

EducationCounsel Alert for June 2, 2025

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

- [1. Additional Details of President Trump's FY2026 Budget Request](#)
- [2. DEEP DIVE: Wise Courage: A Framework for Higher Education Leadership in the Face of Federal Overreach](#)
- [3. DEEP DIVE: The Trump Administration vs. Harvard University](#)
- [4. "Gold Standard Science" Executive Order](#)
- [5. International Student Visas](#)
- [6. Other Recent Updates](#)
- [7. Significant Updates Published in 5/23 E-Update](#)
- [8. What's Coming Next?](#)

You can also find summaries and brief analysis of many other developments in our ongoing [Executive Actions Chart](#). 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. Additional Details of President Trump's FY2026 Budget Request](#)

On 5/30/2025, the President released additional details of his fiscal year (FY) 2026 budget request for the U.S. Department of Education (USED) and the U.S. Department of Health Human Services (HHS), which are available [here](#) and [here](#), respectively. The budget summaries for these agencies build on the President's [FY2026 initial budget request](#) released on 5/2/25 (and often referred to as the "skinny budget"). Before summarizing the request, it is important to note that this is only one step in the annual appropriations process. Congress will review the President's request and draft its own FY2026 appropriations bills. Appropriations bills will need 60 votes to pass the Senate—meaning that a final appropriations bill must have bipartisan support. The following summary provides top-line numbers and some key observations.

For USED, the request proposes \$66.7 billion, a reduction of \$12 billion or 15.3% below the FY2025 level. Given the President's desire to eliminate USED, it is notable that his budget request did not zero out its funding—as the request did eliminate funding for other federal agencies including the Corporation for National and Community Service (operating as AmeriCorps) and the National Endowment for the Arts. That said, the budget request aligns with the Administration's efforts to hollow out USED by reducing the overall funding and recommending the consolidation of several key programs:

- Most significantly, although the budget request maintains funding for Title I, it proposes to consolidate 18 other formula and competitive grant programs from the Every Student Succeeds Act (ESSA) into a new \$2 billion "K-12 Simplified Funding Program"—which would represent a \$4.5 billion decrease below the total current funding for those programs (See [pages 52-58](#) for information on specific programs).¹ The proposal would create a single State Formula Grant Program (SFP) – or block grant – that may provide more flexibility to states and districts, but that would come at a cost of nearly 70% less funding.

¹ The 18 programs that would be consolidated into the K-12 SFP are: Comprehensive literacy state development grants; Innovative approaches to literacy; Neglected, delinquent, and at-risk children and youth; Supporting effective instruction State grants; 21st century community learning centers; State assessments; Education for homeless children and youths; Native Hawaiian education; Alaska Native education; Rural education; Student support and academic enrichment grants; American history and civics education; Magnet schools assistance; Arts in education; Javits gifted and talented education; Statewide family engagement centers; School safety national activities; and Promise neighborhoods.

- Specifically, the FY2026 request states that, “States and localities would have flexibility to use K-12 SFP funds for any number of elementary and secondary education activities, consistent with the needs of their communities, including increasing educational options for students within and across schools, strengthening instruction in core academic subjects, and promoting patriotic education.”
- The budget request also calls for the consolidation of the Individuals with Disabilities Education Act (IDEA) Preschool Grants program and Special Education National Activities program into the IDEA Grants to States program. This consolidation would eliminate the Preschool Grants and National Activities parts of IDEA and instead consolidate their funding into one program. Unlike with the ESSA proposal, the IDEA consolidation does not come with a funding cut. However, removing funding targeted at specific age populations or activities could jeopardize existing support and reduce funding over time. Additionally, the FY2026 budget request would maintain funding for the IDEA Grants for Infants and Families program separate from the consolidated IDEA Grants to States program.
- In addition to the 18 program consolidation/\$4.5 billion cut proposed for ESSA programs, the budget request proposes to completely eliminate federal funding for other elementary and secondary education programs, including the Language Instruction for English Learners and Immigrant Students (Title III of ESSA), Migrant Education, Teacher and School Leader Incentive program, Education, Innovation, and Research Grants, and Comprehensive Centers, among other programs.

