

# **Federal Updates and other Hot Topics**



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# Agenda

- Federal Updates, including funding
- Other Hot Topics – PRWORA and UGG updates

# Congress

- Reconciliation,
- Recissions, and
- Spending

...oh my!

# Types of Legislation

- Authorizing legislation
  - Creates or reauthorizes a program or policy
  - Like ESEA, IDEA, HEA, etc..
- Appropriations bills
  - Fund authorized discretionary programs from year to year
  - Includes Omnibus, CR, etc.
- Non-binding resolutions
  - Including budget resolutions
- Special processes
  - CRA, rescissions, reconciliation, etc.

# Budget Versus Appropriations

- Budget

- House and Senate Budget Committees
- Congress can pass a new bill each year (and can amend with reconciliation)
- 10-year outlook
- Provides instructions to Appropriations Committees
- Top-line spending in categories
- Non-binding (not even necessary!)

- Appropriations

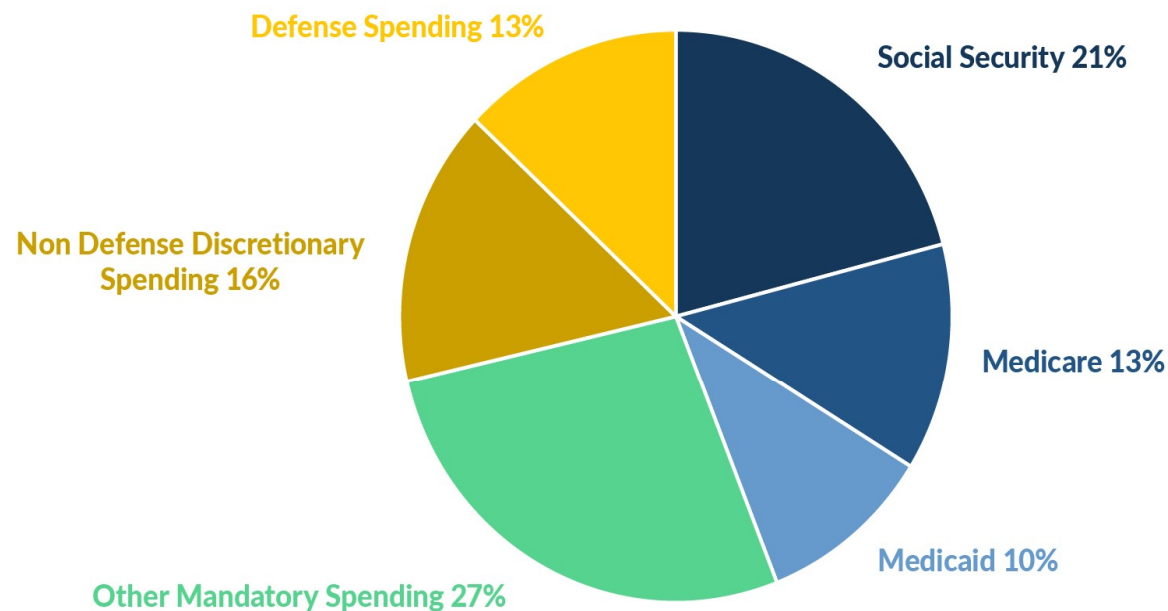
- House and Senate Appropriations Committees
- Congress passes a new bill each year
- Single-year outlook
- Uses instructions from Budget Committees
- Detailed spending for each program
- Binding on Congress (and federal agencies)

# What is reconciliation?

- Short for “budget reconciliation”
- It is a special checkbook-balancing process that comes with special rules – and flexibility
- Used to amend mandatory spending (generally not discretionary appropriations), revenues, and the debt limit to help meet set budget targets passed by Congress
- Largely laid out in the Congressional Budget and Impoundment Control Act of 1974
  - Additional parameters controlled by Senate rules, tradition, and vibes

# Reconciliation

- Mandatory spending is by far the largest share of government spending
- Can be controlled in limited ways:
  - Amending underlying legislation
  - Reconciliation
  - NOT through regular appropriations process
- Lower vote threshold in the Senate makes it easier to pass potentially controversial changes



Sources: Congressional Budget Office, "The Federal Budget in Fiscal Year 2022"; Tax Foundation calculations

# Special Senate Reconciliation Rules

- Can only be used once per year for each topic (revenues, outlay, debt ceiling)
- Generally not used for discretionary programs
- Must be based on an existing budget document
- Budget resolutions only require simple majority in the Senate (no filibuster)
- Limited to 20 hours of debate
- Reconciliation provisions must be “primarily budgetary in nature”
  - Adopted in 1985 to curb abuses of process, codified in 1990 (2 USC 644)
  - Known as the “Byrd Rule”





## How is this decided?

- Amendments or provisions are challenged during debate on the Senate floor or prior to referral to full Senate
  - Known as “Byrd Bath”
- Arguments may be presented to “cure” the objection, or point to certain exceptions (new regulations, court decisions, not enough information, mitigates existing issues)
- Final decision made by Senate Parliamentarian, unless:
  - Byrd rule is waived by 60 votes (or 3/5) or
  - Majority Leader says so
- Provisions struck are sometimes called “Byrd droppings”



# Current Reconciliation Bill Status



- Contains:
  - Tax credit voucher program
  - Limitations on Medicaid payments/SNAP eligibility
  - New limitations on Pell grants and federal student loans
  - Increase on debt limit
- One version passed House in late May
- Passed 50-50 in Senate 7/1 with VP as tiebreaker
- Signed into law July 4<sup>th</sup>

# What is a Rescissions Bill?

- Distinct from funding rescissions incorporated in regular legislation
- A budget bill that allows Congress to revoke previously authorized spending authority
  - Budget bill → majority vote, not 60-vote threshold in the Senate
  - Makes Impoundment Control Act concerns moot since there is no longer authority to spend funds
- Codified in the Congressional Budget and Impoundment Control Act of 1974
  - 2 U.S. Code § 683

# Rescissions Process

- The President may submit a formal rescission request to Congress, containing:
  - How much money is to be rescinded
  - What account or authority it comes from
  - The reason for the rescission
  - Estimated budgetary impact
  - Impact on the purposes of the programs and any other facts
- In recent history, rescissions requests have been limited to funds not yet obligated by federal government

# Rescissions Process

- Congress has 45 days to consider the request
  - During that time, President may withhold funds named in the request
- If Congress does not act within 45 days, request is deemed to be rejected and President must spend funds in question
- If Congress doesn't pass a rescission, cannot name funds for rescission again
- Administration has suggested “pocket” rescission of funds starting August 15<sup>th</sup>
  - Name funds for rescission and wait for the clock to run out?
  - Unlikely to work for most of ED funding because of GEPA multi-year availability

# Appropriations Guardrails

- **Impoundment Control Act**
- Congress has the power of the purse, so agencies may not withhold funds they have been instructed to spend
- No line-item veto, no “impoundments”



- **Anti-Deficiency Act**
- Congress has the power of the purse, so agencies may not spend money that has not been appropriated

# July 2025 Rescissions Package

- H.R. 4
- Rescinded \$9.4 billion in funding for:
  - Corporation for Public Broadcasting
    - NPR
    - PBS
  - Some foreign aid (USAID) programs
    - PEPFAR removed
- Passed 51-48 in Senate on July 17<sup>th</sup>, signed into law July 24<sup>th</sup>



# Will education funds be rescinded?

- Rumor that education funds would be included in a rescissions request to be sent in September
- BUT!
  - Pocket rescission not a viable option
  - 10 Republican Senators signed onto letter requesting release of previously withheld funds – signaling lack of sufficient votes for rescinding formula dollars
- Can they still request rescission of education funds?
  - Yes! But look at other funds that are more likely targets at this point (e.g. IES/research funding, higher ed grants, competitive grants)



