

# ~Spooky~ Federal Updates

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# Introductions



## Tiffany Kessler and Kelly Christiansen

- What we cover:
  - EDGAR, UGG, GEPA, etc.
  - Education Programs, including ESEA, IDEA, Perkins, School Nutrition, Head Start, Federal Financial Aid, etc.
- How we can help:
  - Develop/review Grants Policies and Procedures
  - Internal Control Testing / Mock audits
  - Training and Workshops (in person or virtually)
  - Audit Resolution and Defense
  - Administrative Appeals
  - Legislative Services
  - General consulting services and support



# Agenda



- Education Funding Updates
- Administration Updates/Related Lawsuits
  - Funds Withholding
  - Dismantling ED?
  - PRWORA
  - Other ED-Related Lawsuits



# Education Funding



# The Appropriations/Budget Process

## President's Budget Request

- Outlines funding (and sometimes policy) priorities for next FY but non-binding
- Timeline: February or March

## Congressional Budget Resolutions

- House/Senate Budget Committees pass resolutions
- Timeline: Spring – Summer

## Appropriations Hearings

- Agency heads testify in front of House/Senate appropriations subcommittees on President's budget request
- Timeline: Spring – Early Summer

# The Appropriations/Budget Process

## Legislation Drafting and Markups (Subcmte)

- House/Senate Subcommittees draft legislation for each of 12 appropriations accounts
- Once drafted, legislation is “marked up” by subcommittees
- Timeline: Summer - ???

## Full Committee Markups

- Full House/Senate committees “mark up” the subcommittee-approved bills
- Possible amendments
- Timeline: Summer - ???

## Voting on House/ Senate Floor

- Full House and Senate vote on appropriations bills
- Timeline: Summer - ???





# What Happens when the House and Senate don't agree?

- Two choices:
  - Pass a short-term spending measure while they figure it out
  - **Shut down the government while they figure it out**





# Government Shutdown

- Senate unable to pass House-approved funding extension, or “CR,” ahead of October 1<sup>st</sup>
  - Key issue for Democrats is extension of healthcare subsidies under the ACA
    - Republicans are divided on this issue and want to address it later in the year
- No clear off ramp from shutdown at this moment
  - Senate has continued bringing House CR and Democratic alternative CR to the floor for votes, House remains out of session

