

OCTOBER 24, 2025



NEA BIWEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

Litigation Updates

SCOTUS Term Starting — What's on the Table for Education

The new U.S. Supreme Court term began on October 6th. The Court is set to decide cases impacting presidential power, voting rights, and other issues affecting educators and students. These include three cases affecting LGBTQIA+ rights, in which the Court will determine (1) whether banning transgender girls from participating on public school sports teams violates Title IX and the Equal Protection Clause ([Hecox v. Little](#) and [West Virginia v. B.P.J.](#)) and (2) whether banning conversion therapy for minors violates the First Amendment rights of counselors ([Chiles v. Salazar](#)). The Court has [declined](#) to hear a [case](#) brought by parents challenging a Colorado school district's policies that allegedly discourage staff from disclosing students' gender identity or sexual orientation to parents. The Supreme Court is still considering other petitions for certiorari (requests for the high court to hear cases decided by the lower courts), including in two cases where the government is seeking review of decisions by the [Ninth Circuit](#) and the [District of New Hampshire](#) that found Trump's executive orders purporting to end birthright citizenship for children of undocumented immigrants unlawful.

District Judge Declares DODEA Book Ban Unlawful

On October 20th, a Virginia district court judge granted a [preliminary injunction](#) ordering the Department of Defense (DOD) to return [nearly 600 censored books](#) about gender and race back on the shelves of five Department of Defense Education Activity (DODEA) school libraries. The preliminary injunction also prohibits DOD from enforcing Trump's "[Ending Radical Indoctrination](#)" EO and related DOD memoranda in the five schools by ordering teachers to cancel lesson plans and events that highlight the experiences of underrepresented groups (such as Black History Month, Women's History Month, and Asian American and Pacific Islander Heritage Month celebrations). NEA and FEA filed an [amicus brief](#) in support of the preliminary injunction motion. The Trump Administration is expected to appeal.

ED to Resume Student Loan Forgiveness Following AFT Lawsuit

On October 17th, the Department of Education (ED) [agreed to resolve](#) a [class action lawsuit](#) by the American Federation of Teachers (AFT) and individuals with student debt, which argued that ED unlawfully refused to grant eligible student loan borrowers relief under loan forgiveness programs. Under the agreement, ED will resume processing loan cancellation requests from borrowers enrolled in certain Income-Driven Repayment plans and take steps to shield borrowers from looming tax liability associated with having their student loans discharged. On October 23rd, the court [accepted](#) the settlement agreement.

NYC Board of Education Sues ED Over Grant Discontinuations

On October 15th, the New York City Board of Education filed a [lawsuit](#) challenging ED's decision to discontinue over \$47 million in multiyear grant funding for 19 magnet schools. The decision was based on the Board's trans-inclusive bathroom and athletics policies, which ED claims violate Title IX. The lawsuit argues that ED did not follow the proper procedures for discontinuing grants under Title IX and ED statutes and regulations, impermissibly adopted a new and incorrect interpretation of Title IX, and acted arbitrarily and capriciously. The Board's motion for a preliminary injunction is pending.

U.S. Chamber of Commerce Sues Trump Administration Over H-1B Visa Fee

On October 16th, the U.S. Chamber of Commerce filed a [lawsuit](#) challenging Trump's [Presidential Proclamation](#) that places a \$100,000 fee on all new H-1B employment visa applications. The lawsuit alleges that the fee requirement violates the Immigration and Nationality Act.

Recent Executive Actions Impacting Education

Cutting Hundreds of Education Department Staff Amid Government Shutdown

On October 10th, amid the ongoing government shutdown, ED sent reduction-in-force (RIF) notices to [465 employees](#), including staff in statutorily created offices such as the Office for Civil Rights (OCR), the Office of Postsecondary Education, the [Office of Elementary and Secondary Education](#), and the [Office of Special Education and Rehabilitative Services](#). The RIFs [affect](#) nearly all staff assigned to major formula grant programs, including grants awarded to states under Title I and the Individuals with Disabilities Education Act (IDEA), and higher education grant programs that support college access (like GEAR UP and TRIO) and provide institutional aid. Four days later, ED informed 250 OCR employees — who had been laid off as part of an [earlier mass RIF](#), which a federal appeals court [recently permitted](#) ED to resume — that they would be fired once again. The combined effect of the OCR RIFs is to [eliminate 10 of OCR's 12 regional offices](#). In all, ED stands to lose an additional [30% of its remaining staff](#) by the end of the year, leaving it with [fewer than 2,000 employees](#).



Legally Speaking

On October 15th, a federal district judge issued a [temporary restraining order](#) enjoining the shutdown-related RIFs at ED, along with ongoing or anticipated RIFs at other federal agencies. In her decision, the judge found that the RIFs are likely arbitrary and capricious and contrary to the statutes requiring that ED and other federal agencies carry out federal programs, in violation of the Administrative Procedure Act. The shutdown also does not change ED's legal obligation to carry out its statutory responsibilities, including the administration of formula grant programs. Concerns about ED's ability to do so are increasing in the wake of ED's announcement this week that it is [developing plans](#) to move IDEA administration to another agency — likely the Department of Health and Human Services — even though federal law requires that ED's Office of Special Education and Rehabilitative Services manages IDEA programs.

Continuing to Pressure Universities to Adopt Administration-Aligned Policies

The October 20th deadline for nine universities to sign the Trump Administration's "[Compact for Academic Excellence in Higher Education](#)" — offering preferential treatment for federal grant selection in exchange for adopting policies that align with the Administration's views — has passed. No university has signed the agreement, with [seven of the nine](#) rejecting the proposal outright. Trump has since [extended the offer](#) to sign the Compact to all higher education institutions. Meanwhile, the Administration has continued to extract concessions similar to the Compact's terms in exchange for settling pending civil rights investigations. For instance, despite rejecting the Compact, the University of Virginia (UVA) entered a [settlement](#) with the Department of Justice (DOJ) on October 22nd that will pause five pending [Title VI investigations](#) into UVA's DEI programs, admissions policies, and alleged failure to address antisemitism. In return, UVA agreed to comply with a nonbinding [DOJ memorandum](#) (which [incorrectly claims](#) the use of federal funding for lawful DEI initiatives violates federal civil rights laws) and to "not engage in unlawful racial discrimination in its university programming, admissions, hiring, or other activities."



Legally Speaking...

The Administration cannot impose its preferred policies through either the Compact or civil rights investigations. The Constitution grants Congress (not the President) the power to set conditions on federal funding, and the First Amendment bars even Congress from imposing conditions that reward or punish institutions based on their views. Courts have repeatedly struck down [similar attempts](#) by the Administration. Likewise, the Administration cannot use civil rights investigations to compel grant recipients to accept new funding conditions, particularly when, as with UVA, the new conditions are contrary to longstanding interpretations of the civil rights laws. As several courts have already found, Title VI precedent does not support the Administration's claim that programs and policies promoting DEI are unlawful, and ED is enjoined from enforcing that view as a condition of funding for schools and colleges.