# The “pocket rescission”

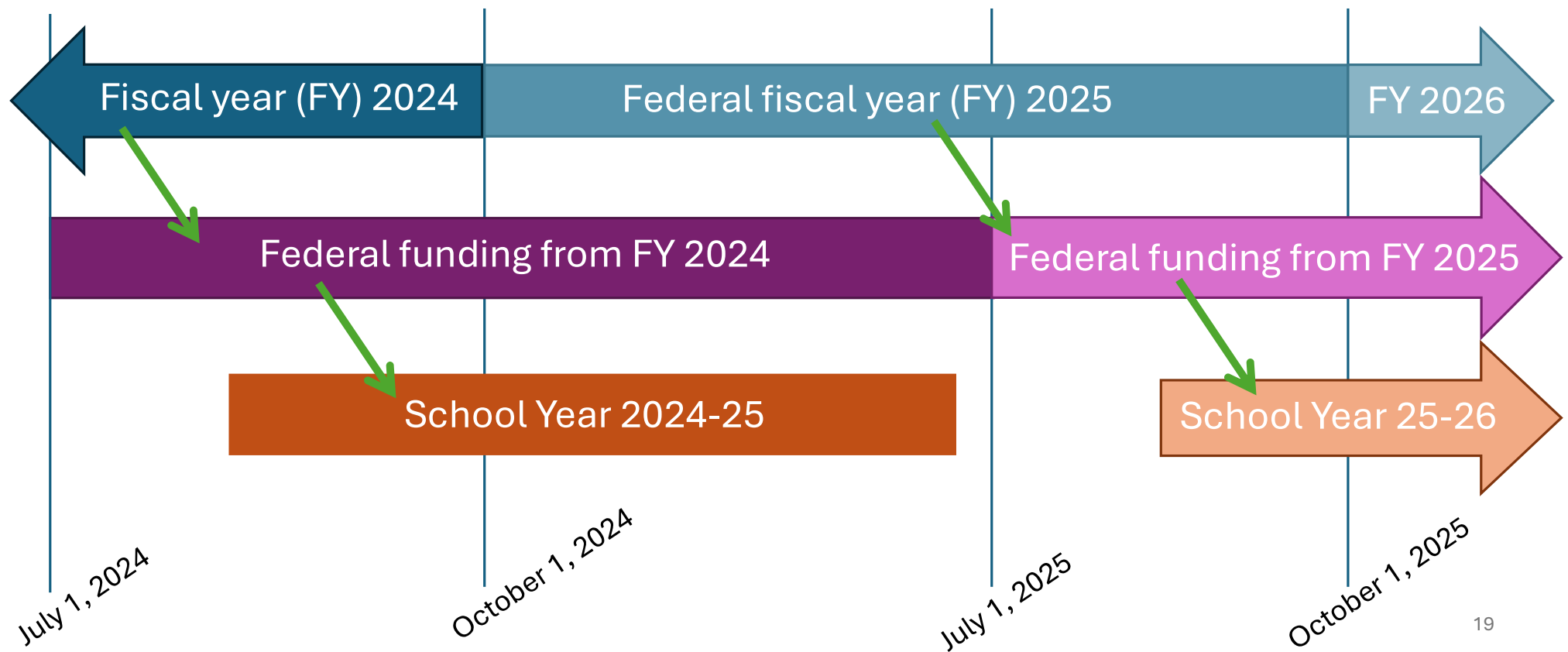
- Administration has suggested “pocket” rescission of funds starting approx. August 16<sup>th</sup>
  - Name funds for rescission and wait for the clock to run out?
  - Unlikely to work for most of ED funding because of:
    - Restrictions in law
    - Congress may not be on board
    - GAO says you can’t do this
  - ...but does it buy time/ reduce spending in the interim?



## GEPA to the Rescue?

- Funds available for academic/school year
- “(a) Appropriations for any fiscal year for grants ... may, in accordance with regulations of the Secretary, **be made available for obligation by the recipient on the basis of an academic or school year differing from such fiscal year.**” (Section 421(a))
- Required Carryover
- “... **funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions** during such succeeding fiscal year”. (Section 421(b)(1)).
- “**The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year** unless Congress... has passed legislation that becomes law and extends or repeals the authorization or duration of such program.” (Section 422)

# The Appropriations Cycle and Forward Funding



# FY 2025 Funding Status

- Federal government was operating under a “CR” through March 13th
- Lawmakers then passed a full-year CR that runs through the end of FY 2025 with *some programs* at current levels
  - Other programs lack specified appropriations in the full-year CR
    - But topline funding for appropriations categories are specified in law
- Congress did not issue an explanatory statement or report for FY 2025 that suggests funding levels

Program	FY 2024 Final	FY 2025 President’s Request	FY 2025 Final	Percent change v. FY 2024
ESEA Title I-A	\$18,407	\$18,587	\$18,407	---
ESEA Title II-A, Supporting Effective Instruction	\$2,190	\$2,190	(not specified) (school improvement as a category is level-funded)	?????
ESEA Title III-A, English Language Acquisition	\$890	\$940	\$890	---
Title IV-A, SSAE	\$1,380	\$1,380	\$1,300	---
ESEA Title IV-B, 21 <sup>st</sup> CCLC	\$1,330	\$1,330	\$1,330	---
IDEA Part B State Grants	\$14,214	\$14,394	(not specified) (special education level funded overall)	?????
CTE State Grants	\$1,440	\$1,470	(not specified) (CTE category level-funded overall)	?????

# FY 2026 President's Spending Proposal

- Released May 1 (yes, this is very late!) with more detail offered towards end of May/beginning of June
- A “skinny” budget
  - Not really a “budget” – it’s an appropriations proposal
  - “skinny” refers to the lack of program-specific details
- Includes policy proposals, consolidations alongside suggested changes in spending level
- Only the first step in the appropriations process – not binding on Congress in any way

# FY 2026 President's Spending Proposal

- Would increase charter school funding by \$60 million
- Would consolidate ESEA programs to “streamline administration”
  - Cut \$4.5 billion while “preserving Title IA”
  - Zero out Title III and I-C
- Would consolidate special education programs
  - Language about removing funds from SEAs/LEAs that “flout parental rights”
- Would zero out TRIO, GEAR-UP, FWS, SEOG, AEFLA
  - “Today, the pendulum has swung and access to college is not the obstacle it was for students of limited means.”
- Would move job training programs (Perkins?) to new “Make America Skilled Again” program under Department of Labor, cut \$1.6 billion

# FY 2026 President's Spending Proposal

- Why the cuts?
  - “States and localities, not the Federal government, are best suited to determine whether to support the activities authorized under this program or similar activities within their own budgets and without unnecessary administrative burden imposed by the Federal government.”
    - Language is repeated 24 times in ED “budget justifications” document
  - But also: “These eliminations are part of the Administration’s overall effort to restore fiscal discipline and reduce the Federal role in education.”



# Key Takeaways from President's Proposal



- White House Priorities include
  - Increasing funding for charter schools
  - Maintaining funding levels for Title IA, IDEA
  - Consolidating/cutting other ESEA and special education programs
  - Consolidating/cutting institutional aid and college access programs

# What about those block grants?

- Presidents *frequently* include policy/ reauthorization proposals in budget/spending documents
- Congress traditionally does not include those proposals in appropriations bills because:
  - They add to the number of potential objections that could slow or halt progress of a bill
  - The structure of the appropriations bills only allows for changing policy one year at a time
    - Places conditions on that year's funding
    - Per House and Senate rules, cannot amend underlying statute

# Appropriations Schedule for FY 2026

- Senate Committee approved bill first week of August → now heads to Senate floor
- House committee markup scheduled for after August recess
- But! Funding must be completed by September 30<sup>th</sup>
  - Increased likelihood of (yet another) CR



Program	FY 2024 Final	FY 2025 CR	FY 2026 President's Proposal	FY 2026 Senate Bill
ESEA Title I-A	\$18,407	\$18,407	\$18,407	\$18,457
ESEA Title II-A, Supporting Effective Instruction	\$2,190	(not specified)	\$0	\$2,190
ESEA Title III-A, English Language Acquisition	\$890	\$890	\$0	\$890
Title IV-A, SSAE	\$1,380	\$1,380	\$0	\$1,380
ESEA Title IV-B, 21 <sup>st</sup> CCLC	\$1,330	\$1,330	\$0	\$1,380
IDEA Part B State Grants	\$14,214	(not specified)	\$14,891 (as consolidated with other programs)	\$14,261
CTE State Grants	\$1,440	(not specified)	\$1,440	\$1,440
AEFLA	\$2,181	\$2,181	\$1,450	\$2,181
Maximum Pell grant (in dollars)	\$7,395	\$7,395	\$5,710	\$7,395
Head Start	\$12,272	\$12,272	\$12,272	\$12,357

# New “Bill-Strengthening” Language

- Requires funding to be provided to States “on the date such funds become available for obligation” for certain programs:
  - Elementary and Secondary Education Act programs
  - McKinney-Vento
  - Individuals with Disabilities Education Act
  - Perkins Career and Technical Education Act
- Would prohibit any enacted funding from being used to transfer Title I or special education programs out of ED
- Would require the agency to maintain sufficient staffing “to fulfill its statutory responsibilities.”

