2026 Election Results: An Outlook for Federal Education Policy

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This memo provides an overview of the 2026 midterm election outcomes and their potential impact on federal education policy given the new context of a divided government with Democrats controlling both chambers of Congress during the final two years of the Trump Administration. Following two years of unified government under Republican control, the Senate balance of power for the 120th Congress currently stands at 54-44, with races yet to be decided in Mississippi and Alaska. In the House, several races remain to be decided but Democrats will hold over 250 of the 435 seats in the 120th Congress, well above the 218 seats required to control the majority. This overview provides initial insights on what these historic Democratic gains could mean for federal education policy actions by the Trump Administration and Congress – across early childhood, K-12, higher education, and more. Key highlights include:

Administration Implications

- The Trump Administration is **not likely to significantly change its education agenda in core areas** (e.g., eliminating "diversity, equity, and inclusion"; promoting private school choice; restricting immigration) and is likely to amplify the Administration's use of its regulatory and enforcement authorities.
- President Trump has referenced the **"power of the veto"** when asked about how he expects to work with a Democratically-controlled Congress, but he has also signaled a **willingness to potentially work with Democrats on shared priorities**.
- As with most departing presidents, the Trump Administration is likely to **focus on its legacy**, which could motivate significant actions on current or new priorities.
- With the conclusion of the midterm election, the **2028 presidential election cycle kicks off,** which could lead to the development of new, forward-looking federal education agendas.

Congressional Implications

- Democratic majorities in the House and Senate will mean an increase in **oversight of the Trump Administration** and efforts to push back on the Administration's education agenda. Issues for oversight likely include dismantling the U.S. Department of Education (USED), civil rights investigations and enforcement, grant terminations and funding shifts, and staff reductions at USED and other agencies.
- Given the wide margins in Congress, Democratic leaders may be able to more easily advance legislation since they **may not be as beholden to individuals or factions** within the Democratic party.
- **Bipartisanship becomes even more important** to advancing legislation under divided government. Democrats do not hold filibuster- or veto-proof Senate majorities (60 to overcome filibuster; ⅔ to override a veto). With fewer Republican moderates, achieving 60 votes to break a Senate filibuster could be even more challenging.
- With Democratic control of House and Senate committees, there will be **significant transition in committee leadership, membership, and staff,** as well as committee priorities. Democrats are also expected to hold more seats on each committee than Republicans in the 120th Congress (in comparison to current committee ratios), making it easier to move legislation through committees.
- With limited time remaining in the 119th Congress under Republican control, expect **significant action during a lame duck session**, particularly related to appropriations and nominations, including fiscal year (FY) 2027 funding for education programs, possible riders blocking Administration actions, and consideration of conservative judges.

BRIEF OVERVIEW OF STATE ELECTIONS RESULTS

In addition to the federal midterm elections, the 2026 election cycle also included many state-level elections that may have significant implications for education:

Governors: Democrats flipped at least five gubernatorial seats in the midterms, including Iowa, Georgia, Ohio, Nevada, and Texas. This shift could result in an increased push for Democratic education priorities and a push back against policies favored by Republican governors, such as policies limiting both academic freedom in higher education and efforts across education to advance diversity, equity and inclusion. Similarly, there may be some action to limit voucher programs.

- The current Republican governors in the flipped states have indicated they intend to opt their states into the Federal Scholarship Tax Credit (FSTC). Whether or not incoming governors want and will be able to opt out for 2027 is unclear, and may result in litigation as states and Treasury navigate launching the FSTC program during these state transitions.

Chief State School Officers: Although the role is often officially non-partisan, in about 60% of states chiefs are appointed by the governor either directly or indirectly (e.g., the governor appoints the school board that in turn appoints the chief). Following the 2026 elections, we expect at least 22 states may over time have Democratic-aligned chiefs (up from 18 before the election), and at least 13 states to have Republican-aligned chiefs (down from 19), with 14 chiefs neither elected nor appointed on a partisan basis. The results of one state remain outstanding.

State Government Control: Enacting state-level education policies often requires coordination across the governor's office and both chambers of the state legislature. Where states are led by a "trifecta" - i.e., the same party controls the governor's office and majorities in both state chambers - it is easier to enact aligned legislation. Following the midterm elections, we expect at least 18 states to be governed by a Republican trifecta (down from 24 before the election), at least 22 states to be led by a Democratic trifecta (up from 16 before the election, bringing under Democratic leadership at least six states that previously had divided government), and at least eight states to have divided government (at least five of which had previously been under Republican leadership). The results of two states remain outstanding.