Regarding student financial assistance, the budget request would reduce the maximum Pell Grant award from \$7,395 to \$5,710, which is a nearly 23% reduction. Additionally, the budget request would eliminate the Supplemental Educational Opportunity Grants (SEOG) program and cut the Federal Work-Study program by a combined \$1.9 billion, or 80%, while also restructuring it. Further, the request would completely eliminate funding for college preparation and support programs including TRIO, GEAR UP, and the Teacher Quality Partnership.

The President’s budget request would also significantly cut funding for the Institute of Education Sciences (IES) – which houses most USED data collection and research funding – to \$261.3 million, a reduction of 67% compared to the FY2024 level. Some funding would be provided for the National Assessment for Educational Progress (NAEP) at \$129.9 million (a 30% reduction compared to the FY2024 level) and the National Assessment Governing Board at \$7.4 million (a 10.5% reduction compared to FY2024 level); however, funding for every other program under IES would be eliminated. Instead, the President requests \$124 million shown as an undistributed line under the IES account to enable IES to meet statutory requirements, continue critical data collections and studies, and fund administrative expenses in the short-term. Specifically, the FY2026 request states that funds will be allocated to “resources to statutorily required activities such as the National Center for Education Research R&D Centers and Small Business Innovation Research Program...[and] critical data collections and studies, such as the Program for International Student Assessment (PISA), the Common Core of Data (CCD), and Integrated Postsecondary Education Data System (IPEDS).”

For HHS, funding would be maintained at the FY2025 Continuing Resolution (CR) level for the Child Care and Development Block Grant (CCDBG) and Head Start; however, the budget does call for the elimination of the Preschool Development Grant Birth-to-Five Program, a competitive grant designed to help states with early childhood systems-building.

The budget request also prioritizes the reduction or elimination of what it characterizes as “woke” parts of the government, including significantly reduced funding for the National Science Foundation and the elimination of Equity Assistance Centers, the National Endowment for the Humanities, and the Institute for Museum and Library Sciences.

At this time, USED and HHS have only released additional budget summaries and have yet to release comprehensive budget justifications (a typically-provided source of policy and planning information). Despite this, the House Appropriations Committee is beginning markup of its FY2026 House Appropriations bills this week. The FY2026 House Labor, Health and Human Services, Education, and Related Agencies (Labor/HHS) bill is expected to be marked up at the Subcommittee level on July 21 and the full Committee level on July 24. The Senate Appropriations Committee has not yet released information on a possible markup schedule.

2. DEEP DIVE: Wise Courage: A Framework for Higher Education Leadership in the Face of Federal Overreach

EducationCounsel's latest Deep Dive is [Wise Courage: A Framework for Higher Education Leadership in the Face of Federal Overreach](#) (click [here](#) for the executive summary). Higher education is experiencing a period of federal overreach against efforts by institutions of higher education (IHEs) to advance core values related to building inclusive and accessible education, advancing equitable opportunity, and engaging the benefits of diversity. The Administration's enforcement actions threaten academic freedom, a bedrock principle enshrined in the First Amendment that undergirds higher education's ability to fulfill its purpose in our democracy, economy, and society.

Navigating this period presents an unprecedented challenge to IHEs and their leaders. It requires **wisdom** to separate the (legal) signal from the (policy preference) noise. And it requires **courage** to remain committed to an institution's mission and values amid the risks associated with such federal overreach. To help leaders act with **wise courage**, [this new paper](#) summarizes existing legal parameters and provides a three-part framework for advancing effective, legally defensible access and opportunities for all students and faculty.

3. DEEP DIVE: The Trump Administration vs. Harvard University

The Trump Administration's initial allegations against Harvard University of failing to adequately address antisemitism on campus have led to a multi-pronged legal and administrative confrontation with the university. Although Harvard is not the only institution of higher education to be challenged by the Administration, the volume and diversity of investigations leveraged against Harvard—as well as its capacity and willingness to respond in high-profile ways—makes the university a useful illustration of how the Administration is advancing its priorities regarding both higher education and civil rights enforcement.

