JULY 17, 2025

NEA BIWEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

Recent Executive Actions Impacting Education

Signing the "Big, Beautiful Bill" Into Law

On July 4th, Trump signed the "One Big Beautiful Bill Act" into law, marking a seismic shift in federal education policy. Most notably, the bill creates the first-ever federal school voucher program by offering uncapped tax credits for donations made to organizations that award scholarships so K-12 students can attend private schools. Beginning in 2027, families earning up to 300% of their area's median income will be eligible for vouchers that can be used toward tuition, tutoring, and other education-related expenses if their state opts into the program. At the higher education level, the bill also makes major changes to federal student aid, including capping some loans, consolidating repayment options, ending the Grad PLUS program, and linking colleges' federal student loan eligibility to graduates' earnings.

Legally Speaking

The "One Big Beautiful Bill Act" makes drastic and sweeping programmatic changes, which certainly raise legal issues including potential state constitutional questions over the implementation of voucher programs at the state level. Legal challenges could also emerge over equity and civil rights concerns.

Dismissing Over 3,000 Civil Rights Complaints

In court documents filed on July 1st, the Department of Education (ED) disclosed that its Office for Civil Rights (OCR) dismissed 3,424 complaints between March 11th and June 27th. The documents state that 96 complaints were "resolved" because of insufficient evidence during an investigation, and another 290 complaints were resolved with voluntary agreements, settlements, or technical assistance.

Legally Speaking...

By statute, ED is required to adequately investigate the civil rights complaints it receives. This record number of dismissals, while not being explicitly in violation of any laws, indicates that not all complaints are being reviewed and referred for investigation as appropriate. The failure to investigate civil rights complaints would violate ED's statutory responsibilities.

Restricting Access to Federal Education Programs Based on Immigration Status

On July 11th and 14th, ED and the Department of Health and Human Services (HHS) issued Notices of Interpretation in the Federal Register that significantly broaden the list of programs considered to be "federal public benefits" under the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Such benefits are limited to a narrow group of "qualified" immigrants. ED and HHS added multiple programs like Head Start, Career and Technical Education (CTE), adult education, and dual enrollment to this list, thereby restricting access to immigrants who are not qualified under PRWORA (including those with temporary protected status, DACA recipients, special immigrant juveniles, U Visa holders, and undocumented immigrants).

Legally Speaking...

PRWORA allows federal agencies to determine which of their programs are restricted by the law and which are exempt from the restriction. The law also specifies that nonprofits administering these programs are not required to determine or verify immigration status. For almost 30 years, federal agencies have consistently interpreted the statute as exempting programs intended for the good of a community. It remains to be seen whether this radical departure in agency interpretation could survive a legal challenge; under the Supreme Court's *Loper Bright* decision, courts are no longer required to defer to agency interpretations of federal laws.

Offloading Adult Education Programs from ED to DOL

On July 15th, the Department of Labor (DOL) announced plans to assume daily management of all federally funded adult education and family literacy programs under Title II of the Workforce Innovation and Opportunity Act, as well as CTE programs supported by the Carl D. Perkins Act —responsibilities previously held by ED. The change was set in motion by an Interagency Agreement signed by both departments on May 21st.

Legally Speaking...

Interagency Agreements are common mechanisms used by departments to share resources and expertise. The agreement between ED and DOL specifies that ED's Office of Career, Technical, and Adult Education (OCTAE) still maintains authority over the programs, meaning that, for now, the agreement likely does not violate the statutory requirement for the office to exist.

Rescinding Title VI Protections for Non-Native English Speakers

On July 14th, as directed by Trump's March EO, the Department of Justice (DOJ) issued a memo stating that it will rescind all prior guidance under Title VI about prohibitions against national origin discrimination affecting limited English proficient (LEP) people, review and phase out of "unnecessary" multilingual offerings, suspending LEP guidance, and eventually issue new guidance. It encourages other agencies to review guidance, consider English-only services, and redirect funds toward English education.

Legally Speaking...

DOJ's memo cannot change federal civil rights law. Courts have interpreted Title VI's prohibition of discrimination on the basis of national origin to include discrimination based on English proficiency. In addition, while the DOJ memo states that it will no longer "rely on" the Title VI disparate impact regulations, those regulations remain in effect. Although the DOJ memo will impact both the federal government's multilingual offerings and federal enforcement of Title VI, it does not impact legal obligations under Title VII, meaning that plaintiffs can continue to bring Title VII disparate impact claims and discrimination claims based on English proficiency.

