#), *The RISE Act* (22-0), which would help students with disabilities transition from high school into college by making it easier for colleges to use existing disability documentation when determining accommodations;

- [S.4097](#), *The State-Based Loan Awareness Act* (20-2), which would allow colleges to provide information about state-sponsored loan options after federal student aid has been completed; and
- [S. 4689](#), *The READ Act* (20-2), which would expand early literacy screening, provide parents with additional resources to support reading development, and support evidence-based reading instruction aligned with the science of reading.

Additionally, in this meeting, the HELP Committee voted and approved, by a party-line vote of 12-10, the nomination of Keith Sonderling to be Secretary of Labor.

2. Secretary McMahon Requests Public Statements of Principles from All Institutions of Higher Education

On 8/3/26, USED Secretary McMahon [issued](#) a [letter](#) to the leaders of all institutions of higher education (IHEs) calling on each IHE to issue (or revise) “statements of principle” and “declarations of purpose” on their websites before the end of 2026 that address seven topics (see bulleted list below) and that include details of “adopted and planned reforms.” This request—voluntary, without any stated consequences for not responding or for responding in particular ways—represents a different approach than USED’s effort in October 2025 [seeking feedback](#) from a select group of IHEs on a proposed [Compact for Academic Excellence in Higher Education](#) (Compact), which included specific policy commitments and suggested a link between signing the Compact and access to federal funding. With a few exceptions, the IHEs invited to sign the Compact declined to do so, and the Administration has not moved forward with that approach. (See our [10/15/25](#) and [10/28/25](#) Alerts for more information on the Compact.)

The new request, titled “A National Call to Action to University Presidents and Governing Boards,” acknowledges that “there is no single template for academic excellence” and instead asks IHEs to answer the following questions:

1. **“Transparency and Merit in Admissions:** How will your institution ensure that admissions criteria are transparent and wholly described to prospective applicants? And how will your institution ensure admissions decisions are based on merit, achievement, and your university’s educational purpose?
2. **Free Speech and Open Inquiry:** How will your institution protect the free exchange of ideas, wide-ranging debate, and open-minded campus discourse? And how will you guarantee that unruly and violent protestors do not harass students or disrupt classes, research, public lectures, and campus operations?
3. **Intellectual Pluralism and Academic Vitality:** How will your institution encourage intellectual pluralism in all its academic units? How will your faculty hiring and evaluation practices support academic vitality and ensure that all relevant perspectives are taken seriously? And how will your institution ensure the research enterprise is dedicated to advancing knowledge, deepening understanding, and serving the American people who fund it?
4. **Affordability, Value, and Student Outcomes:** How will your institution ensure that families can access affordable, high-return, degrees? And what will your institution do to contain costs, improve pricing transparency, and ensure that every academic program equips students to repay their loans?

5. **Academic Standards and Rigor in the Age of AI:** How will your institution incentivize rigor in the age of AI, combat grade inflation, and prioritize excellence in teaching and learning?
6. **Safeguarding Research Integrity from Malign Foreign Influence:** How will your institutions protect academic programs from foreign influence, and safeguard the integrity of the research enterprise?
7. **Prioritizing American Interests:** How will your institution answer this national call to action? How can your campus and faculty advance American security interests, deliver academic programs that meet urgent workforce needs, and contribute materially to the Nation's prosperity?"

(Note that the quoted topics and questions above appear in USED's press release; the letter contains the same questions but lacks the topic headers.)

3. HHS Prepares to Propose Major Revision to Head Start

On 8/1/26, the U.S. Department of Health and Human Services (HHS) [confirmed](#) that the agency will publish proposed rule changes to the Head Start program this week. According to multiple reports (see [here](#), [here](#), and [here](#)), the proposed changes will significantly reduce the [Head Start Program Performance Standards](#). According to the Administration's [regulatory agenda](#) and OMB records, HHS will issue a Notice of Proposed Rule Making (NPRM), which generally means HHS will accept comments from the public, respond to those comments, and issue a final rule before any changes go into effect. EducationCounsel will publish a Deep Dive unpacking the proposed revisions following their publication.