# More Rescissions Talk?



- Concern among Senators that Congress will pass appropriations with a 60-vote threshold, then turn around and pass education rescissions.
- Right now this is *just a theory*
- Would be focused on programs not funded in President's request
  - I.e. NOT Title I/IDEA
  - Titles II, III, IV

## Other things to watch...

- Whole Milk for Healthy Kids Act
  - Different versions passed House and Senate, look for conference and implementation in SY 2026-27
- Resolution on E-Rate (S.J.Res. 7)
  - Would rescind flexibility to use schools and libraries funding for wifi hotspots
  - Passed Senate, waiting on House action (held at desk, not referred to committee)
- Leg branch appropriations defunding GAO, CRS?
  - Other limitations on government watchdogs

# The Administration

- Two Tracks of Guidance
- Funds withholding and what it means going forward
- Waiver requests and potential movement



# Two Tracks of Guidance/Action within ED

- Regular guidance
  - Usually prepared by or in close coordination with career staff
  - Within existing legal/ policy structures
  - Generally smaller movements in line with administration priorities



- Bigger policy shifts/ “irregular” guidance
  - Prepared and disseminated (often) solely by political appointees
  - Larger changes in policy, funding availability
  - In line with larger government-wide reshaping priorities

# Track 1



# Track 1 Guidance

- Sec. [1003A Direct Student Services guidance](#) re:
  - Dual enrollment/ advanced courses, and CTE coursework
  - AP and IB courses and test fees
  - Personalized tutoring
  - Transportation to schools of choice
- [Unsafe School Choice guidance](#)
  - Leverages requirement in Sec. 8532 to promote school choice
  - Urges States to expand definition of “persistently dangerous” school and update lists more frequently
- [Guidance on using school improvement to expand school choice](#)
  - Encourages LEA to offer choice, transportation to schools of choice for CSI schools
  - Encourages SEA to offer Direct Student Services through ESEA Sec. 1003A

# Track 1 Guidance

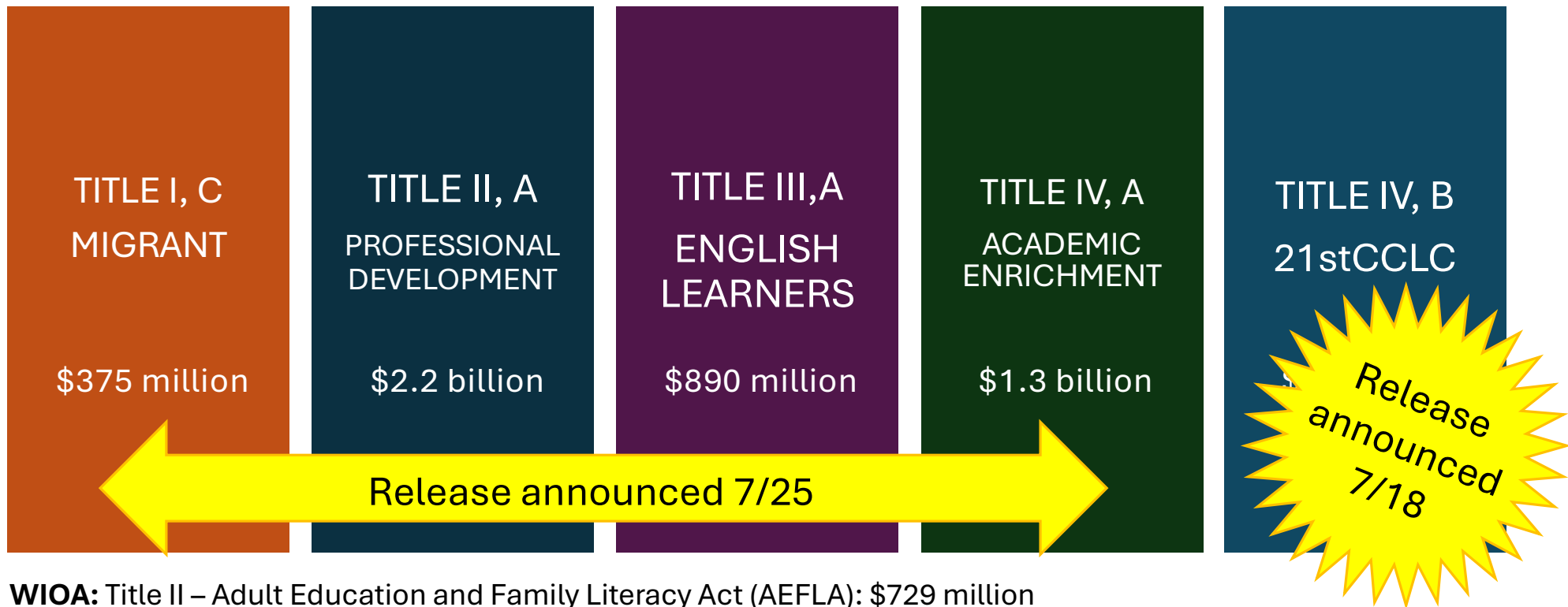
- [\*\*Dear Colleague on ESEA Flexibilities\*\*](#) (and more coming?)
  - Restates existing flexibilities in Sec. 8401 of ESEA
  - Notes prohibitions on what ED can waive
  - Less informative than the waivers that may ultimately get approved
- [\*\*Dear Colleague on Equitable Services\*\*](#)
  - Restates equitable services requirements
  - Reiterates availability of third-party providers, direct State services (with a finding of significant noncompliance and request of school)
  - Suggests LEAs offer a “menu of services” that parents of eligible private school students could choose from
    - “Department encourages LEAs to, in consultation with private school officials, hold meetings with parents of participating private school children”

# Track 2



## ED's 7/1 Announcement

- “Given the change in Administrations, the Department is reviewing the FY 2025 funding for the [Title I-C, II-A, III-A, IV-A, IV-B] grant program(s), and decisions have not yet been made concerning submissions and awards for this upcoming academic year. Accordingly, the Department will not be issuing Grant Award Notifications obligating funds for these programs on July 1 prior to completing that review. The Department remains committed to ensuring taxpayer resources are spent in accordance with the President’s priorities and the Department’s statutory responsibilities.”

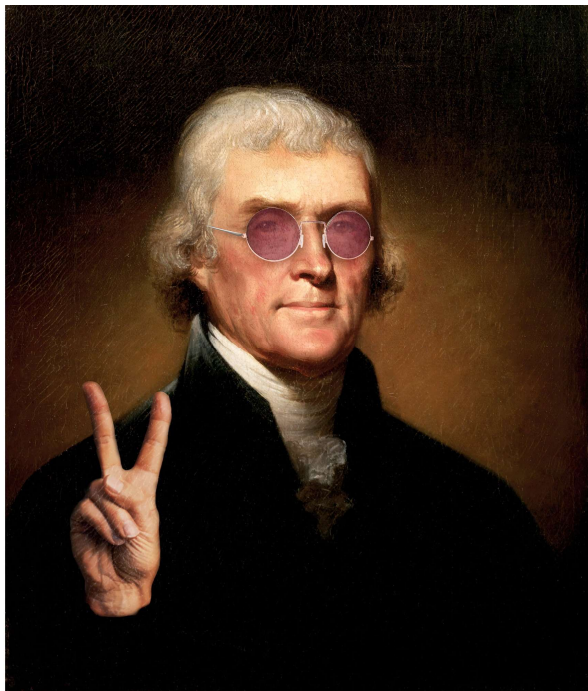


## Is this an impoundment?

- Yes! Any deliberate action by the President to withhold some funding that Congress has enacted in an appropriations bill, so that not all of it would be used during the period for which it is made available, is *technically* an impoundment
- GEPA provides ED more than one year to spend funds, and ED/OMB say they are still planning to spend them
- Under 2 USC 684, a *deferral*-type impoundment is allowable
  - “(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements for greater efficiency of operations; or (3) as specifically provided by law.”
  - It cannot last beyond the end of the fiscal year in which it is proposed.