Targeting Harvard University's Accreditation Over Alleged Title VI Violation

On July 9th, ED and HHS informed the New England Commission of Higher Education that they found Harvard University in violation of Title VI for allegedly failing to address antisemitism and, as a result, believe that the University no longer meets the Commission's accreditation standards. ED had similarly notified Columbia University's accreditor last month of an alleged Title VI violation, which responded with a statement saying that the University's accreditation might be in jeopardy. In addition, Immigration and Customs Enforcement (ICE) announced that it will subpoena Harvard's "records, communications, and other documents relevant to the enforcement of immigration laws since January 1, 2020."

Legally Speaking...

Only the Commission has the power to determine whether Harvard meets its accreditation standards. While ED can provide its own findings, accreditors conduct an independent review to assess alleged noncompliance with federal law. Should the Commission find that Harvard violated Title VI, the University may receive a formal warning and be subject to additional monitoring. However, so long as Harvard can show that it is currently in compliance with federal law, the Commission will likely reaffirm its accreditation.

Litigation Updates

NEA and WEA Secure Preliminary Injunction in Wyoming Universal Voucher Case

On July 15th, a Wyoming district court judge issued a preliminary injunction blocking the state's Steamboat Legacy Scholarship Act (which aims to create a $50 million universal voucher program) in response to litigation brought by NEA and the Wyoming Education Association (WEA). NEA and WEA successfully argued that the voucher program violates several Wyoming Constitutional provisions, including the mandate for a "complete and uniform" public education system and the prohibition against diverting public funds for private use.

SCOTUS Allows ED RIFs to Proceed

In a brief, unsigned order issued on July 14th, the U.S. Supreme Court stayed a lower court injunction that had required ED to reinstate nearly 1,400 employees impacted by reductions in force (RIFs) and prevented the Trump Administration from shifting critical responsibilities to other federal agencies. In another unsigned ruling issued the previous week, the justices indicated their view that Trump's February EO directing federal agencies to prepare for RIFs is likely lawful. Legal challenges in both cases are continuing to play out in lower courts.

State Coalition Sues Trump Administration Over $7 Billion in Frozen Education Funds

On July 14th, 24 states and the District of Columbia filed a lawsuit against the Trump Administration over its decision to withhold roughly $6.8 billion in Congressionally appropriated federal education grants, including grants mandated by the Elementary and Secondary Education Act. The lawsuit argues that the Administration has violated each grant's authorizing statute, the Antideficiency Act, Impoundment Control Act, the Administrative Procedure Act, and the U.S. Constitution's separation of powers doctrine and Presentment Clause.

SCOTUS Agrees to Hear Case Involving Transgender Student Athlete

On July 3rd, the U.S. Supreme Court agreed to hear two cases (one from Idaho and one from West Virginia) on whether states can ban transgender athletes from girls' and women's sports teams. A federal appeals court found Idaho's ban unconstitutional under the equal protection clause, while another federal appeals court determined that West Virginia's ban violates Title IX. The Court is expected to hear arguments this fall, with rulings anticipated by June 2026.

Circuit Court Rules Schools Can Prohibit Trans Teachers from Using Chosen Pronouns

On July 2nd, the 11th U.S. Circuit Court of Appeals stayed a lower court's injunction which had blocked Florida's 2023 law that prohibits public K-12 employees from using their chosen pronouns in class if they do not correspond with the employee's sex assigned at birth. In a terrible ruling, the court held that the law does not violate the First Amendment, as the plaintiff was addressing students in her classroom during class hours and thus could not show that "she was speaking as a private citizen rather than a government employee."

DOJ Sues California Department of Education Over Trans-Inclusive Athletics Policy

On July 9th, DOJ filed a lawsuit against California's Department of Education alleging that the state's policy allowing transgender athletes to compete in girls' sports violates Title IX. The suit comes after state officials rejected a series of demands made by the Trump Administration to remedy the alleged violation, including rescinding the policy and reassigning awards won by transgender athletes to cisgender athletes.