State Attorneys General: With many state attorneys general filing suits in response to actions by the Trump Administration, the political affiliation of the attorney general may have significant implications for when a state pursues litigation that impacts education. With the U.S. Supreme Court limiting the availability of nationwide injunctions, it is more important than in the past whether a state brings or joins a lawsuit. These elections, therefore, can affect which federal education policies go into effect within a state and the stability of federal grants awarded. Democrats have secured at least 26 state attorneys general seats (up from 22 before the election), flipping at least four states. Republicans have secured at least 22 state attorneys general seats (down from 27 before the election), with one seat being non-partisan, and the remaining state undecided.

Education Ballot Initiatives: In the 2026 elections, 18 states considered a total of 36 different ballot initiatives that could have significant impacts on education in those states where the initiatives passed. The initiatives span several topics and reflect a variety of view points, making the results and their potential impacts on education difficult to summarize. Over half (22) of these initiatives asked voters to decide questions that could directly impact public schools' revenue streams; at least 14 of these initiatives landed in favor of funding for public education. Six of the 36 initiatives focused on issues of race and gender, with four focused on limiting the rights of transgender students (all four of which passed). An additional five ballot measures focused on school governance and operations (three of which passed), and three focused on issues of parental rights and patriotism (at least two of which passed). The results of two ballot initiatives remain outstanding.

CONGRESSIONAL OUTLOOK

Congressional Control

One of the greatest impacts of the transition to Democratic majorities in the House and Senate will be control of the agenda for the floors and committees. We will likely see a significant shift from a focus on legislation and hearings aligned to the Trump Administration's education priorities to an increase in oversight and investigations of the Administration, including use of the subpoena power, and hearings aligned with Democratic priorities. Committee chairs will determine which issues to call attention to in education hearings (which may include due process violations in enforcement actions; waste, fraud and abuse in voucher programs; impeding access to education for immigrant students; and redirection or withholding of federal funding), and have more Democratic witnesses per hearing. Given that the ability to enact Democratic-only legislation is still limited (due to the Senate filibuster rules and the need for the President's signature), Democrats will be expected to introduce messaging bills (that elevate political positions or drive uncomfortable votes on issues for Republicans) on issues such as the dismantling of the USED; civil rights enforcement and investigations; and reversal of SNAP and Medicaid cuts and student loan changes under the One Big Beautiful Bill Act (OBBBA). Democrats will also likely introduce and advance marker bills (those that put stakes in the ground on policy priorities) in order to lay the groundwork for future legislative priorities and progress in advance of the 2028 election.

With Democratic control being less than the 60-vote threshold needed to break a Senate filibuster, bipartisan action will be needed to enact legislation. This importantly includes annual federal appropriations for education and other programs. As a result, we could continue to see Republicans and Democrats work on advancing some shared goals, such as support for workforce development, including strengthening apprenticeships and job training programs (recognizing though that workforce legislation will need to overcome partisan differences on the use of interagency agreements (IAAs) at USED, which derailed bipartisan efforts this Congress). Other relevant areas where members may continue to advance bipartisan legislation in the next Congress include improving literacy and kids' online safety, as well as the role of technology and AI in schools. Although there is some chance we may see these issues – alongside annual appropriations – come up for debate during a lame duck session, they are also likely to carry into the 120th Congress.

Another dynamic in the new, Democratic Congress is the possible use of Congressional Review Act (CRA) resolutions. The CRA allows Congress to fast-track legislation designed to overturn recently finalized agency regulations through a joint resolution of disapproval. Once a rule is finalized, it is sent to Congress for review, and both chambers can pass a resolution to overturn the regulation with a simple majority vote, bypassing the filibuster in the Senate. However, a CRA resolution requires the President's signature to be enacted (or the President can veto). Thus, a Democratic majority could force recorded votes on recent Trump Administration regulations, but it would require substantial Republican support to overturn a veto.

A majority in the Senate also means that Democrats will control the Senate confirmation process for nominations to the executive branch and for federal judges. This includes control over committee hearings for nominees and over which nominations receive a floor vote. The practical implication of this is that presidential nominees – including possible Supreme Court justices – could be stalled and the Trump Administration will likely have to nominate more moderate candidates.

