

EducationCounsel Alert for June 24, 2026

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

- [1. USED Transfers Additional Functions to Other Agencies including Special Education and Civil Rights](#)
- [2. USED Partially Grants and Partially Denies Indiana’s ESSA Waiver Request; Grants Vermont’s Waiver](#)
- [3. Kansas Agrees to Stop Providing In-State Tuition to Undocumented Students](#)
- [4. Other Significant Updates](#)

Please also see our latest [Quarterly Federal Policy Update](#), which provides a deeper understanding of federal developments over the past quarter (through 6/19/26) and how they could continue to play out in the coming months. The update begins with an overall summary of actions taken to advance ten critical Trump Administration priorities.

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. USED Transfers Additional Functions to Other Agencies including Special Education and Civil Rights](#)

As part of its ongoing efforts to dismantle USED, on 6/16/26 the Administration [announced](#) four more interagency agreements (IAA) that transfer significant functions and funds out of USED and into other federal agencies, bringing the total so far to 14 agreements that involve the vast majority of USED’s funds and remaining workforce. Two of the new IAAs—shifting special education to the U.S. Department of Health & Human Services (HHS) and civil rights to the U.S. Department of Justice (DOJ)—have been long-rumored and represent two of USED’s most significant functions. The other two new agreements also involve DOJ.

- The **Office of Special Education and Rehabilitative Services (OSERS)**, which administers the grantmaking, oversight, and technical assistance for the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973, as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), will transfer its primary functions to HHS, according to the [agreement](#) and accompanying [fact sheet](#) and [letter to parents](#).
- Many of the activities performed by the **Office for Civil Rights (OCR)** to enforce federal civil rights laws in education will shift to DOJ’s Civil Rights Division (CRT), according to the [agreement](#) and accompanying [fact sheet](#).
- The **Student Privacy Policy Office (SPPO)**, which implements (and enforces) the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA), will move to DOJ-CRT, according to the [agreement](#) and accompanying [fact sheet](#). SPPO has played an [active role](#) in the Administration’s investigations of public schools’ policies and practices related to students’ gender identity.

- USED’s **Training and Advisory Services (TAS)**, which provide, as authorized by the Civil Rights Act of 1964, technical assistance to requesting school districts and other entities to help with the preparation, adoption, and implementation of plans for the desegregation of public schools, will also shift to DOJ-CRT, according to the [agreement](#) and accompanying [fact sheet](#).

USED maintains a [dedicated webpage](#) for these agreements; however, as with all of the IAAs, several questions about the new agreements will remain unanswered until the agencies begin implementing them, such as:

- How will civil rights complaints be handled? The OCR IAA says that DOJ will seek reimbursement from USED for handling “certain civil rights matters.” It does not explain which components of OCR’s statutorily-mandated activities will move or when. Nor does it provide for additional staff capacity at DOJ-CRT to absorb these functions despite OCR’s legal mandate to examine every allegation of discrimination it receives. By contrast, DOJ-CRT can be selective in the cases it takes on and is not required to examine every allegation. However, in an [interview](#) about the IAA, the Assistant Attorney General for CRT described the office as “taking it all in-house for the Department of Education and doing that work for them from soup to nuts” and that “99% of the work” will be done at DOJ.
- Which part of HHS will manage special education and rehabilitation services? The OSERS IAA does not specify which part of HHS will manage which parts of the work shifting from OSERS to HHS. The Administration for Children and Families is the most likely candidate, but lacks expertise in K–12 education.
- What will happen to Equity Assistance Centers? The most notable TAS program is the [Equity Assistance Center](#) (EAC) grant program. Just two weeks ago, the Administration [announced](#) that the EAC program was moving from USED’s Office of Elementary and Secondary Education (OESE) to the Institute of Education Sciences (IES), which is one of the few remaining parts of USED not involved in an IAA. Despite this, the TAS IAA does not mention IES at all. Further, the IAA only references the EAC program specifically by its name in one place: within the list of functions remaining with OESE is a reference to the “[n]on-continuation and closeout of grants awarded under 34 C.F.R. Part 270, as ‘Equity Assistance Centers.’” (The Administration reinstated the current EAC grants in [response to litigation](#) filed after USED terminated the grants early in the Administration’s DOGE-led cuts to federally funded programs.)
 - NOTE: Just before this Alert was finalized, USED [announced](#) that it is proposing to rescind the regulations that establish the EAC program as USED’s mechanism for providing the technical assistance called for in the Civil Rights Act of 1964. The stated rationale for the rescission is “to provide the Department greater flexibility in carrying out this statutory authority.” The proposal also highlights the IAA described above and suggests that ending the EAC program would allow USED to, among other things, provide “direct assistance from federal agency personnel, including potentially in partnership with DOJ.” Public comments are due on or about 7/25/26.

For additional context of the Administration’s use of IAAs, see our legal analysis, [Beyond “The Maximum Extent Permitted By Law”](#). These legal questions are currently being litigated through multiple federal lawsuits challenging the Administration’s efforts to dismantle USED.