The Harvard case raises some substantive and process issues that are unprecedented and sometimes hard to follow. This new EducationCounsel Deep Dive, [The Trump Administration vs. Harvard University](#), details the overall timeline of events, Harvard's lawsuit, and a range of Administration actions by several agencies. We will continue to update this as the conflict develops—the most recent addition addresses the 5/29 preliminary injunction against DHS, allowing Harvard to continue admitting international students as litigation moves forward.

4. "Gold Standard Science" Executive Order

On 5/23, President Trump issued an executive order, "[Restoring Gold Standard Science](#)," that seeks to address what the EO alleges to be the politicization of research and discovery by the Biden Administration and aims to "restore public trust" in the sciences. (The EO's preamble section focuses in part on concerns regarding the CDC's pandemic-era guidance on in-person schooling.) To this end, the EO sets out requirements for all federal activities related to all types and forms of scientific information, including federally-funded research. The EO charges the Office of Science and Technology Policy (OSTP) with developing new guidance within 30 days that all federal agencies will then incorporate into their policies and processes within the following 60 days. In the meantime, the EO directs agencies to use guidance that was in place during President Trump's first term, and includes "reevaluating and, where necessary, revising or rescinding scientific integrity policies or procedures" from the Biden Administration.

According to the EO, “Gold Standard Science” refers to “science conducted in a manner that is: (i) reproducible; (ii) transparent; (iii) communicative of error and uncertainty; (iv) collaborative and interdisciplinary; (v) skeptical of its findings and assumptions; (vi) structured for falsifiability of hypotheses; (vii) subject to unbiased peer review; (viii) accepting of negative results as positive outcomes; and (ix) without conflicts of interest.”

The EO’s “Enforcement and Oversight” provisions require each agency to establish “internal processes to evaluate alleged violations” and assign responsibility for enforcement to senior *political* appointees. Because there appears to be no requirement for consulting with experts in the field, some have [raised concerns](#) that the EO creates new opportunities for political appointees to revise, characterize, or question scientific findings that may not align with the Administration’s political agenda.

5. International Student Visas

On 5/27, the State Department [directed](#) U.S. embassies and consulates to pause all new student visa interviews effective immediately ahead of greater social media screening and vetting procedures. In [remarks](#) the following day, Secretary Marco Rubio touted a “vigorous new visa policy” to identify and exclude applicants who express antisemitic views and/or are critical of Israel. He separately [announced](#) that the State Department will “aggressively revoke visas for Chinese students, including those with connections to the Chinese Communist Party or studying in critical fields.” (Note that these actions apply to *all* international students, not just those studying at Harvard.)

6. Other Recent Updates

Additional recent updates now appear in the [Executive Actions Chart](#), but some of note include the following.

Second Pause on ESSER Late Liquidation Deadline Changes: On 5/20/25, the 16 states and DC suing over the cancellation of their late liquidation extensions for pandemic recovery funds secured a [temporary restraining order](#) preventing USED from enforcing its second [attempt](#) to undo the extensions (despite a [preliminary injunction](#) issued on 5/6/25). The court also scheduled a 6/3/25 hearing about whether it will issue another preliminary injunction in the case.

Injunction Halts RIFs at Multiple Agencies: On 5/22/25, a federal court in California issued a [preliminary injunction](#) in a case brought by a collection of unions, non-profit organizations, and local governments to challenge RIFs and reorganizations of 22 federal agencies including OMB, OPM, DOGE (USDS), USDA, Commerce, Energy, HHS, HUD, Interior, Labor, State, Treasury, Transportation, VA, AmeriCorps, Peace Corps, EPA, GSA, NLRB, NSF, SBA, and SSA. The injunction halts these actions while the lawsuit proceeds; the Administration has appealed the ruling to the Ninth Circuit Court of Appeals.

States Sue Over National Science Foundation (NSF) Cuts: On 5/28/25, 16 states filed a [lawsuit](#) in a New York federal court, challenging NSF grant terminations related to DEI and—similar to an earlier [suit](#) filed in Massachusetts—the imposition of a 15% indirect rate cap.