# What Happens in a Government Shutdown?

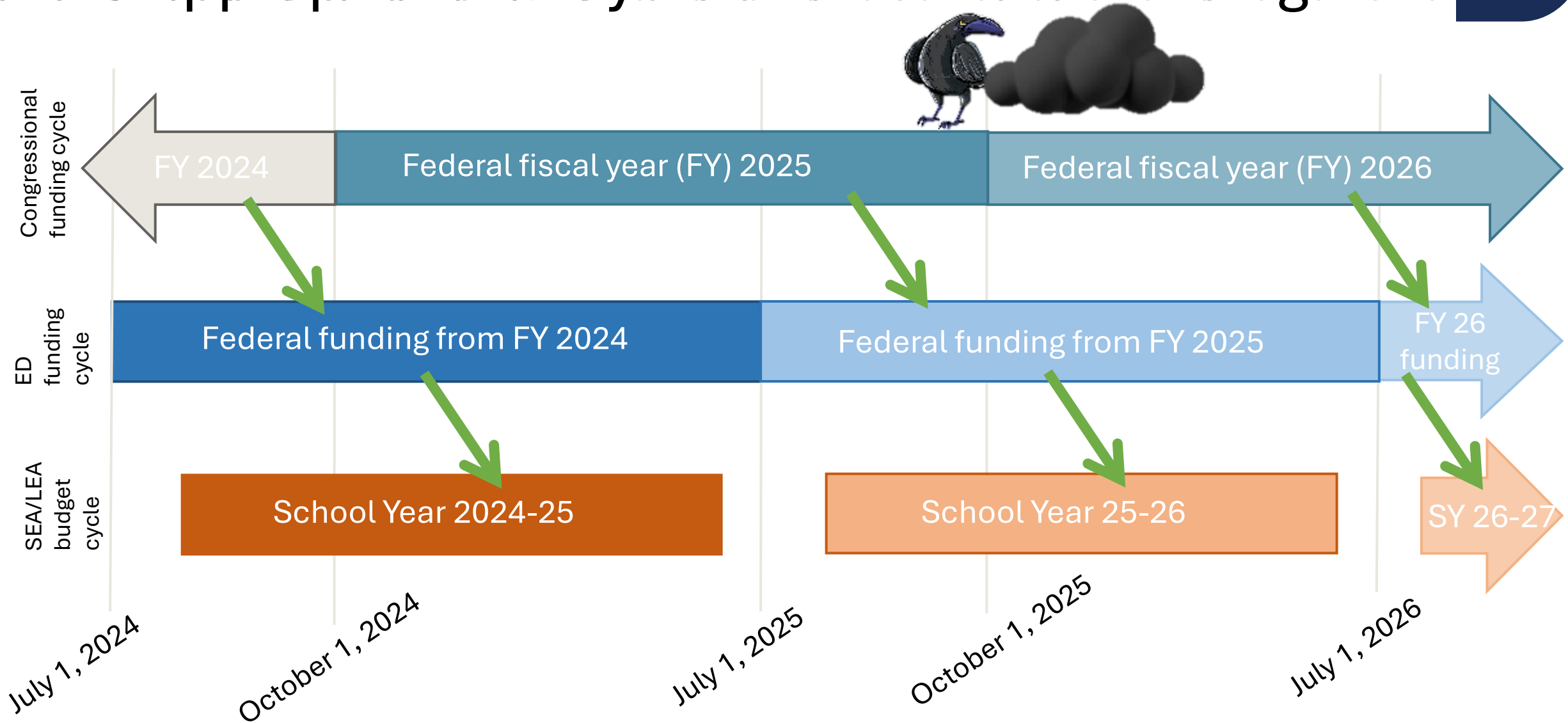


- Health, safety, and national security functions continue to operate
  - TSA, DHS/border crossings, USDA food inspectors, military
- White House and Congress continue to operate
- Agencies keep “essential” staff in the office (others are not permitted to work)
  - This includes ED staff disbursing all funds through G5/6
  - USDA has a couple months cash on hand for reimbursements, including school meals

# Impact of Shutdown on Education Grantees

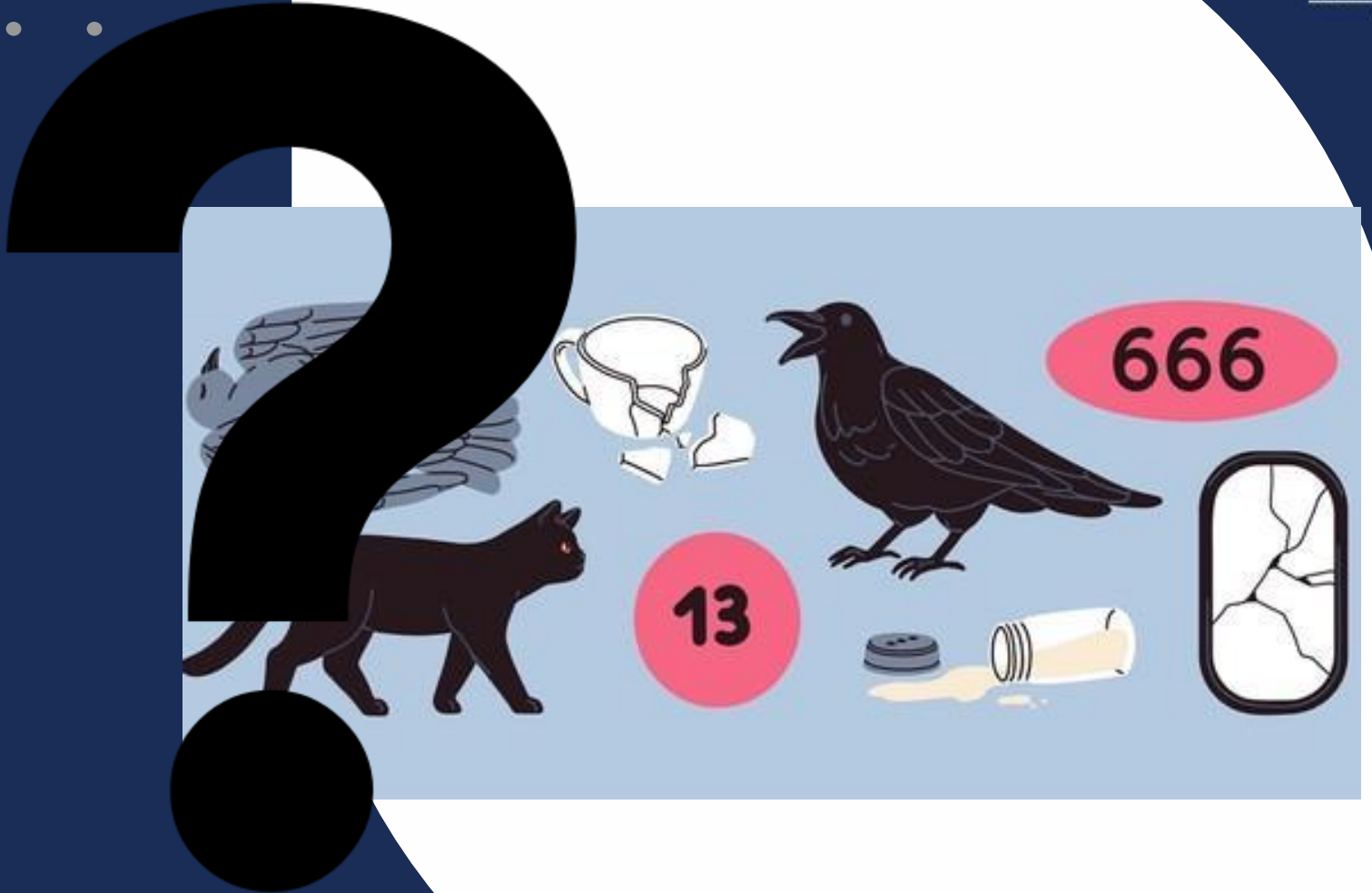
- 95% of ED staff is furloughed
- Most major program funding unaffected due to the funding cycle for federal education programs
  - Funds for this school year have already been passed into law, including for the allocations released on October 1<sup>st</sup>
- Some Impact Aid funds will be affected immediately
- School meal programs will still receive reimbursement for meals served through October
- Civil rights investigations/monitoring activities will halt