Congressional Transitions

The 120th Congress will see significant changes in congressional leadership and membership of key education committees, likely resulting in a shift in the focus of those committees. In the Senate, Senator Bernie Sanders (I-VT) is positioned to be the Chair of the Senate Health, Education, Labor and Pensions (HELP) Committee, where he is expected to champion issues of college affordability, protecting public education, and opposition to the dismantling of USED. While all current Democratic HELP committee members are returning to the Senate, there could be changes to HELP committee membership and additional new Democratic members since Democrats will gain more seats on committees due to expected changes in committee ratios.

For Republicans, leadership of the Senate HELP Committee remains unsettled with the role most likely to be held by Senator Josh Hawley (R-MO). Senators Rand Paul (R-KY), Lisa Murkowski (R-AK), and Tim Scott (R-SC) could each step into the role given that they have more seniority on the committee than Senator Hawley, but there is an expectation that Senator Paul will continue as lead Republican of the Senate Homeland Security and Governmental Affairs Committee, while Senator Scott will continue as lead Republican of the Senate Banking, Housing, and Urban Affairs Committee. Senator Murkowski is expected to take on the role of Ranking Member of the Senate Appropriations Committee following the election loss of Senator Susan Collins (R-ME), who currently is Chair of that powerful Committee. Additionally, six of the current twelve Republican members of the Senate HELP Committee will not be returning in the next Congress, with new Senator Julia Letlow (R-LA) possibly being added given her current membership on the House Education and Workforce Committee.

While Senator Bill Cassidy (R-LA), who lost his primary and will not be returning to the Senate, focused on strengthening literacy and improving education data as Chair of the Senate HELP Committee, Senator Hawley authored a *Parents Bill of Rights* bill in a prior Congress and has also advocated for higher education accountability through his past *Make the Universities Pay Act*, which called for institutions of higher education (IHEs) to pay 50% of any student loan balance that is in default. Senator Hawley may find common ground with Senator Sanders on his commitment to regulating AI, having authored S. 3062, the *GUARD Act*, which prohibits AI companies from providing AI companions to minors and requires artificial intelligence chatbots to implement age verification measures. In October 2026, Senator Hawley co-led a bipartisan letter to Google CEO Sundar Pichai questioning Google's push to integrate AI in education and seeking answers on how AI affects kids' academic, social, and emotional development.

Democratic leadership of the House Education and Workforce Committee (likely to be renamed the House Education and Labor Committee in the 120th Congress) also remains unclear. Representative Jahana Hayes (D-CT), who is a former National Teacher of the Year, and Representative Suzanne Bonamici (D-OR), who is currently the Ranking Member of the Early Childhood, Elementary, and Secondary Education Subcommittee, are challenging current Committee Ranking Member Bobby Scott (D-VA). Representative Scott has been the Democratic leader of the Committee since 2015. Representatives Hayes and Bonamici would be expected to aggressively take on oversight of the Trump Administration, including efforts to dismantle USED, as would Ranking Member Scott, who recently sent a letter to USED Secretary Linda McMahon reminding her of criminal penalties for destroying agency records. Additionally, all three members have been strong advocates for public education and reducing college costs. Ultimately, leadership of the committee will be decided by the House Democratic Caucus. With the departures of Representatives Frederica Wilson (D-FL), who is retiring, and Haley Stevens (D-MI), who ran for Michigan governor, there will also be at least two open seats on the Democratic side of the committee, plus seats that will be added given the wide Democratic margins in the House.

Representative Tim Walberg (R-MI) is expected to continue as the lead Republican on the House Education and Workforce Committee, where he has focused on parental rights and workforce issues. However, there will be some key membership changes on the Republican side of the aisle with the departures of Representatives Burgess Owens (R-UT), who currently chairs the Higher Education and Workforce Development Subcommittee, Julia Letlow (R-LA), who has been elected Senator, and Elisa Stefanik (R-NY), who did not run for re-election. Representative Virginia Foxx (R-NC), a longtime Republican education stalwart who previously led the House Education and Workforce Committee and is the current Chair of the House Rules Committee, has not secured her re-election and is trailing her opponent. Additionally, Representatives Ryan Mackenzie (R-PA), who is the Chair of the Workforce Protections Subcommittee, Kevin Kiley (I-CA), who caucused with Republicans and is the Chair of the Early Childhood, Elementary, and Secondary Education Subcommittee, and James Moylan (R-Guam, At-large) lost their re-election bids. The races of Representatives Joe Wilson (R-SC) and Michael Baumgartner (R-WA) remain too close to be called, but they are leading their opponents. This means that at least seven of 21 Republican committee members will not be returning for the 120th Congress. Republicans will also lose overall seats on the committee due to changes in committee ratios in the House.

