

# NEA BIWEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

## Litigation Updates

### SCOTUS Hears Arguments in Transgender Student Athlete Cases

On January 13th, the U.S. Supreme Court heard arguments in [West Virginia v. B.P.J.](#) and [Little v. Hecox](#), challenges by students to laws in West Virginia and Idaho that prohibit transgender girls and women from joining school sports teams that align with their gender identity. NEA filed an [amicus brief](#) in support of the students. At oral argument, the Court [appeared inclined](#) to find that the bans do not violate either Title IX or the Equal Protection Clause. A decision is expected by June.

### ED Drops Appeal Over Anti-DEI Guidance Ruling

On January 21st, the Department of Education (ED) [withdrew](#) its appeal of a Maryland district court's August order striking down its February 14th anti-DEI [Dear Colleague Letter](#) and accompanying [Certification Requirement](#). In April, the court had issued a [stay](#) blocking ED from implementing these efforts pending litigation; its August decision granted [partial summary judgment](#) for the plaintiffs and vacated the Letter and Certification Requirement. NEA brought a separate suit challenging ED's anti-DEI moves and, in April, obtained a [preliminary injunction](#) barring their implementation at any school that employs an NEA member.

### District Judge Blocks Head Start Layoffs and Anti-DEI Directive

On January 6th, a Washington state district judge [blocked](#) the Department of Health and Human Services (HHS) from implementing office closures and mass layoffs in the Head Start program and requiring grantees to certify that they do not promote DEI. The court's preliminary injunction decision found these changes were arbitrary and capricious and kept providers from complying with the law. The ruling follows a previous [preliminary injunction](#) that blocked HHS from restricting Head Start participation to verified U.S. citizens and immigrants with legal status.

### District Judge Orders ED to Reevaluate TRIO Grant Cancellations

On January 16th, a D.C. district judge issued a [preliminary injunction](#) vacating ED's decisions denying or discontinuing certain TRIO grants. The court found these actions unlawful on several grounds, including that the agency improperly penalized grantees and applicants for allegedly promoting "DEI" and did not follow statutory procedures. ED now must reconsider the challenged grant determinations.

### Oregon Appeals Court Affirms Dismissal of ULP Challenge to Teachers' Strike

On January 22nd, the Oregon Court of Appeals [affirmed](#) the state Employment Relations Board (ERB)'s dismissal of an unfair labor practice (ULP) complaint against the Portland Association of Teachers (PAT) and the Oregon Education Association. The complaint was brought by parents seeking class damages for childcare costs and learning loss allegedly incurred during PAT's November 2023 strike. The court held that under Oregon's labor-relations statute, only the public employer — not third parties like parents — have standing to bring a ULP complaint challenging the legality of a public-employee strike.

# Recent Executive Actions Impacting Education

## Transferring ED Higher Education Grants and Staff to DOL

On January 15th, ED [announced](#) that it has taken new steps to implement a September [interagency agreement](#) to shift higher education program administration to the Department of Labor (DOL). Staff in the Higher Education Programs Division of ED's Office of Postsecondary Education have been detailed to DOL, and grantees will transition to DOL's grant and payment management system. The ED-DOL agreement says DOL will administer the grant programs, while ED retains authority over budgets, program criteria and priorities, and functions like hiring.



### Legally Speaking...

The Higher Education Act and other statutes explicitly assign ED responsibility for administering the programs that have now moved to DOL and do not authorize ED to shift that duty elsewhere. Moreover, the recent [continuing resolution](#) funding ED through January 2026 and the FY 2026 [appropriations bill](#) (expected to pass Congress soon) both ban ED from transferring appropriated funds without explicit authorization from Congress. These latest steps to implement ED's interagency agreement with DOL violate both sets of restrictions.

## Launching Title IX Investigations into 18 Educational Institutions

On January 14th, ED [announced](#) a string of Title IX investigations into 18 K-12 and higher education entities with policies that allow transgender students to play on sports teams aligning with their gender identity. The entities under investigation include New York City Department of Education, Washington's Tacoma Public Schools, and Hawaii State Department of Education.



### Legally Speaking...

As NEA explained in this [guidance](#), under existing legal precedent, Title IX protections should be understood to extend to transgender students. ED cannot change Title IX or overrule court decisions interpreting it. The U.S. Supreme Court is expected to decide later this year whether state laws limiting transgender athlete participation violate Title IX or the Equal Protection Clause.

## Implementing New Federal Student Loan Caps

On January 30th, ED published a [proposed rule](#) implementing the [One Big Beautiful Bill Act's](#) limits on the federal student loan aid available to graduate students. Under the Act, starting in July 2026, new borrowers can take out only \$20,500 per year in federal student loans for most graduate programs, but students in "professional degree" programs may borrow up to \$50,000 per year. ED's proposed rule would classify teaching, nursing, and social work degree programs, among others, as "non-professional" and therefore subject to the lower cap. The proposal is open for public comment until March 2nd.



### Legally Speaking...

ED's proposed rule reflects consensus reached in negotiated rulemaking under the Higher Education Act, but ED still must follow [standard APA notice and comment](#) procedures to finalize the rule. After publishing the proposal and accepting comments, ED next must consider significant comments and address them in its final rule. Failure to do so could invalidate the regulation.