# The Appropriations Cycle and Forward Funding





# Looking forward to FY 2026...



# FY 2026 President's Spending Proposal



- Would increase charter school funding by \$60 million
- Would consolidate 18 ESEA and other programs into a K-12 Simplified Funding Program (SFP) to “streamline administration”
- Would consolidate special education programs
  - Language about removing funds from SEAs/LEAs that “flout parental rights”

# What is a block grant?

- An allocation of funding to States/school districts that can be used for a variety of purposes
- More flexible uses of funds than current programs under the ESEA, McKinney-Vento, etc.



# President's FY 2026 Budget Request

- President Trump proposes a block grant called the K-12 Simplified Funding Program for FY 2026
- Would provide a single allocation that could be used for any of the purposes under 18 current K-12 programs
- BUT reduces overall funding for those programs by \$4.5 billion
- Keeps ESEA Title I-A intact/separate from block grant



# K-12 Simplified Funding Program

- Comprehensive literacy state development grants;
- Innovative approaches to literacy;
- American history and civics education;
- Supporting effective instruction State grants;
- 21st century community learning centers;
- State assessments;
- Education for homeless children and youths;
- Native Hawaiian education;
- Alaska Native education;
- Rural education;
- Student support and academic enrichment grants;
- Neglected, delinquent, and at-risk children and youth;
- Magnet schools assistance;
- Arts in education;
- Javits gifted and talented education;
- Statewide family engagement centers;
- School safety national activities; and
- Promise neighborhoods.

# FY 2026 President's Spending Proposal

- Why the cuts?
  - “States and localities, not the Federal government, are best suited to determine whether to support the activities authorized under this program or similar activities within their own budgets and without unnecessary administrative burden imposed by the Federal government.”
    - Language is repeated 24 times in ED “budget justifications” document
  - But also: “These eliminations are part of the Administration’s overall effort to restore fiscal discipline and reduce the Federal role in education.”

