

APRIL 24, 2025



NEA WEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

NEA Legal Wins!

Judge Issues Preliminary Injunction Blocking Anti-DEI Dear Colleague Letter

This morning, the District Court of New Hampshire issued a preliminary injunction preventing the Department of Education (ED) from enforcing its February 14th [Dear Colleague Letter](#), which threatened to cut federal funding from K-12 schools and colleges and universities if they pursued any “impermissible DEI” activities. NEA, NEA-NH, and individual educators (with the support of the ACLU, ACLU-NH, and ACLU-MA), challenged the Letter as impermissibly vague, a violation of the First Amendment, and a violation of the Administrative Procedure Act. The Center for Black Educator Development subsequently joined the case as well. NEA also challenged the [“End DEI Portal”](#) and the requirement that school districts and state education agencies [certify](#) that they would comply with Title VI as ED defined its scope in the February 14th Letter. Today, the court agreed with us on all of our claims and enjoined enforcement of the Letter, the End DEI Portal, and the Certification Requirement in every school district, college, or university in which an NEA member is employed. A second [lawsuit](#) brought by AFT and others with the support of Democracy Forward secured an administrative stay on the enforcement of the Letter as well. A third [lawsuit](#) brought by the NAACP also secured an injunction against enforcement of the Letter. The triple rulings are a solid rebuke of ED and its attempt to upend civil rights laws to enforce the administration’s anti-equality and anti-equity viewpoint on schools and universities.

Utah School Voucher Program Ruled Unconstitutional

On April 18th, a Utah district court judge [struck down](#) the “Utah Fits All” universal school voucher program. The program, established in 2023, violates two separate provisions of the Utah Constitution – the requirement that public education is “free and open to all” and the prohibition against the use of the income tax for anything other than education and certain ancillary social services. The challenge to the program was brought by NEA on behalf of UEA, a member of the Utah School Board, and three individual Utah taxpayers. However, on April 23rd, the judge [ruled](#) that the program will be allowed to continue running pending an expected appeal before the Utah Supreme Court.

Trump’s Recent Executive Actions Undermining Education

Penalizing Harvard University for Alleged Title VI Violations

On April 14th, Harvard University [rejected](#) demands from the Trump administration over its alleged failure to curb campus antisemitism. As a result, ED [terminated](#) more than \$2.2 billion of Harvard’s federal funding and is planning to freeze another [\\$1 billion](#). ED is also [seeking](#) Harvard’s records on expelled foreign students, their research funding, and ties to foreign governments. In addition, the Internal Revenue Service is preparing to rescind Harvard’s tax-exempt status, and the Department of Homeland Security (DHS) has [threatened](#) to revoke Harvard’s Student and Exchange Visitor Program certification, thereby preventing the University from hosting international students.



Is This Legal?

Harvard University filed a [lawsuit](#) on April 21st to stop the funding freeze, arguing that the First Amendment bars the government from using legal sanctions or other coercion to suppress speech it does not like. It also asserts that the Trump administration did not follow the mandatory statutory procedures for revoking federal funds for alleged Title VI violations, which includes providing the institution with notice of the alleged violation, followed by an investigation, a hearing, and an opportunity to remedy the violation.

Terminating Maine's Federal Funding for Alleged Title IX Violations

On April 11th, Maine announced that it will not comply with directives from the Trump administration to ban transgender female athletes in girls' sports. Following this decision, ED [initiated proceedings](#) to terminate Maine's federal K-12 education funding, and the Department of Justice filed a civil suit. The Department of Agriculture (USDA) also attempted to freeze funding for Maine's school lunch programs due to the alleged violations of Title IX. However, Maine secured a temporary restraining order blocking the freeze, as the judge [ruled](#) that USDA did not follow the process required by federal statute when it froze the funds.



Is This Legal?

As NEA explained in this [guidance](#), existing legal precedent affirms that Title IX's protections extend to transgender students. Executive orders cannot change federal civil rights laws or overrule court decisions interpreting those laws. GLAD and ACLU-NH [have expanded an existing lawsuit](#) to challenge these directives as violating the Equal Protection Clause and Title IX. What's more, the government must follow mandatory statutory processes to withhold federal funding under Title IX.

Freezing NIH Funding for Universities with DEIA Programs or Israel Boycotts

On April 21st, the National Institutes of Health (NIH) [announced](#) that, effective immediately, colleges and universities wishing to receive funding will have to certify that they do not have any diversity, equity, inclusion, or accessibility (DEIA) programs. They will also have to certify that they do not boycott Israel or Israeli companies. Institutions refusing to provide certification will be at risk of having their funding rescinded and may be required to pay the funds back to NIH. Funds had [already been frozen](#) for Brown, Columbia, Cornell, Harvard, and Northwestern Universities prior to this announcement.



Is This Legal?

NIH's DEIA requirement is likely to be found impermissibly vague, contrary to longstanding precedent construing Title VI, and based on an overly broad reading of Supreme Court case law on the legality of affirmative action programs. Before this certification requirement was announced, the American Public Health Association, UAW, and other nonprofit groups had already filed a [lawsuit](#) challenging NIH's grant cancellations, arguing that they are arbitrary and capricious, unconstitutionally vague, violate statutory and regulatory processes for withdrawing federal funding, and exceed the agency's statutory authority.

Attempting Immigration Enforcement in K-12 Public Schools

On April 7th, DHS officers tried to enter two elementary schools within the Los Angeles Unified School District (LAUSD) but were turned away by school officials. DHS stated that the officers were there to conduct "[wellness checks](#)" on unaccompanied children. Previous DHS guidance, in place since 1993 and memorialized in 2011, barred federal agents from engaging in immigration enforcement at schools and other designated sensitive locations. However, the Trump administration [rescinded](#) that policy in January, reopening the door for immigration enforcement in places like schools.



Is This Legal?

Denver Public Schools filed a [lawsuit](#) challenging the DHS policy change, but the court declined to restrict immigration enforcement activities at schools while the case is pending. However, states and school districts can use other authorities to limit the presence of immigration enforcement officers at school, including *Plyler v. Doe* (a case establishing the right of all students, regardless of immigration status, to attend public school), the Fourth Amendment to the U.S. Constitution (which limits the ability of law enforcement to enter into private spaces without a warrant), and the Federal Educational Rights and Privacy Act (which protects the privacy of student education records). In this case, because DHS officers lacked a judicial warrant, LAUSD had the right to deny them access. With heightened enforcement risks after the end of the sensitive locations memo, NEA urges all districts to adopt a [Safe Zone policy](#).

Restarting Federal Student Loan Collections

On April 21st, ED [announced](#) plans to resume collections on defaulted federal student loans, a process that has been paused since spring 2020. Beginning May 5th, the agency will start referring borrowers in default to Treasury for collection by withholding tax refunds and federal benefits, including Social Security. Wage garnishments are expected to follow later in the summer. According to ED, only about 38% of the nearly 43 million borrowers are current on their loans, with a historic number now facing delinquency or default.



Is This Legal?

Yes. The Trump administration authorized a pause in student loan payments and debt collection in March 2020 under the COVID-19 national state of emergency. The Biden administration extended the pause until October 2024 and [anticipated](#) that borrowers in default would receive legal notice of benefit offsets beginning in April 2025.