On the appropriations side, Senator Patty Murray (D-WA) is expected to become Chair of the Appropriations Committee. The election loss of current Senate Appropriations Committee Chair Susan Collins (R-ME), who for years has worked with Democrats to draft annual bills, means there will be a new Republican Ranking Member of the Committee, who is likely to be Senator Lisa Murkowski (R-AK). As a moderate Republican, Senator Murkowski is also likely to work with Senator Murray to reach bipartisan compromises. Senator Murkowski will also bring her own education priorities to this role, including championing funding for the Alaska Native Education program and tribal communities. In the House, Representative Rosa DeLauro (D-CT) is expected to Chair the Appropriations Committee, with Representative Tom Cole (R-OK) continuing to serve as the lead Republican. Additionally, the leading Republicans and Democrats of the House and Senate Labor, Health and Human Services, Education, and Related Agencies (Labor/HHS) Appropriations Subcommittees are not expected to change with Senators Tammy Baldwin (D-WI) and Shelley Moore Capito (R-WV) and Representatives Rosa DeLauro (D-CT) and Robert Aderholt (R-AL).

Regarding the membership of the House and Senate Labor/HHS Appropriations Subcommittees, there will be a few new faces with the retirements of long-term Democratic members, including Senators Richard Durbin (D-IL) and Jeanne Shaheen (D-NH), and Representatives Steny Hoyer (D-MD) and Bonnie Watson Coleman (D-NJ). For Senate Republicans, Senators John Husted (R-OH) and Darline Graham (R-SC) lost their races, while the race of Senator Cindy Hyde-Smith (R-MS) remains undecided. Representative Julia Letlow (R-LA), who was elected to the Senate and is currently a member of the House Labor/HHS Appropriations Subcommittee, could potentially seek to join the Senate Labor/HHS Appropriations Subcommittee. While all other Republican members of the House Labor/HHS Appropriations Subcommittee won their elections, the Subcommittee will likely include fewer Republicans in the 120th Congress due to changing committee ratios.

ADMINISTRATION OUTLOOK

Even with a divided government, the Trump Administration will likely continue to wield its significant executive authority to advance its education priorities across early childhood, K-12, and higher education. These executive actions could only be blocked by Congress where there is strong bipartisan opposition and a must-pass legislative vehicle that can be used for that purpose, such as an appropriations bill. President Trump will continue to issue Executive Orders and use his (and his Cabinet's) bully pulpit to try to influence state and local decisions. Federal agencies will finalize pending regulations and promulgate new ones to codify the Administration's policy preferences and legal interpretations (including with respect to civil rights laws). Agencies will also continue to issue non-binding guidance that encourages federal grantees to align with the Administration's views. Awarding federal grants and managing grantees also are executive branch activities that USED, the U.S. Department of Health and Human Services (HHS), and other relevant agencies may undertake in ways that advance the Administration's agenda, including via terminating grants and redirecting funds. It is also likely that the U.S. Department of Justice (DOJ) and USED's Office for Civil Rights will continue to aggressively use civil rights investigations and enforcement actions as powerful levers to advance the Administration's priorities and interpretations of federal antidiscrimination laws. At the same time, much of the Trump Administration's use of these executive branch tools – especially rulemaking and grant terminations – have been consistently and (mostly) successfully challenged in federal court. This pattern will likely continue moving forward.

With Democrats likely undertaking major oversight and investigation of Trump Administration actions, cabinet secretaries and agency staff will be required to devote significant time and attention to producing documents and testifying in Congress, including under subpoena. This will make it harder for the Administration to take executive actions at a similar breadth and pace as under the prior unified government, a challenge that will be exacerbated for Secretary McMahon and USED given the massively-reduced staffing (pegged at about a 45% cut) at the agency undertaken as part of the effort to dismantle it.

LAME DUCK OUTLOOK

Before the 120th Congress can be sworn in on January 3, 2027, the current Congress has work to complete during a lame duck session under Republican control, though Democrats will have new leverage in negotiations given the midterm election outcome. Given the deadline to address FY2027 appropriations before the current Continuing Resolution (CR) expires on December 11, much of the "lame duck" session will center on trying to finalize FY2027 appropriations bills. Congress may seek to complete a full-year spending package, punt work into early next year with another short-term CR, or push through a long-term CR (which would likely maintain federal funding at current levels). Absent agreement, there is the possibility of a government shutdown. With the election loss of current Senate Appropriations Committee Chair Susan Collins (R-ME), who will likely want to push through a final appropriations package before leaving Congress, and a likely realization by Republicans that their best chance to fund their priorities will be while still in control of the Senate, there could be momentum to reach a bipartisan funding deal.