# Can funds be block-granted through appropriations bills?

- Generally, no
  - Permanently block granting funds requires amending the underlying legislation (e.g. ESEA, IDEA, Perkins, McKinney-Vento, etc..)
  - Structure of appropriations bills does not allow amendments to authorizing legislation that would make that happen
  - Appropriations bills can only set *conditions* on spending for *that year*
    - Acts as a deterrent because lawmakers don't want to repeat a tough vote, State officials dislike instability
- **Policy proposals in Presidential spending proposals only function as a statement of priorities/ legislative wish list**

# Appropriations Schedule for FY 2026

- Senate Committee approved bipartisan bill first week of August
  - Mostly level funds programs
  - New “bill strengthening” language requires funding to be provided to States “on the date such funds become available for obligation” for certain programs (ESEA, IDEA, Perkins, McKinney-Vento)
  - Would prohibit any enacted funding from being used to transfer programs out of ED
  - Would require the agency to maintain sufficient staffing “to fulfill its statutory responsibilities.”
- Now heads to Senate floor, maybe
  - Or conference committee? Or nowhere?





# Appropriations Schedule for FY 2026

- House Subcommittee approved bill 9/2, full committee on 9/9
  - Significant cuts to Title I (27%)
  - Increase to charter school grants program (\$60 million)
  - Cuts to ED administration, OCR (30%+)
  - “Zero out” programs including Migrant, AEFLA, Title II-A, Title III-A
- Significant differences from Senate bill make it hard to pass single legislation

Program	FY 2025 Final	FY 2026 President’s Proposal	FY 2026 Senate Bill	FY 2026 House Bill
ESEA Title I-A	\$18,407	\$18,407	\$18,457	\$14,626
ESEA Title I-C, Migrant Education	\$376	\$0	\$376	\$0
ESEA Title II-A, Supporting Effective Instruction	(not specified)	\$0	\$2,190	\$0
ESEA Title III-A, English Language Acquisition	\$890	\$0	\$890	\$0
Title IV-A, SSAE	\$1,380	\$0	\$1,380	\$1,385
ESEA Title IV-B, 21 <sup>st</sup> CCLC	\$1,330	\$0	\$1,330	\$1,330
IDEA Part B State Grants	\$14,214	\$14,891 (as consolidated with other programs)	\$14,264	(not specified, but category increases 0.2% as a whole)
CTE State Grants	\$1,440	\$1,440	\$1,440	\$1,465
Head Start	\$12,272	\$12,272	\$12,357	\$12,272 <sup>22</sup>

# Future ~spooky?~ predictions...



- Do not expect final FY 26 funding bills before late Nov/Dec
  - Negotiations could extend into 2026
- Longer the government shutdown lasts, the more difficult bipartisan agreement on funding becomes
- Look to Senate bipartisan bills as indicator for future funding (similar to amount received this year)

# Other things to watch in Congress...

- Whole Milk for Healthy Kids Act
  - Currently on anonymous hold in Senate
  - Different versions passed House and Senate, look for conference and implementation in SY 2026-27
- Resolution on E-Rate (S.J.Res. 7)
  - Would rescind flexibility to use schools and libraries funding for wifi hotspots
  - Passed Senate, waiting on House action (held at desk, not referred to committee)
  - FCC voted on the same issue in Sept. and undid flexibility first; no Congressional action needed now
- Leg branch appropriations defunding GAO, CRS?
  - Other limitations on government watchdogs