Upcoming Congressional Hearings: USED Secretary Linda McMahon will testify in the Senate on 6/3 about the FY26 budget and in the House on 6/4 on USED’s “policies and priorities.” On 6/5, the Senate HELP Committee will consider the nominations of Penny Schwinn to be Deputy Secretary of Education and Kimberly Richey to be Assistant Secretary for Civil Rights.

7. Significant Updates Published in 5/23 E-Update

The following significant updates originally appeared in our [5/23 E-Update](#) alongside a comprehensive roundup of education-related developments across the federal government. Because we circulated that E-Update in lieu of a typical Alert, we are republishing them here to support greater awareness.

Preliminary Injunction Halts Dismantling of USED: On 5/22, a federal court in Massachusetts issued a [preliminary injunction](#) blocking the Administration's efforts to dismantle and eventually eliminate USED. The court's ruling, in a consolidated lawsuit brought by a group of states, districts, nonprofits, and unions, halts USED's significant [reduction in force](#) (RIF), as well as President Trump's [March 20 Executive Order](#) directing the Secretary of Education to "facilitate the closure" of USED. The ruling stated:

Defendants do acknowledge, as they must, that the Department cannot be shut down without Congress's approval, yet they simultaneously claim that their legislative goals (obtaining Congressional approval to shut down the Department) are distinct from their administrative goals (improving efficiency). There is nothing in the record to support these contradictory positions. Not only is there no evidence that Defendants are pursuing a "legislative goal" or otherwise working with Congress to reach a resolution, but there is also no evidence that the RIF has actually made the Department more efficient. Rather, the record is replete with evidence of the opposite. Consolidated Plaintiffs have demonstrated that the Department will not be able to carry out its statutory functions—and in some cases, is already unable to do so—and Defendants have proffered no evidence to the contrary.... [A] preliminary injunction is warranted to return the Department to the status quo such that it can comply with its statutory obligations.

The Administration is appealing the ruling to the First Circuit Court of Appeals, which declined to pause the district court's ruling while it considered the government's appeal. Unless overturned on appeal by the First Circuit or the Supreme Court, the injunction will remain in effect until the lawsuit reaches a final resolution.

House of Representatives Passes Budget Reconciliation Bill: On 5/22/25, the House passed its [budget reconciliation bill](#) by a party-line [vote](#) of 217-212, with two Republicans, Reps. Thomas Massie (R-KY) and Warren Davidson (R-OH), and all Democratic Members opposing the bill. In the final hours of the bill's consideration, the House made changes through a [Manager's amendment](#) to meet the request of several conservative Members to include additional savings and changes. Specifically:

- The start date of Medicaid work requirements moved up from 1/1/29, to 12/31/26.
- Although the House did not change the federal share of spending in the joint federal-state Medicaid program, the final bill did expand the criteria for states to lose a portion of their program funding if they offer coverage to undocumented people, as well as provide "states a financial incentive not to expand coverage to people with higher incomes than traditional enrollees, though still near the poverty line," according to [Politico](#).
- The bill removed Medicaid coverage of gender-affirming care for *adults*, in addition to a prior version that removed coverage for minors.
- The final bill renamed the new "MAGA" savings accounts in the bill to "Trump" accounts but did not make substantive changes to the policy.

EducationCounsel's [May 20 Alert](#) and [May 1 Alert](#) have more details on the underlying budget reconciliation package (although those earlier summaries do not reflect the changes made to the final version of the bill). The next few weeks will be crucial as the legislation will now be considered by the Senate, which may decide to make further changes.

Secretary McMahon Proposes First Supplemental Grant Priorities: On 5/20/25, USED Secretary Linda McMahon [published](#) proposed supplemental grant priorities which could be used to privilege certain policies or entities for future *competitive* grant programs (i.e., these do not affect formula-funded programs like Title I).

Secretary McMahon named three proposed supplemental grant priorities: evidence-based literacy, education choice, and returning education to the states. The accompanying [press release](#) noted that additional priorities are expected later this year. The proposed priorities are open for [public comment](#) until 6/21/25, after which comments will be reviewed and a Notice of Final Priorities will be published. More information can be found in this [EducationCounsel Deep Dive](#).