- Relatedly, on 6/22/26 USED’s Office of the Inspector General (OIG) [published](#) “Review of U.S. Department of Education Changes in Staffing and Operations,” a report designed to “describe changes in staffing, operations, contracts, and grants at the U.S. Department of Education from January 20, 2025, through March 31, 2025.” The report focuses on efforts to dismantle USED that took place before the IAAs were announced. Among other things, OIG found that “[t]he impact of the staffing changes resulted in the elimination of several suboffices in 15 of the 17 Department offices, including some that appear to have been performing statutory functions or oversight and monitoring functions.” However, OIG also noted that its analysis was limited by the fact that “the Department did not provide all requested information, or permit unfettered access to Department staff, which limited our ability to fully address our review objective, including making definitive determinations in several areas” such as the degree to which USED was still fulfilling its statutorily mandated responsibilities despite the deep cuts to its workforce.

2. USED Partially Grants and Partially Denies Indiana’s ESSA Waiver Request; Grants Vermont’s Waiver

Indiana: On 6/16/26, USED [announced](#) its response to Indiana’s request for a waiver from a number of provisions in the Every Student Succeeds Act. We summarized Indiana’s initial proposal in our [8/6/25 Alert](#). In its [letter](#) to the state, USED granted the following requests:

- Indiana can use its (recently updated) state accountability system for federal purposes. This required waiving an ESSA requirement related to the relative weighting of student achievement factors for Indiana’s high schools.
- Like Iowa and Louisiana, Indiana will be allowed to consolidate some of its state-level *activities* funds, in addition to the standard flexibility for states under ESSA to consolidate some state-level *administrative* funds. For Indiana, this applies to about \$50 million over the next four years.

On the other hand, USED declined the following requests by Indiana:

- In one of the most watched waiver requests to date, USED declined Indiana’s request to effectively block grant some of ESSA’s formula funds at the district level, including Title I, Parts C and D; Title II, Part A; Title III; and Title IV, Part A. Instead, USED granted Indiana a significantly reduced waiver in this area, approving the state to conduct a pilot program with no more than 15% of the state’s non-rural school districts through which the participating districts can consolidate their Title II, Part A and Title IV, Part A formula funds in the same way that rural districts are able to.
 - Note that, under an [existing ESSA provision](#), all districts can transfer funds between these same two grant programs without seeking a waiver from USED (or approval from their states). That said, the pilot program approved by USED will allow participating districts to conduct those transfers under a [different part of ESSA](#) (designed for rural districts) that they are not otherwise eligible for and that requires fewer procedural steps than the general transfer provision does.
- Indiana will not be allowed to award federal school improvement funds to support schools that have not been identified for improvement as they had proposed.

Vermont: On 6/24/26, USED [announced](#) that it has also [approved](#) a narrower ESSA waiver for Vermont. The state will join the other three states that have received waivers in being allowed to consolidate some of its state-level activities funds. For Vermont, this applies to its state set-asides for Title II, Part A and Title IV, Parts A and B; those activity funds amount to about \$4 million over the next four years.

3. Kansas Agrees to Stop Providing In-State Tuition to Undocumented Students

On 6/24/26, DOJ filed a [complaint](#) against Kansas arguing that the state is violating federal law by offering postsecondary education benefits (i.e., in-state tuition rates) to in-state undocumented students that are not available to out-of-state citizens. Hours later, DOJ [announced](#) that it and Kansas have jointly filed a [proposed consent decree](#) that would permanently enjoin Kansas from enforcing its laws regarding this topic. Click [here](#) for more information about this set of lawsuits by DOJ across the nation.

4. Other Significant Updates

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

USED Moves Forward Changes to Title VI Disparate Impact Regulations: On 6/11/26, USED sent a [final rule](#) titled “Elimination of Disparate Impact Theory Under Title VI of the 1964 Civil Rights Act” to the Office of Information and Regulatory Affairs at OMB for review. While the final language is not yet available to the public, the rule is expected to closely align with a [final rule](#) issued by DOJ on 12/10/25. That rule repealed longstanding Title VI disparate impact regulations and, in a [press release](#), DOJ stated that the agency will focus on incidents of intentional discrimination rather than disparate effects moving forward. See our [12/16/25 Alert](#) for analysis of DOJ’s action that also applies to this step by USED.

USED’s and DOJ’s rejections of disparate impact discrimination as a legal theory are part of the Administration’s implementation of President Trump’s 4/23/25 executive order, “[Restoring Equality of Opportunity and Meritocracy](#).” In that EO, the Administration asserted the legal position that disparate impact liability is inconsistent with constitutional guarantees of equal treatment and directed agencies to eliminate its use wherever legally possible. In the employment discrimination context, DOJ’s Office of Legal Counsel recently issued an [opinion](#) finding the U.S. Equal Employment Opportunity Commission’s disparate impact regulations under Title VII to be unconstitutional.