# Administration Updates





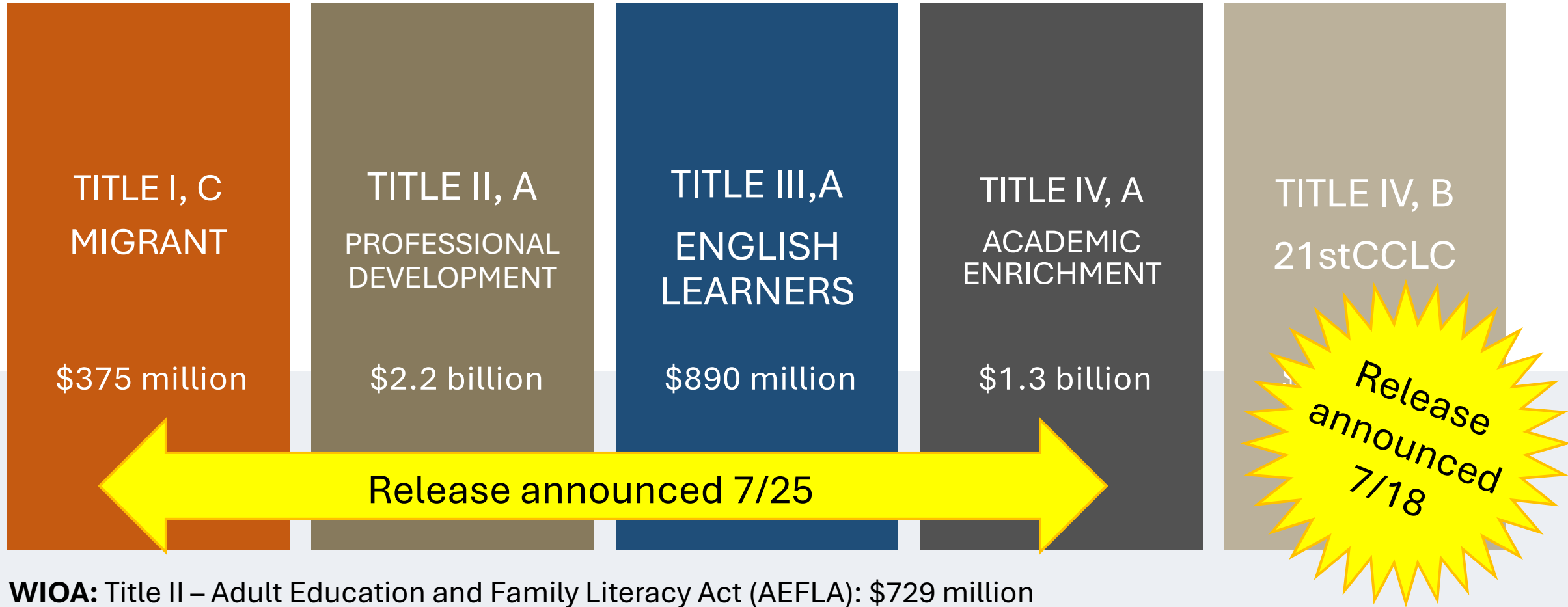
# Funds Withholding Repeated?



# Funds Withholding: 7/1 Announcement

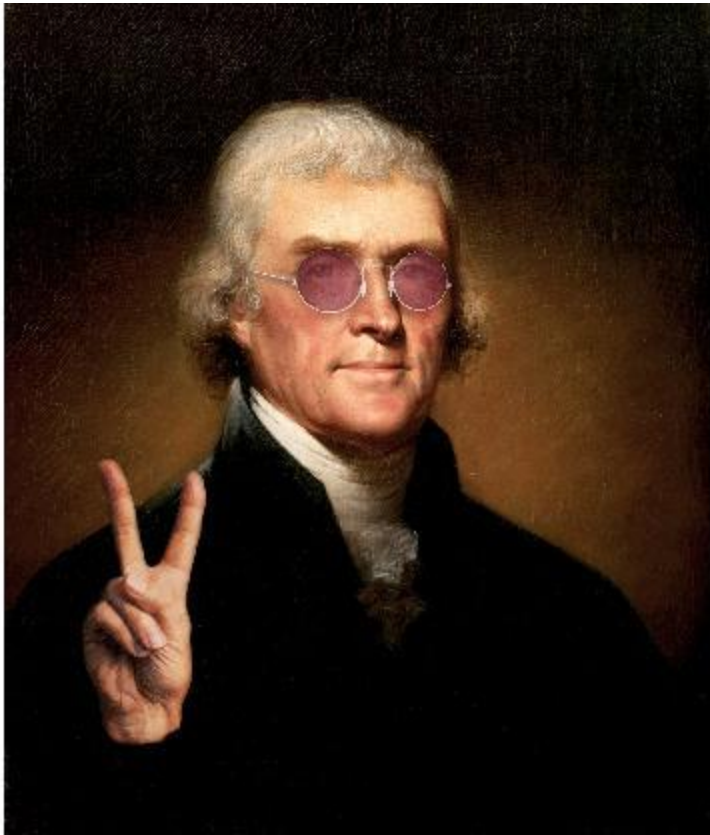
- “Given the change in Administrations, the Department is reviewing the FY 2025 funding for the [Title I-C, II-A, III-A, IV-A, IV-B] grant program(s), and decisions have not yet been made concerning submissions and awards for this upcoming academic year. Accordingly, the Department will not be issuing Grant Award Notifications obligating funds for these programs on July 1 prior to completing that review. The Department remains committed to ensuring taxpayer resources are spent in accordance with the President’s priorities and the Department’s statutory responsibilities.”