However, there are several factors that will complicate this effort. Chief among them is that appropriators may not be able to agree quickly on top-line spending levels for defense and non-defense appropriations, since President Trump has called for a $1.5 trillion increase to defense appropriations this cycle while Democrats have expressed the need for parity with non-defense spending increases. Additionally, the Senate Appropriations Committee, which has typically authored bipartisan appropriations bills, has yet to

release any FY2027 marker bills outlining its recommendations for negotiations with the House this cycle, due to the disagreement over top-line spending. There will also likely be some in the Democratic Party who will want to kick funding decisions into early next year when Democrats will be in control. Finally, several policy issues and disagreements will need to be addressed, such as the attempt to dismantle USED via IAAs and the proposed Office of Management and Budget (OMB) rule to overhaul how federal agencies award and manage federal grants, which garnered almost half a million public comments and which the current CR delays until December 11.

Separate from the annual appropriations process, Senate Republicans are also expected to want to use the lame duck session to advance conservative judicial nominations while they still control the confirmation process (nominees only require a simple majority to pass). This is because Democratic majorities are likely to impact or stall future executive branch and judicial nominations, making confirmation challenging in the final two years of the Trump Administration. Less likely to see movement during the lame duck session, but possible, is an effort to pass a Republican budget reconciliation package, which only requires a simple majority vote to pass the Senate and can be a key tool to advance a party's agenda under a unified government. Some Republicans may advocate for making a final run at advancing Republican priorities as part of a budget reconciliation package, but following the election there is no guarantee a reconciliation package could garner 50 Republican votes (with many Republican Senators now on their way out).

There is also a small window of opportunity for bipartisan legislation to pass during the lame duck session. Among these bipartisan bills could be a "parting gift" to outgoing Senate HELP Committee Chair Bill Cassidy (R-LA) by passing S. 4689, the *READ Act*, which is a comprehensive literacy bill that he has authored, or S. 2511, the *College Transparency Act*, which is a bipartisan proposal to create a secure, privacy-protected postsecondary student-level data network. A kids' online safety package could also see action given that both sides of the aisle see this as a priority, but House and Senate negotiators have not been able to reach agreement on a bill to date.

KEY IMPLICATIONS FOR FEDERAL EDUCATION POLICY

The outcomes of the midterm election and transition to divided government in the 120th Congress could have implications across the education and workforce spectrum, including early childhood education, K-12 education, and higher education, as well as cross-sector issues including artificial intelligence, workforce development, research and data, civil rights, and immigration. Below are some key implications for federal education policy in each of these areas:

Early Childhood Education

- There will be a continued focus on regulatory action affecting early childhood education at HHS, including final rules expected in 2027 on the two pending Head Start proposals, which would remove the 2024 wage and benefit requirements and rescind and replace the Program Performance Standards, along with state implementation of the 2026 Child Care and Development Fund (CCDF) Final Rule.
- The Administration will likely continue its focus on purported fraud as the Administration's organizing frame for child care, reflected in the January 2026 restriction of funds to five states (which was later reversed) and an ongoing HHS Office of Inspector General (OIG) review of states' efforts to comply with federal law relating to provider records of child care enrollment, attendance, and billing.

- Congressional Democrats may engage in congressional oversight of delayed and withheld Head Start funds and reduced staff capacity of the Administration for Children and Families (ACF), drawing in part on the Government Accountability Offices (GAO)'s July 2025 finding that HHS violated the Impoundment Control Act regarding a reduced rate of disbursement of funds for Head Start programs compared to a prior fiscal year.
- While President Trump has called for maintaining funding for Head Start and the Child Care and Development Block Grant (CCDBG) but eliminating the Preschool Development Grant Birth through Five (PDG B-5) program in FY2027, Congress slightly increased Head Start and CCDBG in the prior fiscal year, while maintaining funding for the PDG B-5 program. It is possible that new Democratic majorities in Congress will seek increases in these programs and that those efforts may have bipartisan support.
- Beginning with the lame duck session and the decision on whether to complete FY2027 funding before the CR expires on December 11, it is possible that there could be federal government shutdowns in divided government leading to appropriations lapses, which would present a risk particularly for Head Start, which has grantees that receive funding on a staggered basis throughout the fiscal year and have little to fall back on in the way of reserves.
- Litigation will continue to play a key role as federal grantees, associations, and states are likely to challenge final Administration rules that may be issued regarding Head Start and child care.
- A bicameral Democratic working group was created in the last Congress and may release legislation that would serve as the starting point for a bill that could be enacted under a future administration to deliver child care for every family.