# Is this an impoundment?



The first impoundment on record was made by President Thomas Jefferson when he refused to spend \$50,000 appropriated by Congress for gunboats to patrol the Mississippi river

The Impoundment Control Act was passed in response to \$10 billion in withholdings by then-President Nixon



# When does an impoundment become illegal?

- There are two types of legal impoundments under the ICA
  - A *deferral* is allowable
    - “(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements for greater efficiency of operations; or (3) as specifically provided by law.”
    - But cannot last beyond the end of the fiscal year in which it is proposed (September 30<sup>th</sup>)
  - Or, President can issue a rescission request and withhold funds for up to 45 days while Congress considers the request
- Impoundments that don’t meet these tests – or that withhold funds that can’t be impounded – could be considered illegal.

# What are the new conditions?

- New GANs to include language:
  - “Grantees must not use federal funds under this project in any manner that violates the United States Constitution, Title VI or Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq. or 42 U.S.C. § 2000e et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), section 504 of the Rehabilitation Act (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et seq.), the Boy Scouts of America Equal Access Act of 2001 (20 U.S.C. § 7905), section 117 of the Higher Education Act of 1965, as amended (20 U.S.C. § 1011f), or other applicable federal law. To the extent that a grantee uses grant funds for such unallowable activities, the Department intends to take appropriate enforcement action including under section 451 of the General Education Provisions Act (GEPA), which may include the recovery of funds under section 452 of GEPA.”

# What are the new conditions?

- GAN sent to States on 7/21
- Reflects a program start date of 7/1
  - BUDGET PERIOD 07/01/2025 - 09/30/2026
  - FEDERAL FUNDING PERIOD 07/01/2025 - 09/30/2026
  - Allows expenses starting 7/1 to be charged to this grant
- “The Department also intends to conduct reviews of grantees’ use of funds to ensure ongoing compliance with the above provisions and all other applicable laws and regulations.”
  - Language itself is not particularly meaningful
  - Question is how administration will enforce its *interpretation* of those laws
    - E.g. Title VI, Title IX, and others

## What happens when ED releases GANs late?

- Generally, the period of availability of most state-administered programs is July 1 – September 30 (carryover available for an additional Oct 1 – Sept 30).
- Pre-award costs are permitted going back to the first day the grant or subgrant period of performance with approval from the awarding agency 34 CFR 76.707/ 2 CFR 200.458.
  - Ideally, July 1, 2025
- Therefore, amended budgets and accounting adjustments would permit costs going back to July 1 once funds are allocated by ED.



# What about waivers?

## PART D—WAIVERS

### SEC. 8401. [20 U.S.C. 7861] WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL.—

(1) REQUEST FOR WAIVER BY STATE OR INDIAN TRIBE.—A State educational agency or Indian tribe that receives funds under a program authorized under this Act may submit a request to the Secretary to waive any statutory or regulatory requirement of this Act.



# A new crop of waivers?



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STATES

## Oklahoma Asks Trump for Sweeping Flexibility in How It Spends School Funding

State Superintendent Ryan Walters wants to use federal funds in part to expand school choice



By Brooke Schultz — March 26, 2025 ⌚ 5 min read



- Reportedly sent to Secretary in March
- Would block grant ESEA funding into a single grant to “simplify fund management, reduce reporting requirements, and allow for more efficient and targeted resource allocation.”
- BUT WAIT!
  - Exceeds what’s allowable under 8401
  - No public comment
  - Conflict with federal laws/ appropriations?
- A waiver request on only peer review of assessments was posted 8/8

# A new crop of waivers?

**The74**

- Submitted March 7
- Not out for public comment
- No details yet
- Presumably similar to OK waiver

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NEWS

## Iowa Submits Plan to Combine Federal Education Funds, and Experts are Skeptical

The push for greater state control could bypass Congress's authority and hurt marginalized students whom programs like Title I were meant to help.





# A new crop of waivers?

- Indiana waiver request
- Released for public comment in July, submission ETA in September
- Would attempt to create “flexible block grant” by waiving uses of funds provisions for various sections of ESEA (after allocation)
  - Except for Title I,A
- Emphasizes that they are not changing allocations or violating SNS



# Restrictions on ESEA Waiver authority

**Secretary CANNOT waive requirements related to the following:**

- Allocation or distribution of funds
- Maintenance of effort
- Comparability of services
- Supplement, not supplant
- Equitable services
- Parental participation and involvement
- Requirement for a charter school under Title IV, Part C
- Applicable civil rights requirements
- Title VIII, Subpart 2, Part F prohibitions
- Prohibitions regarding use of funds for religious worship or instruction under equitable services programs
- Activities in Sec. 8526 (prohibited uses of funds)
- The selection of a school attendance area or school under Title I-A (with one exception)

# A new crop of waivers?

- What should we take away from these requests?
  - Current administration will entertain more and broader requests
  - Some States pushing for more flexibility than previously granted
  - Nothing approvable yet!
  - ED responses will tell us more about what they are willing to approve
- But... not a realistic alternative to block grants

# Hot Topics

- Are we really closing the Department of Education?
- Review of Federal Grants
- PRWORA
- New DOJ guidance on DEI
- Guidance on AI

# Executive Order on Eliminating ED

- Signed by President on 3/20/25, instructs Secretary of Education:
  - “to the maximum extent appropriate and permitted by law, take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities.”
  - Ensure “rigorous compliance” with law and policy, including the requirement that any grant recipient end diversity, equity, and inclusion (DEI) programs or those “promoting gender ideology.”
  - [E]nsuring the effective and uninterrupted delivery of services, programs, and benefits on which Americans rely.”
- Requires *Congress* to actually pass legislation
- Senator Cassidy (R-LA): will introduce legislation to do this “as soon as possible.”

# Close the Department of Education?

- Department of Education Organization Act (1979)
  - Outlines the purpose of the education department
  - Equal educational opportunity, supplicant efforts, encourage enrollment, improvement coordination in Federal education programs, etc.
  - Outlines which Departments and staff are required by law, e.g.:
    - There shall be in the Department:
      - An Assistant Secretary for Elementary and Secondary Education; Postsecondary Education; Career, Technical, and Adult Education; Special Education and Rehabilitative Services; and Civil Rights;
      - A Special Assistant for Gender Equity, a Director of the Institute of Education Sciences, an Inspector General, and a General Counsel;
      - An Office of Elementary and Secondary Education, Migrant Education, Postsecondary Education, CTE, OSERS, English Language Acquisition, General Counsel, Inspector General, Indian Education, etc.

# Close the Department of Education?

H.R. 899

## A BILL

To terminate the Department of Education.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TERMINATION OF THE DEPARTMENT OF EDU-**  
 4 **CATION.**

5 The Department of Education shall terminate on De-  
 6 cember 31, 2026.

# Close the Department of Education?

- H.R. 369: States' Education Reclamation Act
  - Abolishes ED by repealing Dept. of Ed. Organization Act, GEPA
  - Block grants to States from 2025-2033 the same amount of funds they received for K-12 and postsecondary programs in 2025 for “any ...education purpose permitted by State law”
    - Treasury may only make payments or withhold payments, publish necessary regulations
  - Transfer of authorities
    - Perkins → DOL
    - IDEA → HHS
    - Indian Education → DOI
    - Impact Aid → DOD
    - Pell and student loans → Treasury
    - IES → HHS



# Close the Department of Education?

- S. 1402, the Returning Education to our States Act
  - Would terminate ED, repeal GEPA (except FERPA provisions)
  - Block grant key funding pending compliance with civil rights laws, providing data, annual audits
    - Title I managed by HHS
    - Higher ed funding managed by Treasury
  - Requires Secretary to come up with a transition plan within 120 days, offer administrative support, transfer employment
  - Transfer of authorities
    - All civil rights enforcement (504, Title IX, Title VI) → DOJ
    - Indian Education/Title VI → Interior
    - Impact Aid → DOD
    - Student loans → Treasury
    - ESRA → Treasury
    - Perkins, AEFLA, Voc Rehab → Labor
    - Education of the Deaf, Randolph-Sheppard, etc. → Labor
    - IDEA → HHS
    - Special Olympics, Education of the Blind → HHS
    - McKinney-Vento → HHS

## ED's Mixed Messages



“The government has been crystal clear in acknowledging that only Congress can eliminate the Department of Education. And the government has acknowledged the need to retain sufficient staff to continue fulfilling statutorily mandated functions and has kept the personnel that, in its judgment, are necessary for those tasks. The challenged RIF is fully consistent with that approach.”