4. USED Takes Multiple Actions to Enforce Parents' Rights

During the week of 7/27/26, USED advanced several new efforts to enforce parental rights in the context of K-12 schools' policies and practices related to information about students' gender identity and LGBTQ+ content in schools. Beginning with a [message](#) from Secretary McMahon in honor of National Parents Day, USED's Student Privacy Policy Office (SPPO) launched multiple investigations under the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA):

- On 7/27/26, SPPO [announced](#) an investigation into **Anne Arundel Public Schools** in Maryland in response to allegations by a parent that they were denied access to their student's records and relevant information related to the student's gender transition. DOJ's Civil Rights Division (DOJ-CRT) will partner with SPPO to assess whether the district violated FERPA.
- On 7/27/26, SPPO [announced](#) an investigation into **Ann Arbor Public Schools** in Michigan to determine whether the district's policies around gender transitions violate FERPA.
- On 7/28/26, SPPO [announced](#) an investigation into **Bethel Public Schools** in Washington regarding reports that a Pride Month display included vials of testosterone. SPPO will investigate "whether Bethel School District teachers and school administrators encourage students to undergo medical procedures without parental consent," among other allegations.
- On 7/28/26, SPPO and OCR [announced](#) a joint investigation into **Denver Public Schools** in Colorado following a complaint alleging that a classroom exercise involved two students of the same sex

kissing. SPPO will investigate whether parents were given the opportunity to opt their students out, and OCR will assess the district's response under Title IX.

- On 7/29/26, SPPO [announced](#) that an investigation into **Burlington Public Schools (BPS)** in Massachusetts determined that the district violated the PRRA by administering the 2025 Youth Risk Behavioral Survey to some students whose parents had opted them out of the survey. SPPO provided the district with a proposed resolution agreement requiring BPS to provide copies of the survey to parents who objected, issue personal apologies to those families, make district policy changes, and provide USED with the opportunity to review and approve all future surveys.
- On 7/29/26, SPPO [announced](#) an investigation into the **Minnesota Department of Education** following reports that dolls may be available for use in schools that introduce concepts of gender identity to elementary students without the opportunity for parents to opt their children out.
- On 7/30/26, SPPO [issued](#) letters to the **California Department of Education (CDE)** and **Washington Office of Superintendent of Public Instruction (OSPI)** requesting clarification of the states' policies providing parents with access to information about their students' gender identity following recent rulings by the U.S. Court of Appeals for the Ninth Circuit and the U.S. Supreme Court (see our [3/4/26 Alert](#) for more information about the *Mirabelli v. Bonta* case). SPPO [announced](#) its determination that CDE's policies violate FERPA in January 2026 (see our [3/4/26 Alert](#) for analysis). OSPI is under ongoing [investigation](#).

It is worth noting that allegations contained in complaints submitted to SPPO or OCR have by definition not yet been investigated or independently verified by those offices' investigators. Including the type of detailed information that SPPO did in these press releases, which are announcing the beginning of federal investigations, is a significant departure from the traditional approach by previous administrations.

5. Other Significant Updates

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

OMB Approves Civil Rights Data Collection for 2025-26 School Year: On 7/20/26, USED's Office for Civil Rights (OCR) received [approval](#) from the Office for Management and Budget to administer the Civil Rights Data Collection (CRDC) for the 2025–2026 school year. Significant changes to the upcoming data collection include ending “gender identity” reporting by elementary and secondary schools nationwide and optional reporting of nonbinary identities. Without these data in the CRDC, it will be harder for educators, advocates, and researchers to understand the experience of transgender and nonbinary students, including data related to incidents of bullying, harassment, sexual assault, and more. School districts that collect student identities beyond the male/female binary will also face logistical challenges in providing accurate information in the CRDC. Additionally, the CRDC is typically submitted and approved for two school years, but USED ultimately only sought and received approval for one. OCR has made the forms and questions [available](#) and noted that the 2025–26 CRDC data submission period is expected to commence “sometime in December 2026.”