K-12 Education

- The Trump Administration will continue implementation of the new Federal Scholarship Tax Credit (FSTC). In October 2026, the Treasury and IRS issued proposed regulations implementing the FSTC. The proposed regulations, which are operable for 2027, give states limited authority to add program requirements or to decide which organizations appear on their list of approved SGOs while placing significant compliance and oversight responsibilities on states. Ultimately, the Trump Administration will be able to continue to put its stamp on the program through final regulations. Additionally, Treasury left critical questions unanswered, particularly regarding qualified expenses that FSTC scholarships can support, on which Treasury has indicated it will issue guidance before the end of the year.
    - Efforts to repeal the FSTC will probably grow in a Democrat-controlled Congress, but because Democrats lack a veto-proof majority, the tax credit will likely remain in effect. Congressional Democrats are likely to hold hearings to interrogate Treasury's regulations and monitor how the tax credit is implemented. Specific attention may be paid to the effects the FSTC has on public school students and public school enrollment and funding, how much the tax credit is costing, how much funding is going to private school students, and instances of waste, fraud, and abuse.
    - As of October 2026, the IRS reported that roughly 30 states have indicated that they intend to opt into the FSTC. At least five of those states flipped from Republican to Democratic governors in the election, which may mean they attempt to opt out in 2027 or signal their intention to opt out in 2028, which may dampen participation in their states. More broadly, several Democratic governors are weighing options based in part on pending Treasury interpretations of FSTC provisions.

- Separately, the Trump Administration has encouraged states to seek waivers from certain Every Student Succeeds Act (ESSA) requirements and to use Ed-Flex authority to waive certain federal statutory and regulatory requirements for districts and schools. As of October 2026, the Administration has approved eight ESSA waivers and 27 states have approved Ed-Flex waivers. Congress, under a Democratic majority, will likely press for more information on the legality of those waivers and whether they impact equitable resource distribution, accountability, or services for disadvantaged students.

Higher Education

- Oversight by congressional Democrats in higher education is likely to focus on probing the Trump Administration's actions on a range of issues, including: moving funds away from Minority Serving Institutions (MSIs), restarting loan collection activities, plans to move additional Federal Student Aid (FSA) functions (like repayment and FAFSA) out of USED, the various higher education data collections that have been cancelled and delayed, the creation of an onerous new admissions data collection that is currently tied up in litigation, the recently finalized accreditation rules that make it easy for new accreditors to be recognized and increased the federal oversight of accreditors, and the elimination of several FSA oversight functions, including the borrower defense unit and staff responsible for institutional compliance reviews. Depending on how much oversight Democrats decide to pursue, the Administration's large planned regulatory agenda in higher education could be slowed as limited staff time is diverted from rulemaking to oversight inquiries.
- Divided government does not mean an absence of legislating, and there are multiple areas that are likely to be the subject of legislative proposals and perhaps even eventual passage. The most obvious area concerns significant changes made to higher education policy through OBBBA, particularly student loans. The Trump Administration (and Senate Republicans needed to overcome a filibuster) will be unlikely to agree to revise major provisions, such as eliminating Grad PLUS loans and creating new graduate lending caps, capping Parent PLUS loans, and prorating loans for part-time students. However, more technical but still critical provisions could potentially be addressed, such as changes to which programs qualify for professional loan limits, especially given that those regulations are currently enjoined by litigation.
- Another area of significant change from OBBBA was the new "Do No Harm" provision that, when combined with the new Gainful Employment regulations, institutes a new program-level earnings threshold as an eligibility condition to disburse federal student loans. As the new provisions begin to be implemented in 2027, there is likely to be pressure to modify the rules—both to strengthen them through legislation to ensure they apply statutorily to certificate programs and to weaken them if impacts fall on certain institutions. Like the loan provisions, it is unlikely that the provisions will be entirely eliminated, but some changes are possible.
- There is also the possibility for bipartisan action on specific issues. While a comprehensive reauthorization of the Higher Education Act will not occur any time soon, there is agreement across both parties on issues like data transparency (S. 2511, the *College Transparency Act* passed 21-1 out of the Senate HELP committee in July) and supporting and strengthening the Pell Grant program (the maximum grant has been steadily increased over the past decade by both parties, but it faces a 10 year shortfall of over $100 billion).
- Finally, it is highly likely that we will see several messaging and marker bills from House and Senate Democrats teeing up key priorities for higher education in anticipation of a Democratic Administration in 2028. While these bills are unlikely to pass in the short term, they represent important signals on key priorities and potential frameworks for comprehensive Higher Education Act reform. One area in particular that many Democrats will pursue is around higher education