- SCOTUS brief in RIF lawsuit

# ED Agreements Behind the Scenes

- Inter-Agency Agreements filed in a declaration show that ED has made agreements to parcel out some portions of program management
- Had not been public knowledge until the declaration was filed in June
- Declaration says they are on hold pending injunction
- Prompted [pushback](#) from Democratic lawmakers:
  - “it is not within your authority to move the administration of these programs to any other agency”

# ED Agreements Behind the Scenes

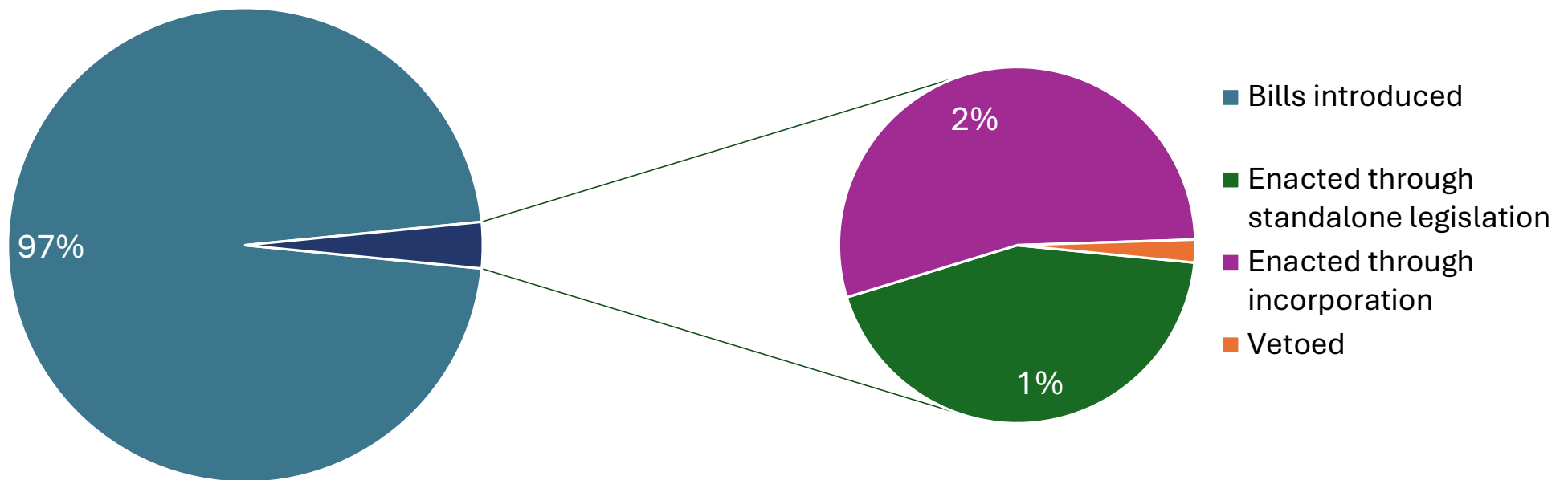
- Treasury
  - Detailee agreement
  - 8-10 staff with expertise in federal contracting, SFA, DOGE
  - Reasons not specified in agreement but declaration says for purpose of student loan management
- Labor
  - Joint management agreement for Perkins, AEFLA
  - DOL would take over day to day operations of programs and grantee relations, with ED managing oversight
  - Law cited requires notifying Congress within 60 days of agreement (mid-July) re: purposes and funds involved

# But!

- There are lots of signs that closing ED won't actually happen any time soon
  - Administration is highly reliant on OCR to enforce interpretations of Title IX, Title VI, PRWORA
  - Administrative capacity needed to manage existing grants and programs – only so many have another intuitive “home”
  - Congressional opposition in general, and in “bill strengthening” language
- Lawmakers suggesting a “piecemeal” approach, moving programs out one by one
  - Sen. Bill Cassidy: ““People want proof of concept before they vote for a whole shebang, right?... “I’ve got to get Democrats on board because it’s going to take 60 votes to pass any legislation in the Senate, which means I need to have seven Democrats ... so you’d have to figure that out.”
  - Rep. Mike Walberg: “We don't have those votes now.”

# Closing the Department of Education?

Legislative outcomes in 118<sup>th</sup> Congress (2023-2025)



# Review of Federal Grants

- Executive Order “Improving Oversight of Federal Grantmaking” signed August 7<sup>th</sup>
  - Requires all federal agency heads to designate a political appointee who will be tasked with developing and implementing the new grant review process.
    - Must allow for a subject matter expert to review grant announcements and for continued coordination with the Office of Management and Budget (OMB).
  - Review designed to ensure the grants are aligned with administration priorities and “the national interest.”
  - Requires grant announcements to be written in “plain language” and for a political appointee to conduct an annual review of discretionary grants for consistency with administration policies.

# Review of Federal Grants

- Includes a list of principles that all appointees must consider in their review of discretionary grants, including:
  - Ensuring the grant advances the administration's priorities
  - Confirming that the grant does not promote or encourage racial preferences, the notion that sex is not binary, illegal immigration, or "any other initiatives that compromise public safety or promote anti-American values."
- Directs agencies to prioritize applicants that have lower indirect cost rates
- Requires a range of awardees instead of "repeat players"
- Requires all discretionary grants to permit termination for convenience, including when the award no longer advances agency priorities or the national interest
- Prohibits grantees from drawing down funds for specific projects without authorization from the federal agency
  - Requires grantees to provide written justifications for each drawdown request



## What does this mean in practice?

- Review of grants *does not apply* to formula grants like ESEA, IDEA, Perkins, etc.
- In practice, grants already receive review of top-ranking officials, including political appointees
  - And ESSER has had review of specific draw-downs
- Likely means more delays in competitive grants as reviews are conducted, potentially more restrictions



## UGG Future Updates

- “Leadership wants to streamline [the UGG] even more to get down to the least amount of requirements necessary to comply with appropriations law and ensure the proper stewardship of federal funds.” “When it comes out, you should take a look at it and provide comments.”
  - No set timeframe provided.
  - Focus on risk and technology.
  - Changes align with current Executive Orders.

## UGG Future Updates (cont.)

- **Risk Focus**
- Greater focus on federal funding risks, such as the risks of improper payments, misuse of payments or funds not being used to assist program beneficiaries
  - i.e., funds for a homeless program not being used to help the homeless but used for administrative costs?
- Those types of things are being [evaluated], and the risk of continuing to fund a federal grant, a specific project or the dollar amount are being reviewed to determine if we still need a particular amount of [program funding] to get a particular outcome.

## UGG Future Updates (cont.)

- Focus on Outcomes not Outputs
  - In general, an output is factor of what is achieved under a grant (e.g., the number of people receiving benefits or the miles of roadways maintained).
  - An outcome addresses what the actual benefits or changes are under a grant, such as increased research knowledge or reduced unemployment.
  - Federal agencies are expected to request information from grant recipients that “can truly identify their [expected] grant outcomes upfront when they submit their applications.”
  - Agencies then will measure recipient progress and maintain scorecards to determine whether grantees are meeting established outcomes. “The emphasis on outcomes will show that [grantees] are using federal money effectively, efficiently and appropriately.”
  - The federal government also will place more emphasis on data and statistics.

## UGG Future Updates (cont.)

- Technology and Artificial Intelligence
  - For AI to make a predictive analysis to give proper insight, it's important that data is clean and accurate, and that the data on grant programs is valid and valuable.
  - Current data systems are in place (e.g., USAspending.gov, FAC.gov), but federal agencies must collectively ensure there are proper methodologies in place to maintain the right data so that when we are implementing AI, it is grabbing the right information, and that we have checks and balance in place to verify that information.
- Plan to use more chatbots.
  - Recipients seeking assistance from a federal agency can use software currently being piloted to ask a question to the chatbot, which is aided by AI to grab information for a response.
  - Agency officials will still be available if needed.

