

MAY 29, 2025



NEA WEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

Litigation Updates

District Court Blocks Revocation of Harvard's Ability to Enroll Foreign Students

On May 29th, a district court judge in Massachusetts [extended](#) a [temporary restraining order](#) that was granted the previous week barring the Department of Homeland Security from [terminating](#) Harvard University's Student and Exchange Visitor Program certification. Without this certification, the University would be unable to enroll international students, who typically compose [nearly 25%](#) of Harvard's student body. The [lawsuit](#), filed by University officials, alleges that this move was a violation of the First Amendment, the Due Process Clause, and the Administrative Procedure Act.

SCOTUS Declines to Hear Case on School District's "Two Genders" Shirt Ban

On May 27th, the U.S. Supreme Court [declined](#) to hear a case brought forward by a student whose public school barred him from wearing a shirt that read "There are only two genders" due to concerns that the message would harm his transgender peers. The Court upheld the precedent set in *Tinker v. Des Moines Independent Community School District*, which allows public schools to restrict student expression that is likely to produce "imminent and substantial disruption" to a school community. Justice Samuel Alito filed a dissent joined only by Justice Clarence Thomas.

Appeals Court Allows Texas County to Remove Public Library Books

On May 23rd, the U.S. Court of Appeals for the Fifth Circuit [reversed](#) a district court's preliminary injunction that barred a Texas county from removing several books from the local library and dismissed the plaintiffs' claims that the ban violated their free speech rights. The books, which the district court had [ordered](#) the library to reshelve, were on topics such as race and gender. In a divided ruling, the Court of Appeals found that the "right to receive information" under the First Amendment does not extend to public libraries, and that a library's collection is government speech which cannot be challenged under the First Amendment's Free Speech Clause. The majority opinion also overturns a [1995 Fifth Circuit ruling](#) that allowed students to challenge the removal of books from public school libraries.

District Court Issues Preliminary Injunction Blocking Federal Reorganization Efforts

On May 22nd, a federal judge in the Northern District of California issued a [preliminary injunction](#) enjoining the Trump Administration from reducing the federal workforce through RIF notices and reorganizations. The ruling finds the large-scale agency overhauls Trump directed via his [February 11th EO](#) and subsequent guidance to be unconstitutional, as they were done without Congressional approval. The injunction applies to 22 federal agencies, including the Office of Management and Budget, Department of Labor, National Labor Relations Board, and the Department of Government Efficiency. The government has filed an emergency motion to prevent the order from taking effect while it appeals the judge's ruling, which is pending before the U.S. Court of Appeals for the Ninth Circuit.

SCOTUS Rules that Trump Can Fire Members of Independent Federal Labor Boards

On May 22nd, the U.S. Supreme Court [stayed](#) (in a 6-3 decision) a district court order that directed Trump to reinstate two members of the National Labor Relations and Merit Systems Protection boards, whom he had fired, pending resolution of the government's appeal of that case. The two independent federal boards oversee labor disputes and federal employee grievances. This decision signals that the Court will likely overturn 90 years of precedent barring the president from removing members of independent agencies from office at will, without good cause, notice, or a hearing if it grants certiorari to decide the merits of the case.

Recent Executive Actions Impacting Education

Escalating Retaliation Against Universities Over Alleged Title VI Violations

On May 27th, the U.S. General Services Administration [directed](#) federal agencies to cancel all remaining contracts with Harvard University — worth approximately \$100 million — and submit a list of cancellations by June 6th. This is the [latest escalation](#) in Trump’s feud with Harvard; [roughly one-third](#) of its federal research funding has already been cut and, last week, the Department of Homeland Security [moved to revoke](#) Harvard’s certification to enroll international students. Similarly, on May 22nd, the Department of Health and Human Services [announced](#) that Columbia University violated Title VI by “acting with deliberate indifference toward student-on-student harassment of Jewish students,” despite the University [complying](#) with most of the Trump Administration’s [demands](#) to address alleged antisemitism.



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Harvard University filed a [lawsuit](#) on April 21st (which it has since [amended](#) to include subsequent cuts) challenging the termination of \$2.2 billion in grants. It also sought and secured a [temporary restraining order](#) against the Administration’s effort to bar the University from enrolling international students. Harvard argues that the First Amendment prohibits the government from using legal sanctions or other coercion to suppress speech it does not like and that the mandatory statutory and regulatory procedures for revoking federal funds for alleged Title VI violations were not followed. Similar rules apply to withholding or cancellation of federal funds based on alleged violations of other statutes. While Columbia has not directly challenged the termination of its federal funding, AFT and AAUP argue [in their lawsuit](#) that the same constitutional and statutory safeguards apply to the Administration’s actions against Columbia.

Targeting International Students Through Delays, Vetting, and Visa Revocations

On May 27th, the State Department [ordered](#) U.S. Embassies to stop scheduling interviews for international student visa applicants, [claiming](#) that this will allow for expanded “social media screening and vetting.” While it is still unclear what this social media vetting will entail, the State Department has [said](#) that further guidance will be issued in the coming days. The following day, Secretary of State Marco Rubio [announced](#) that the Department will “aggressively revoke visas for Chinese students,” including students who allegedly have “connections to the Chinese Communist Party or [are] studying in critical fields.” Almost [a quarter](#) of international students in the U.S. are from China.



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The first Trump Administration imposed heightened scrutiny of visa applicants, including social media screening, which continued during the Biden Administration. Earlier this year, the State Department also increased social media screening requirements aimed at students who had participated in pro-Palestinian campus protests in 2024. There have been a number of legal challenges to the government’s ongoing attacks on student visa holders, including [challenges](#) to the termination of student visa holders’ records and [challenges](#) to the government’s ideological deportation policy. Any enhanced social media vetting that impacts visa holders currently in the U.S. or with ties to the U.S., could be subject to First Amendment legal challenges.

Capping University Indirect Research Reimbursements at 15%

On May 14th, the Department of Defense (DoD) [announced](#) that it will be instituting a 15% cap on indirect research cost rates for colleges and universities. DoD officials must implement the policy within 21 days and complete all contract renegotiations or terminations by November 10, 2025. The DoD stated that the cap will apply not only to new grants but also to existing awards. Three other federal agencies—the National Institutes of Health (NIH), the Department of Energy (DOE), and the National Science Foundation (NSF)—have attempted to adopt the 15% cap.



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Universities and their trade associations have already won court orders blocking similar caps. In April, a federal judge in Massachusetts [entered an injunction](#) permanently blocking NIH from implementing an indirect cost cap, finding that the plan violated multiple aspects of the Administrative Procedure Act and violated a statutory requirement that Congress authorize changes to indirect cost rates. The government has appealed that ruling. Earlier this month, another judge issued [a preliminary injunction](#) against DOE’s indirect-cap policy on similar grounds. In a third case suit challenging NSF’s indirect-cost cap, the parties have filed motions for summary judgment, which would quickly resolve the case without a full trial. NSF has agreed to pause its cap until June 13th, while the court considers those motions.