Senate Advances Bipartisan Bill that Would Temporarily Block OMB’s Proposed Federal Funds Rule: On 8/3/26, the Senate—by a bipartisan vote of 89-4 on an initial procedural step—[voted](#) to advance a [Continuing Resolution \(CR\)](#) to extend federal funding beyond the end of the current fiscal year on 9/30/26 and instead fund the federal government through 12/11/26. Among other things, the proposed CR includes a provision that would delay, for the duration of the CR, the proposed Office of Management and Budget (OMB) rule to overhaul how federal agencies award and manage federal financial assistance including all federal grants. (For more information, see EducationCounsel’s [Overview and FAQ](#) on the proposed OMB rule, which garnered almost half a billion public comments.) Although the House would have to approve the Senate’s CR, the White House issued a [Statement of Administration Policy](#) supportive of the CR that did not acknowledge the OMB provision.

USED Approves South Dakota ESSA Waiver Request: On 7/24/26, USED [announced](#) that it has [approved](#) South Dakota’s request for a “Returning Education to the States” waiver under the Every Student Succeeds Act (ESSA), making it the sixth state to be approved or partially approved. South Dakota will be allowed to consolidate certain state-level activities funds, in addition to the standard flexibility under ESSA to consolidate state-level administrative funds. This applies to more than \$19 million in federal funds through FY 2029 and includes Title I, Part B (State Assessments); Title II, Part A; Title III, Part A; Title IV, Part A; and Title IV, Part B state-level activities funds. Similar flexibilities have been approved for [Iowa](#), [Louisiana](#), [Indiana](#), [Vermont](#), and [Arkansas](#). USED also approved South Dakota’s Ed-Flex application, making it the 22nd Ed-Flex state.

USED Approves First Workforce Pell Grant Program: On 8/4/26, USED [announced](#) that it has approved the nation’s first Workforce Pell Grant program, a 14-week Emergency Medical Technician (EMT) program offered at an Iowa community college. Created by the One Big Beautiful Bill Act, the Workforce Pell Grant program now allows federal Pell Grants to support short-term, job-focused training programs in high-demand fields. (See our [5/29/26 Alert](#) for more information on the final implementation rules.)

DOJ Continues to Challenge State Laws Providing In-State Tuition for Undocumented Students: On 7/24/26, a federal district court in Illinois [ruled](#) against the state’s in-state tuition laws, concluding that they violate federal law because the federal immigration statute that prohibits undocumented students from receiving educational benefits based on residency would preempt these state laws. Illinois is the first state to defend its laws against the DOJ in court and lose. Minnesota fought and won in court (see our [4/1/27 Alert](#)), and several states have declined to defend their own laws and instead entered into consent decrees with the DOJ. The Illinois ruling is stayed temporarily while the state considers an appeal.

On 7/23/26, DOJ [filed](#) a challenge against Colorado for providing in-state tuition and state financial aid to eligible undocumented students. This brings the total number of states whose laws are being challenged by DOJ to 14 (see our [7/23/26 Alert](#) for more information).

Jefferson County Public Schools Sues USED Over Title IX Investigation: On 7/28/26, the Board of Education of Jefferson County School District (JCPS) [sued](#) USED in federal court over threats to terminate more than \$50 million in funding unless JCPS changes its gender identity policies to align with the Administration’s interpretation of “sex.” On 6/26/26, OCR [issued](#) a Letter of Impending Enforcement Action against the district on the basis that JCPS’s policies violate Title IX by permitting students to access facilities and participate in athletics based on their gender identity. JCPS has refused to sign an agreement drafted by

USED because, among other things, Colorado state law provides explicit protections for transgender and nonbinary students. (See our [7/9/26 Alert](#) for more information.)

NIH Proposes Public Comments on New Measures of Scientific Impact: On 6/18/26, the National Institutes of Health (NIH) [issued](#) a request for information (RFI) on “Measuring and Rewarding Scientific Impact” that seeks public input on what “features of modern 21st-century science...should be measured, recognized, and incentivized.” The RFI specifically seeks suggestions for how to replace or supplement “individual-level indicators of productivity, such as publication counts and citation metrics” with “specific, measurable indicators and incentives that reflect the collaborative, rigorous, and mission-driven nature of modern biomedical science.” Responses to the RFI can be [submitted here](#) through 8/19/26.

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 August 5, 2026 at 9:00 am ET.