**PRWORA!**



+



+

**UH**

**aka... the Personal Responsibility and Work Opportunity  
Reconciliation Act of 1996**

# A change in interpretation...

- PRWORA prohibits undocumented immigrants from accessing “federal public benefits,” including:
  - Grants, loans, contracts, or professional/commercial licenses
  - Any “retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States”
  - Limited exceptions for disaster relief, emergency medical treatment, etc.
  - Nonprofit charitable organizations that administer federal, state, or local benefit programs are not required to verify a participant’s immigration status.
- Since 1997, had been interpreted to exclude preK-12 education benefits



# A change in interpretation...

- New interpretations say that educational benefits are subject to PRWORA where not constrained by other laws:
  - “Therefore, the Department interprets and finds that “Federal public benefits” under [8 U.S.C. 1611\(c\)\(1\)](#) includes all educational benefits that are provided to individuals, households, or family eligibility units, regardless of age, and including when benefits are provided as in-kind services at the community level, such as through public or private nonprofit agencies, except those benefits that are basic public education benefits under Plyler.”
- Includes Perkins, AEFLA, Head Start, Community Services Block Grant, and others



# Agency Notifications

- Published in the Federal Register on July 11
- ED: <https://public-inspection.federalregister.gov/2025-12925.pdf>
- Higher Education: <https://www.ed.gov/media/document/notification-grantees-and-subgrantees-of-assistance-under-higher-education-act-of-1965-of-updated-prwora-interpretation-of-federal-public-benefits-7102025>
- DOL TEGL: <https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2023/TEGL%2010-23%20Change%202/TEGL%2010-23%20Change%202.pdf>
- HHS: <https://www.hhs.gov/sites/default/files/prwora-notice.pdf>

# What about K-12 education?

- Constrained by 1982 Supreme Court decision in *Plyler v. Doe*
  - Upheld the right of undocumented immigrants to attend public schools under the 5<sup>th</sup> and 14<sup>th</sup> amendments (equal protection).
    - “Even if the State found it expedient to control the conduct of adults by acting against their children, legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice.”
  - Guidance from ED and DOJ in 2014 read Plyler to say that K-12 schools could not ask students for proof of immigration status and must accept any reasonable documentation of age, including from foreign countries.
- ED notices: “In codifying the exceptions under Plyler, Congress made clear the term “Federal public benefits” does not cover basic public education benefits that are received by children.”

# PRWORA Litigation

- *NY, et al v. US, DOJ, HHS, ED, DOL*
  - Four agencies issued guidance revoking longstanding interpretations of PRWORA; asking for verification of immigration status to access programs
    - Arguing guidance places “post acceptance” “retroactive” conditions on grants, inconsistent with underlying laws and requirements
    - Declaration that notices are unlawful; injunction against enforcement/implementation
- *WA State Assoc. of Head Start v. HHS*
  - Original case challenged the degradation of Head Start in HHS through office shuttering and RIFs
  - Case was amended to include a challenge on excluding undocumented migrants
  - Argument includes vagueness consideration: who counts as undocumented? (The kid? Their parents? Their caretakers?)
- Agencies agree to pause enforcement until at least September 10 in court

# DOJ Guidance on DEI

- Released July 3: <https://www.justice.gov/ag/media/1409486/>
- Directed at *other federal agencies*
  - No decision points for SEAs/LEAs yet
- Notes that in exchange for receiving federal funds, grantees are required to comply with federal antidiscrimination laws and requirements, including Title VI and VII of the Civil Rights Act, Title IX of the Education Amendments of 1972, and the Equal Protection Clause under the 14<sup>th</sup> Amendment of the U.S. Constitution.
  - Failure to comply with those requirements may result in the loss of access to federal funds.
- Similar to ED guidance issued in February that is on hold in federal litigation

# DOJ Guidance on DEI

- Provides a list of practices that *may* violate the antidiscrimination laws mentioned, including:
  - Granting preferential treatment based on protected characteristics, such as race-based scholarships;
  - Use of proxies for protected characteristics, such as “‘overcoming obstacles’ narratives or ‘diversity statements’”;
  - Segregation based on protected characteristics, such as trainings that require staff to separate into groups based on race; and
  - Training programs that promote discrimination or hostile environments.

# Executive Order on AI in Education

- Executive Order: “ADVANCING ARTIFICIAL INTELLIGENCE EDUCATION FOR AMERICAN YOUTH” April 2025
  - <https://www.whitehouse.gov/presidential-actions/2025/04/advancing-artificial-intelligence-education-for-american-youth/>
- “It is the policy of the United States to promote AI literacy and proficiency among Americans by promoting the appropriate integration of AI into education, providing comprehensive AI training for educators, and fostering early exposure to AI concepts and technology to develop an AI-ready workforce and the next generation of American AI innovators.”

# Executive Order on AI in Education

- Creates AI Task Force
- Within 90 days, instructed to create a Presidential Artificial intelligence Challenge
- Establish public-private partnerships to develop online resources regarding “foundational AI literacy and critical thinking skills”
  - Identify any federal funding sources that could be used in this work
  - Resources should be “ready for use in K-12 instruction” within 180 days of announcement
- Increase participation in AI-related apprenticeships
- Within 120 days, engage partners to identify and promote AI skills education coursework and certifications
  - Including for high school students

# Executive Order on AI in Education



- Within 120 days, authorize discretionary grants for teacher training under ESEA Title II and HEA Title II including for:
  - (i) reducing time-intensive administrative tasks;
  - (ii) improving teacher training and evaluation;
  - (iii) providing professional development for all educators, so they can integrate the fundamentals of AI into all subject areas; and
  - (iv) providing professional development in foundational computer science and AI, preparing educators to effectively teach AI in stand-alone computer science and other relevant courses



# New Priorities on AI in Education

- Published as a draft 7/21 for public comment:  
<https://www.federalregister.gov/documents/2025/07/21/2025-13650/proposed-priority-and-definitions-secretarys-supplemental-priority-and-definitions-on-advancing>
- “A strong foundation in AI literacy will help ensure students are prepared to navigate and contribute to a society where these technologies play a growing role in decision-making, communication, innovation, and career readiness.”
  - “When used effectively, AI tools have the potential to support personalized instruction, increase classroom engagement, and improve student outcomes.”
  - “Exposure to core concepts such as algorithms, data analysis, and computational thinking can deepen their understanding of how AI systems function.”
- Where appropriate to the grant, ED grant competitions should prioritize or require grantees to address a number of topics related to artificial intelligence and AI literacy.

# New Priorities on AI in Education

- Priorities include:
  - Integrating AI literacy skills and identification of disinformation
  - Expanding computer science offerings in K-12 and higher ed
  - Embed AI and computer science in teacher prep programs
  - Provide professional development on AI and computer science, “including instruction about how to use AI responsibly”
  - Dual enrollment classes and certification
  - Technical assistance on use of AI
  - Supplemental instruction, early intervention, and personalized learning
  - AI tutoring or teacher training programs

# New Guidance on AI in Education

- Issued July 2025
- Federal funds may be used for:
  - Developing or procuring AI-powered instructional tools
  - Expand access to personalized learning materials
  - Training educators, providers, and families on AI literacy
  - AI-supported tutoring, including AI systems or hybrid models, and related diagnostics
  - Using AI to help students explore careers and career pathways
  - Virtual advising for court planning, financial aid, and postsecondary transitions

# New Guidance on AI in Education

- Principles for responsible use:
  - Educator-led (support teachers, providers, and others)
  - Ethical (evaluate validity of AI, understand appropriate use in context of social media)
  - Accessible (to those who need accommodations)
  - Transparent and explainable (understand how systems function and allow stakeholders to “participate meaningfully in decisions about” adoption)
  - Data protective (systems must comply with FERPA and other applicable laws)
- “apply sound judgment”

# How does the Administration use AI?

- New “AI.Gov” website highlighting efforts in AI.
- “AI Action Plan” highlights “Pillars” of US AI policy
  - Accelerate innovation through deregulation, government adoption, investments
  - Build AI infrastructure (physical and digital)
  - Be an international leader in global policy



# How does the Administration use AI?

- U.S. “DOGE Service” says it will use a new AI tool
- The “DOGE AI Deregulation Decision Tool” is expected to:
  - Identify redundant regulations or those “no longer required by law”
  - Flag about half of all regulations for elimination
  - Suggest edits and deletions in remaining rules
- But! Individual agencies will still have to go through notice and comment process to formally eliminate the regulations
  - They can say they won’t enforce, but that doesn’t eliminate compliance burden.