OCR Announces Three Title IX Investigations that Broaden the Scope of Gender Identity Issues: On 6/18/26, USED OCR [announced](#) three new investigations into K-12 schools in Michigan under Title IX. One of the investigations, into Ann Arbor Public Schools, is similar to multiple recent inquiries by OCR around gender identity and involves allegations that a transgender female athlete participated in girls’ volleyball and used the locker room and other facilities aligned with her gender identity. (On 6/23/26, OCR [launched](#) similar investigations into the Maryland State Department of Education and three of its districts.)

The other two Michigan investigations, however, may signal an expansion of OCR’s investigations in this area. First, OCR’s investigation into the Chippewa Valley School District centers on a transgender *male* athlete’s use of a locker room aligned with his gender identity. Second, the investigation into Monroe Public Schools appears to stem from reports that its girls volleyball team competed *against another district’s team* that included a transgender female athlete.

DOJ Office of Legal Counsel Issues Opinion on Community Integration for People with Disabilities: On 6/18/26, DOJ's Office of Legal Counsel (OLC) responded to a request from the White House Counsel to reexamine the U.S. Supreme Court's 1999 decision in [Olmstead v. L.C. ex rel. Zimring](#). In a [slip opinion](#), OLC called into question the longstanding interpretation of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act that has supported federal efforts to ensure people with disabilities receive services in integrated, community-based settings rather than unnecessarily segregated institutional settings. OLC asserted an extremely narrow reading of *Olmstead* that Title II of the ADA or Section 504 do *not* require states to treat patients with disabilities in the most integrated setting appropriate to their needs. Although such segregation may constitute discrimination, OLC held that the Supreme Court did not provide an "integration mandate" and that federal agencies lack the authority to require states to do so.

The opinion itself does not change existing law nor does it specifically address the education implications of this interpretation. However, disability rights advocates have raised concerns that federal enforcement in light of this opinion may shift away from core principles of inclusion and equal access in ensuring students with disabilities have meaningful access to educational programs, extracurricular activities, transition services, and other benefits alongside their nondisabled peers.

Lawsuit Challenges Cancellation of Grants for Teachers Supporting English Learners: On 6/3/26, the Southern Poverty Law Center, the Lawyers' Committee for Rhode Island, and the National Education Association [filed](#) a lawsuit in the U.S. District Court for the District of Rhode Island challenging USED's termination (mid-cycle) of federal professional development grants supporting teacher training for English learners (ELs). The complaint targets USED's decision in September 2025 to end funding for 28 National Professional Development (NPD) grants that supported colleges, universities, and nonprofits in training both in-service and pre-service educators serving ELs. The plaintiffs argue that USED's actions violated, among other things, the First Amendment and the Administrative Procedure Act.

USED Increases Student Loan Autopay Discount: On 6/18/26, USED [announced](#) that it was increasing from 0.25% to 1.00% the discount that student loan borrowers receive for enrolling in autopay. This administrative action will last for two years (from 7/1/26 to 6/30/28) at which point the discount would revert to 0.25% unless further action was taken. Borrowers already participating in autopay will automatically receive the reduced interest rate while new enrollees have until 9/30/26 to register. This discount is designed to incentivize borrowers to automate their loan repayment. [Nine million borrowers have already reentered default and another 3.5 million are more than 30 days delinquent](#) (representing 40% of borrowers in repayment status). This follows the COVID student loan repayment pause started during the first Trump Administration and repeatedly extended during the Biden Administration, during which time borrowers were not required to repay their loans and interest did not accrue. The second Trump Administration restarted collections and negative credit reporting for nonpaying borrowers in January 2026 and this represents a further effort to bring the student loan portfolio into active repayment.

Commerce Policy Limits Access to Some Government Data: On 6/4/26, the U.S. Department of Commerce [issued](#) an order, "Disclosure Avoidance for Statistical Products," which limits the types of privacy protection methods that the Census Bureau and Bureau of Economic Analysis can use for their data products. The order prohibits "differential privacy" (commonly known as "noise infusion") that preserves privacy in datasets with small absolute numbers of people while still publicly reporting approximate values. The order instead sets out an alternative method of privacy protection ("data coarsening"), the likely effect of which will be to increase the frequency of prohibiting disclosure of disaggregated data for small groups within the relevant dataset, such as racial and ethnic minorities, individuals with disabilities, and in some cases men or

women. For example, several IES surveys that use the American Community Survey, such as EDGE school district tables, Condition of Education subgroup indicators, and the Household Pulse Survey for education, will be less likely to report subgroup outcomes. To the extent that this privacy practice is extended governmentwide in the future, changes to IRS earnings data disaggregation could also have impacts on program sizes used in the forthcoming “Do no harm” and gainful employment accountability regulations, as well as College Scorecard reporting.

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 June 24, 2026 at 5:00 pm ET.