affordability, particularly given the public's persistent concerns about college costs. This could include bills to strengthen the Pell Grant program by making a higher proportion funded by mandatory (rather than discretionary) funding to avoid persistent shortfalls, establishing a federal-state funding partnership whereby public institutions receive more federal funding when a state sufficiently funds its public institutions, or efforts to establish free college or debt-free college proposals.

Artificial Intelligence (AI) in Education

- The Trump Administration will likely continue to advance its efforts to promote AI literacy and AI skills development in federally-funded programs. It will likely do this primarily through executive actions, guidance documents, competitive grant priorities, and the reorientation of existing grant programs toward the Administration's policy goals.
- Similar to the 119th Congress, online safety and data privacy for minors – including relating to their use of AI-enabled and AI-powered platforms – will remain an opportunity for bipartisan legislation. The passage of such legislation will likely depend on resolving key fault lines over the extent and enforceability of liability for technology companies.
- Using recommendations developed by the House Democratic Commission on AI and the Innovation Economy, congressional Democrats will likely conduct oversight of AI companies and pursue a legislative agenda focused primarily on avoidance of "catastrophic risks" and accountability for frontier model developers, and on mitigating risks to communities associated with development and deployment of AI and the data centers it requires to operate.
- Elements of the Democratic agenda will also likely include support for workers who are dislocated as a result of advancements in AI and investments in skills development programs for people entering AI-transformed industries and occupations.
- In response to the Federal Communications Commission (FCC)'s efforts under the Trump Administration to scale back the E-Rate program subsidizing high-speed internet for schools and libraries, and in recognition of bipartisan efforts to modernize the administration of E-Rate and other universal service programs, congressional Democrats will likely take steps to strengthen federal support for internet connectivity and heavily scrutinize the FCC's efforts to undermine internet access for schools and libraries.

Workforce Development

- The Trump Administration will likely continue its transfer of career and technical education and adult education programs from USED to the U.S. Department of Labor (DOL) as part of its efforts to dismantle USED and consolidate federal programs investing in skills development and career pathways under one agency. In response, congressional Democrats will likely conduct oversight of the Trump Administration's broader efforts to transfer core functions of USED to other agencies.
- Several key workforce development statutes remain in need of reauthorization, including the Workforce Innovation and Opportunity Act (WIOA) and the Carl D. Perkins Career and Technical Education Act (Perkins CTE). There is perennial bipartisan interest in supporting workforce development programs, but there are some key barriers that may prevent reauthorization of either statute in the 120th Congress, particularly a resurgence of the policy disputes regarding DOL's absorption of programs statutorily required to be administered by USED and Republicans' proposal to move WIOA's distinct formula-funded programs toward a block grant. However, there is growing recognition among congressional leaders about the need for a refreshed vision for workforce development, which may enable the development of new legislation.

- As concerns build around the role that AI may play in reshaping the labor market, several Democratic Senate and House Members have introduced legislation – separate from efforts to reauthorize WIOA and Perkins CTE – which would invest in retraining, upskilling, and career pathways for workers in fields that are or will likely be impacted by AI, funded primarily by taxes on AI companies and data center construction. These bills may find opportunity for elevation and movement in a Democratic Congress.
- Registered apprenticeship remains an area of bipartisan interest and possible collaboration in Congress and between a Democratic Congress and the Trump Administration. With the Trump Administration's goal of significantly expanding apprenticeship opportunities in a more diverse range of industries and occupations, any workforce legislation that advances in the 120th Congress will likely include investments in registered apprenticeship expansion.