## How does ED use AI?

- Agency “Inventory” web page: <https://www.ed.gov/about/ed-overview/artificial-intelligence-ai-guidance>
- The boring: “The IPAC Workflow bot downloads a date range csv file from the Treasury's IPAC system, adjusts the entries to fit the ED system, and uploads them to the ED SharePoint sites and the Financial system.”
- The hmmmmm: OCFO’s CAISY is designed to enhance decision-making and operational efficiency by delivering real-time insights, predictive analytics, and intelligent automation.
- The hope-this-works: AIDan, the federal student aid chatbot
- The “Hey! Wait a minute”: OESE uses AI for “public policy analysis, templates for written materials, sample paragraphs, and drafts of memos”

# Litigation Updates

- RIF case
- Funds withholding
- Late Liquidation
- Grants termination cases
- Other cases of note



## ***RIF: NY, et al v. Dep't of Educ. (Background)***

- Democrat-led Plaintiff States sue ED on March 13, 2025
- Allege that ED's RIFs effectively end statutorily-mandated functions
- Makes two broad sets of claims:
  1. RIF violates the Constitution (Separation of powers; Ultra vires)
  2. RIF violates statutes (Administrative Procedures Act)
- Asks court for help by:
  1. Enjoinment stopping the firings / forcing rehiring
  2. Enjoinment stopping the dismantling of Dept of ED
  3. Declaratory relief
  4. Attorney fees, etc.

# ***NY v. Dep't of Educ. (Initial Victory)***

- District Court (initial court) grants preliminary injunction
  - Meant to maintain status quo – pauses actions from being carried out
  - Requires showing of "irreparable harm", likelihood of success, and other factors
  - Burden of proof on New York / Somerville
- ED files their appeal on May 22
- ED loses their appeal on June 4
  - Burden of proof on appeal with ED
  - Court upholds district court's decision because:
    1. Irreparable harm was **factually** uncontested by ED.
    2. Likely to succeed because no facts offered showing ED could continue functioning



# ***NY v. Dep't of Educ. (SCOTUS)***

- Emergency Application filed by ED to SCOTUS on June 6
  - ED requests a "Stay" of the injunction
- Request granted in unsigned opinion ("shadow docket") on July 14, 2025
- Dissent by J. Sotomayor, Kagan, Jackson
  1. Begins with Congress's unilateral power to abolish ED
  2. Focuses on uncontested factual record showing the "intent" of RIF is to get rid of ED
  3. Argues against the stay because of the unusual burden for winning one from SCOTUS.



## ***NY v. Dep't of Educ. (Aftermath)***

- ED restarts firings on July 15
- MOU signed moving some functions to Department of Labor (ex: AEFLA/OCTAE)
- Move student loan management to Department of Treasury??
- Case is not over!
  - Remember: this is a preliminary injunction, not a final decision
  - ED owes a "brief" to court of appeals by 8/4.
  - Final decision by end of year? (03/15 to 08/4 so far)



## ***Funds withholding: School Districts, teachers unions, et al, v. Dep't of Educ., OMB***

- Coalition of school districts, teachers' unions sued Admin over the \$5.5 billion being withheld
  - Title I-C, II-A, III-A and IV-A
  - FY 24 and FY 25 Appropriations / Continuing resolution
- Argues: Withholding funds violates APA as arbitrary and capricious, contrary to law, excess of statutory authority, delayed agency action, and general Constitutional claims
- Requested relief:
  - Declare unlawful and set-aside agency action
  - Issue preliminary and permanent relief, requiring Admin to cease the withholding and delaying grants; immediately issue GANS

## ***California, et al v. Dep't of Educ., OMB***

- 24 States + DC file challenge suit and PI motion against OMB and ED on 7/14/25
  - Complaint seeks to declare the withholding of almost \$7 billion unlawful (nationwide)
  - Preliminary injunction would only provide relief for suing states
- Walks through the historical context and legal requirements around releasing funds on July 1, the reliance interests, and the impact to the programs withheld
  - Several claims from APA, impoundment control act, Constitution, anti-deficiency act, etc.

## ***NAACP, et al v. Dep't of Educ. (amended)***

- Defendants Are Implementing their Decision to Close the Department, Without Congressional Authorization, By Taking Action to Shrink and Incapacitate It.  
“On June 30, 2025, the Department informed states and congressional staffers that it would not be distributing about \$6.8 billion in ESEA and other formula grants on July 1—the date on which the Department has for decades made the first tranche of formula grant funding for the upcoming school year available so that states and districts can rely on them in budgeting. Carter Decl., Ex. 31 (EdWeek article).... Each program is statutorily mandated, with states’ eligibility for funds and allocations calculated under pre-set, statutory formulas that leave the Department with no discretion as to whether to award the grants or in what amounts. 20 U.S.C. §§ 6301–39, 6571–78, 6801–7014, 7111, 7171.”

## Funds withholding: What now?

- OMB/ED released 21<sup>st</sup> CCLC allocations on July 21, 2025, remaining funds release announced July 25<sup>th</sup>
  - GANs were dated back to July 1
- These cases now moot – depend on whether OMB/ED withholds funds again





## **Late Liquidation: *New York, et al v. Dep't of Education* (2!)**

- Rescission of late liquidation occurs March 28 by a letter from ED
- New York sues (16 states + DC), arguing violations of the APA, including
  - States substantially relied on the approved liquidations when making contracting decisions
  - Agency changed position without adequately describing why or taking into account each recipient's circumstances
- NY wins preliminary injunction on May 6 and again on June 3.
- NY wins appeal of injunction on June 20<sup>th</sup>.
- ED pauses the rescission on June 26
  - Temporary, pending case's outcome.
  - ED cited fairness concerns with only some states receiving relief

# Terminated Grants

- Teacher Preparedness Program grants terminated, February 2025
  - Supporting Effective Educator Development (SEED) Grant program
  - Teacher Quality Partnership Grants (TQP)
  - Teacher and School Leader Incentive Program (TSL)
- Mental Health Grants (BSCA) discontinued, April/May 2025
  - Mental Health Services Professional Demonstration Grant
  - School-Based Mental Health Services Grant
- Other terminations (grants and contracts)
  - Comprehensive Centers Program; Regional Educational Laboratories; Equity Assistance Centers; etc.
- What Now?
  - Lawsuit v. Administrative Appeal v. Informal “Appeal” (per 200.342)

# ED OHA Opinions (what's a withholding?)

- GEPA Section 455 provides substantive and procedural rights for those subject to “withholdings”
  - Does not apply to HEA Grants
  - Several OHA cases involving Teacher Preparedness grants brought in March after the mass grant terminations.
- Unpublished opinions hold that, for GEPA-covered programs, terminations are a type of withholding
  - Requires advanced notice, factual and legal basis, and opportunity for administrative appeal
  - Cannot cut off funding until after appeal.
  - Subject to appeal to the Secretary (to be continued ...)

## ***California v. Dep't of Education (2!)***

- Lots of grant termination cases that involve similar fact patterns
- This is one of the earliest (important)
- Department claimed change in agency priority (or violations?) and terminated teaching grants on those grounds.
- Plaintiff States won at District and Appeals Court on APA claims
- SCOTUS overturned, finding it more likely than not that court lacked “subject matter jurisdiction.”
- Question before Court of Appeals is now whether this is a dispute for “money damages” that overrides jurisdiction.

## ***Jurisdictional issues***

- Consider that:
  - Withholding = Termination (OHA)
  - Withholding challenges do not go to Court of Federal Claims (GEPA)
  - But wrongful terminations must go to Court of Federal Claims (SCOTUS)
  - Does the statute mean anything? What is the point of OHA?
- Repercussions of change in jurisdiction
  - States never provided with “clear and unambiguous notice” = Spending Clause violation
  - Possible duty to mitigate damages. What does this mean?