Supreme Court Ties 4-4 in Religious Charter School Case: On 5/22/25, the U.S. Supreme Court [ruled](#) 4-4 in *Oklahoma Statewide Charter School Board v. Drummond*, which considered whether public funds could be used to establish [St. Isidore of Seville Catholic Virtual School](#), a proposed Christian charter school. Justice Amy Coney Barrett recused herself from the case, meaning that the equally divided ruling leaves the lower court's decision in place, which in this case prohibited the school's establishment. The Court issued only a one-sentence "per curiam" ruling—which does not list how each Justice voted—so the Oklahoma Supreme Court's June 2024 [decision](#) remains. That earlier decision held that "[u]nder Oklahoma law, a charter school is a public school. As such, a charter school must be nonsectarian. However, St. Isidore will evangelize the Catholic faith as part of its school curriculum while sponsored by the State. This State's establishment of a religious charter school violates Oklahoma statutes, the Oklahoma Constitution, and the Establishment Clause." Note that although Justice Barrett did not explain the reason for her recusal, multiple reports suggest it was related to her relationship to the parties in this particular case, meaning that she may not need to recuse again if a similar case comes before the Court. Most legal analysts expect that her vote would have changed this to a 5-4 ruling overruling the Oklahoma Supreme Court.

DOJ establishes Civil Rights Fraud Initiative: On 5/19/25, the DOJ [announced](#) the establishment of the Civil Rights Fraud Initiative, which will "utilize the False Claims Act to investigate and, as appropriate, pursue claims against any recipient of federal funds that knowingly violates federal civil rights laws." In the announcement, Attorney General Pam Bondi stated that the initiative will take action, including the potential withholding of federal funding, against institutions that "allow anti-Semitism and promote divisive DEI policies." Deputy Attorney General Todd Blanche added that the DOJ's Civil Fraud Section and Civil Rights Division will both be involved in the initiative, and the announcement "strongly encouraged" whistleblowers and members of the public to file complaints under the False Claims Act and report them to the federal government as well.

Court Reinstates Grant to One of Four Equity Assistance Centers: On 5/21/25, the United States District Court for the District of Columbia issued a [preliminary injunction](#) in *Southern Education Foundation (SEF) v. U.S. Department of Education*, which challenges the [2/13/25 cancellation](#) of the Equity Assistance Center-South (EAC-South), a federally funded center based at SEF that has worked to help school districts comply with civil rights laws. The court's opinion noted: "In view of the history of race in America and the mission of SEF since the Civil War, the audacity of [the USED] terminating its grants based on 'DEI' concerns is truly breathtaking."

8. What's Coming Next?

Our [Executive Actions Tracker](#), which is different from our Executive Actions Chart ([link](#)), includes a comprehensive list of specific actions called for in President Trump's various EOs affecting education. The table below highlights a few particularly significant *upcoming deadlines*. Consult the Tracker for a full list of the EOs' requirements and deadlines, including those that have already passed (but the results of which may not yet be publicly available).

| Date | Executive Order | Action Expected |
|------|--|--|
| 6/7 | "Restoring Equality of Opportunity and | Requires DOJ and EEOC to "assess all pending investigations, civil suits, or positions taken in ongoing matters under every Federal civil rights law within their respective jurisdictions, including Title VII of the Civil Rights Act of 1964, that rely on a theory of disparate-impact |

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| | Meritocracy | liability,” and “take appropriate action.” Orders the DOJ, HUD, CFPB, FTC, and the heads of other agencies responsible for enforcement of the Equal Credit Opportunity Act, Title VII of the Civil Rights Act of 1964, or laws prohibiting unfair, deceptive, or abusive acts or practices to evaluate all pending proceedings that rely on theories of disparate-impact liability and “take appropriate action.” |
| 6/7 | “Eradicating Anti-Christian Bias” | Requires a Task Force report on efforts to identify anti-Christian “policies, practices, or conduct” along with recommendations for terminating them and revising laws and enforcement approaches that have “contributed to unlawful anti-Christian governmental or private conduct.” |

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 2, 2025 at 2:00 pm EDT.