Research and Data

- As congressional Democrats prioritize their education oversight efforts, a potential focus may be on the Administration's actions to curtail federal education research and development (R&D) and data collection. Alongside USAID, USED's Institute of Education Sciences (IES) was one of DOGE's primary targets, with a 90% reduction in staffing and the termination of wide swaths of R&D and data grants and contracts. Delays in spending IES's budget led to litigation and an end-of-year sprint to award grants before funding expired. Democrats may also seek more information about what data is no longer being collected by the government, including data regarding particular groups of students such as LGBTQIA+ students, students of color, and undocumented students.
- There is also the possibility for bipartisan action in this area, perhaps regarding the long overdue reauthorization of the Education Sciences Reform Act (ESRA). In 2023, the Senate HELP Committee voted to advance a bipartisan bill to update ESRA out of committee by a 20-1 vote, including modernizing IES and the federal education R&D and data infrastructure it manages. In doing so, the Trump Administration might seek to advance recommendations for reenvisioning IES included in an Administration-commissioned report.

Civil Rights

- The Administration will continue attempting to redefine federal civil rights laws. Although a divided government is unlikely to completely stop those efforts, Congress is likely to ramp up oversight efforts and may succeed in blocking certain actions, such as through must-pass legislation. For example, Congress as part of its CR (through December 11) recently restricted the Administration from using its proposed Office of Management and Budget (OMB) regulations to impose DEI (and other) related restrictions on the federal funding process – after OMB's notice of proposed rulemaking garnered roughly 500,000 comments.
- Democrats in Congress will likely hold hearings on how the closure of offices and elimination of staff in USED's Office for Civil Rights (OCR) has impacted student rights and resulted in a lack of complaint resolutions, including in the areas of disability rights and sexual assault.
- Beyond the change in Congress, federal civil rights protections are likely to continue to be impacted by the U.S. Supreme Court, which will hear a Title IX case related to the ability of employees of educational institutions to bring private suits for sexual harassment and an Equal Protection case about the racial impact of race-neutral criteria in K-12 admissions.

Immigration

- The Trump Administration is likely to continue its efforts to restrict immigration and immigrant rights, including in the education context. Congress has given the U.S. Department of Homeland Security (DHS) multiyear enforcement funding on an unprecedented scale. The OBBBA provided $170.7 billion for immigration and border enforcement to DHS and its sub-agencies, and a second reconciliation bill added $70 billion over three years, including another $38.53 billion for Immigration and Customs Enforcement (ICE). DHS also rescinded its protected-areas guidance in January 2025, so officers no longer need advance approval to conduct enforcement at or near schools, child care centers, and campuses. During the regular appropriations process in FY2026, Democratic leaders sought a prohibition on using funds for enforcement near schools and child care facilities, but congressional Republicans were able to avoid those negotiations by advancing immigration funding unilaterally through reconciliation. Democrats may seek to leverage the appropriations process in the next Congress to revisit the negotiations they began last year on protected areas.
- The Administration may continue efforts to restrict Head Start based on immigration status. In July 2025, HHS reversed a 1998 interpretation and reclassified Head Start as a "federal public benefit" under the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, which would have required verification of all families' immigration status and the exclusion of undocumented children from the program. In September 2026, a federal court in Rhode Island vacated various agencies' 2025 PRWORA interpretations (including HHS's), on procedural grounds. While the Administration may try to cure those procedural deficiencies (e.g., by engaging in notice-and-comment rulemaking), a separate injunction from a federal court continues to bar HHS from enforcing the notice against any Head Start agency, provider, student, or family. A Democrat-controlled Congress could seek to amend PRWORA to narrowly define the restriction on public benefits, though that legislative change would require the President's signature.
- DOJ has sued 24 states and Washington, D.C., over laws extending in-state tuition, and in some cases state aid, to undocumented students. Those suits have ended the policies in Kentucky, Illinois, Nebraska, Oklahoma, Texas, and Kansas. Virginia and Minnesota have successfully challenged the Administration and preserved their tuition equity policies. DOJ also recently began targeting individual institutions, the University of Delaware and (in the days *after* the election) Penn State, rather than a state or municipal government, signaling a possible second wave of lawsuits to come. Given that there are new governors in several targeted states, there could be more opposition to DOJ's lawsuits (or action by state legislatures), and a Democrat-led Congress could seek to amend the federal statute upon which those lawsuits are based, though such change would again require the President's signature and/or veto override.

For more information, please visit all of EducationCounsel's summaries and analysis by clicking here. Additionally, EducationCounsel's resources on Administration's executive actions are available in one place here. Please note that these developments are sometimes changing rapidly, and *this publication and all our materials are meant to provide general guidance and do not constitute specific legal advice*.