## **Grants Termination: *Washington, et al v. Dep't of Educ.***

- Dispute involves non-continuation of mental health grants
- Multi-year grants had 5-year awards, subject to annual continuations.
- Non-continuation notices on April 29, 2025.
- Lawsuit filed by Democrat-led Plaintiff States on June 30, 2025.
- Hearing set for August 26, 2025

# ***Washington v. Dep't of Education***

- States arguing that:
  - (APA) Arbitrary & Capricious because it is:
    - “not reasonable and reasonably well explained.”
    - There is no “rational connection between the facts found and the choice made.”
    - The decision “relied on factors which Congress has not intended it to consider.”
    - Impossible to permit some grants to continue but not others, when the continued grants were awarded using the same criteria as the terminated ones.
  - (APA) Contrary to Law, and for declaratory relief, because it:
    - Did not limit consideration to “relevant information regarding [] performance.” EDGAR 75.253(b).
    - Changed priorities for *existing* grantees. EDGAR 75.100 (new priorities limited to new grant applications).
  - (APA) Notice & Comment because they failed to follow:
    - GEPA’s notice-and-comment rulemaking when changing competitive grant requirements

# ***Washington v. Dep't of Education***

- States arguing that:
  - Equitable relief for violation of the Constitution's Article I, "Spending" clause
    - Requires that funding conditions be set out "unambiguously"
    - Restriction exists so States can "voluntarily and knowingly accept conditions for federal dollars"
  - Separation of Powers (Hamilton!) & Article II "Take Care" clause
    - Unilateral decision to withhold funding usurps Congress' power of the purse
  - Equitable "Ultra Vires" for acting outside the limitations imposed by statute



## **Bonus Grants Termination: *Child Trends v. Dep't of Education***

- Judge determined that termination of IES grants for Comprehensive Centers and Regional Educational laboratories was unconstitutional because Congress had instructed those funds to be spent
- The twist: the plaintiffs aren't entitled to the grant; ED can terminate and recontract with other entities.

## Civil Rights: *AFT v. Dep't of Education*

- Maryland judge says Feb. 14 letter and subsequent Title VI certification did not go through proper APA process:
  - “[T]his Court takes no view as to whether the policies at issue in this case are good or bad, prudent or foolish, fair or unfair... it must closely scrutinize whether the government went about creating and implementing them in the manner the law requires. Here, it did not. And by leapfrogging important procedural requirements, the government has unwittingly run headfirst into serious constitutional problems.”
  - “The government did not merely remind educators that discrimination is illegal: it initiated a sea change in how the Department of Education regulates educational practices and classroom conduct.”

## Parent ‘opt out’: *Mahmoud v. Taylor*

- Montgomery County (MD) Board of Educ. began including optional LGBTQ-themed text into K-5 classrooms in 2022.
- Parents were permitted to “opt out” of any related instruction
- Less than a year later, the “opt out” option was removed due in part to the number of accommodation requests.
- Parents sued.
- SCOTUS upheld right to preliminary injunction allowing continued opt-outs due to unconstitutional burdening of religion by creating “normative” pressures on children.

## Discrimination: *AJT v. Osseo*

- Administrative law judge held that AJT was denied FAPE.
- Student then sues under ADA and Rehabilitation Act for discrimination.
- District Court rules against AJT because she could not show “bad faith or gross misjudgment.” 8<sup>th</sup> Circuit affirms.
- SCOTUS overrules and clarifies that discrimination need only show “deliberate indifference,” or the disregarding of “a strong likelihood” that a violation would occur.
- EX: school district acts indifferently to IDEA child find requirement, which has a strong likelihood of violating right to FAPE.

## **E-Rate: *FCC v. Consumers' Research***

- Federal Communications Commission's statute requires fees to be collected
- These fees support universal access to things like the internet
- Schools benefit greatly from these fees
- Private organization challenged the statute and asked SCOTUS to require that "tax" statutes feature an objective limit.
- SCOTUS declined. FCC statute contained an "intelligible principle" establishing a floor and ceiling for the fee collections.

# Supreme Court to Consider Title IX Case

- *Little v. Hecox* and *West Virginia v. B.P.J.*
- West Virginia's Save Women's Sports Act and Idaho's HB 500, which "bans women and girls who are transgender and many women and girls who are intersex from participating in sports"
- Court will decide whether states can ban transgender athletes from competing on girls and women's school sports teams

## **Title IX: *U.S. v. California Dept of Ed***

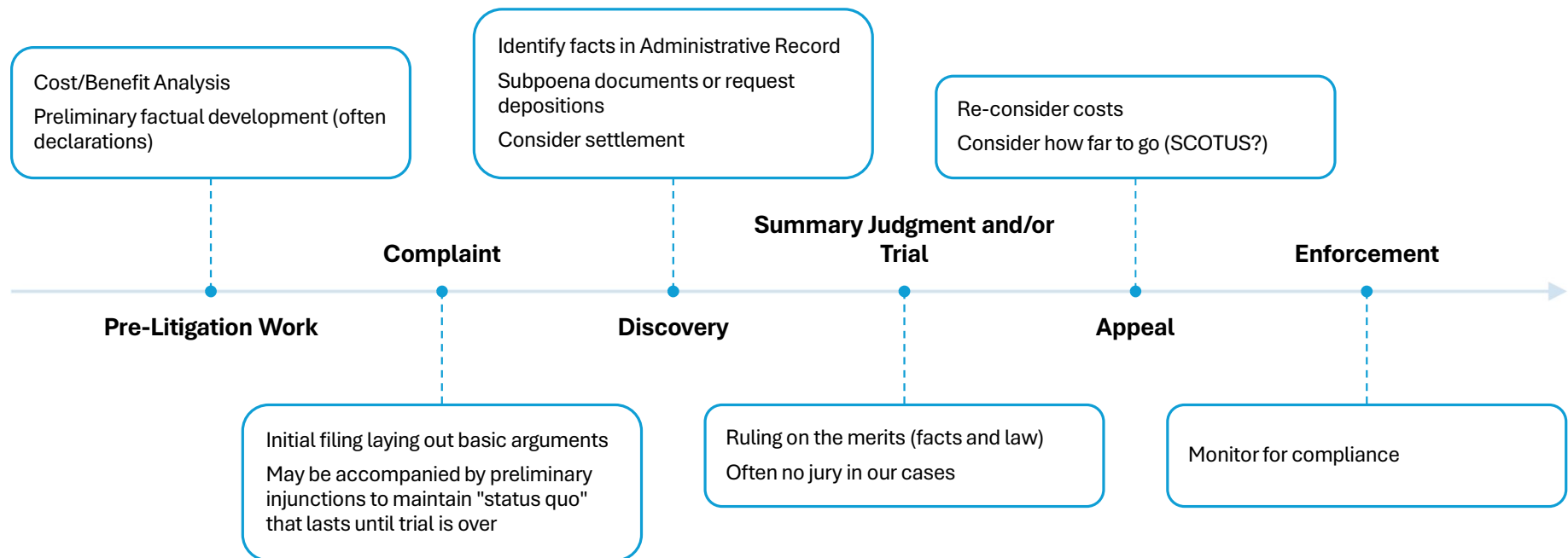
- U.S. suing CDE (and CA Interscholastic Federation, CIF) under Title IX for “declaratory, injunctive, and damages relief”
  - Violation of Title IX is breach of terms and conditions of a grant contract
  - Seeks damages for US & Students
  - Injunctive relief requiring:
    - monitoring & enforcement, with reporting
    - prohibition on “males in athletic competitions designated for females”
  - Also seeking declaratory relief that CDE policies violated Title IX

## ***New Jersey, et al v. Everyone (OMB)***

- The “no longer effectuates program goals or agency priorities” termination rationale at 2 CFR 200.340(a)(4) has been used to cancel billions in funding.
- Clause only intended for “limited circumstances” where “evidence reveals” an award is “ineffective” or infeasible.
- Argues
  - A&C because it permits new agency priorities after grant awards
  - A&C because no statutes are identified that grant them (a)(4) authority.
- Requests that (a)(4) be found unlawful.



# *The lifecycle of a lawsuit*



**Still waiting on final rulings in all these cases!**



# Questions?



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