# WTF: Where's The Funds?



**WIOA:** Title II – Adult Education and Family Literacy Act (AEFLA): \$729 million

# Was this an impoundment?



The first impoundment on record was made by President Thomas Jefferson when he refused to spend \$50,000 appropriated by Congress for gunboats to patrol the Mississippi river

The Impoundment Control Act was passed in response to \$10 billion in withholdings by then-President Nixon to set parameters for what is allowed



# Was this an impoundment? (cont.)

- Yes! Any deliberate action by the President to withhold some funding that Congress has enacted in an appropriations bill, so that not all of it would be used during the period for which it is made available, is *technically* an impoundment
  - ....but is it illegal?
- GEPA provides ED more than one year to spend funds, and ED/OMB say they are still planning to spend them
- Under 2 USC 684, a *deferral*-type impoundment is allowable
  - “(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements for greater efficiency of operations; or (3) as specifically provided by law.”
  - It cannot last beyond the end of the fiscal year in which it is proposed.



# What happens when ED releases GANs late?

- Generally, the period of availability of most state-administered programs is July 1 – September 30 (carryover available for an additional Oct 1 – Sept 30).
- Pre-award costs are permitted going back to the first day the grant or subgrant period of performance with approval from the awarding agency 34 CFR 76.707/ 2 CFR 200.458.
  - Ideally, July 1, 2025
- Therefore, amended budgets and accounting adjustments would permit costs going back to July 1 once funds are allocated by ED.

# Are there any new GAN conditions?

- New GANs to include language:
  - “Grantees must not use federal funds under this project in any manner that violates the United States Constitution, Title VI or Title VII of the **Civil Rights Act of 1964** (42 U.S.C. § 2000d et seq. or 42 U.S.C. § 2000e et seq.), **Title IX of the Education Amendments of 1972** (20 U.S.C. § 1681 et seq.), **section 504 of the Rehabilitation Act (29 U.S.C. § 794)**, the **Age Discrimination Act of 1975** (42 U.S.C. 6101 et seq.), **Title II of the Americans with Disabilities Act of 1990** (42 U.S.C. § 12131 et seq.), the **Boy Scouts of America Equal Access Act of 2001** (20 U.S.C. § 7905), section 117 of the Higher Education Act of 1965, as amended (20 U.S.C. § 1011f), or other applicable federal law. **To the extent that a grantee uses grant funds for such unallowable activities, the Department intends to take appropriate enforcement action including under section 451 of the General Education Provisions Act (GEPA), which may include the recovery of funds under section 452 of GEPA.**”

# Are there any new GAN conditions? (cont.)



- “The Department also intends to conduct reviews of grantees’ use of funds to ensure ongoing compliance with the above provisions and all other applicable laws and regulations.”
- Language itself is not particularly meaningful
- Question is how administration will enforce its *interpretation* of those laws
  - E.g. Title VI, Title IX, and others

# Are there any new GAN conditions? (cont.)

- **21<sup>st</sup> CCLC GAN sent to States on 7/21**
- Reflects a program start date of 7/1
  - BUDGET PERIOD 07/01/2025 - 09/30/2026
  - FEDERAL FUNDING PERIOD 07/01/2025 - 09/30/2026
- Allows expenses starting 7/1 to be charged to this grant
- **New 21<sup>st</sup> CCLC GAN says “Grantees and subgrantees are reminded that they have existing obligations to comply with” the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), and notes “non-binding interpretive rule issued on July 11, 2025”**

# Could it happen again?

- Nation Governors Association Summer Meeting
  - How can we better communicate to make sure this chaos and uncertainty doesn't occur again around funding and that people know things earlier?
  - Sec. McMahon: *"No guarantees from me that we'll eliminate all of the communication gaps that do happen, but I can say part of it is just the transition aspect. The other aspect was that we took some time, and the Office of Management and Budget took some time to really review the title funding to look at all of the programs, etcetera, before they were released and so we were well satisfied and so now those funds are going to be going out. I would think now we've reviewed them and looked at that process so that a year from now we wouldn't find ourselves in the same situation."*
  - <https://www.nga.org/news/press-releases/secretary-mcmahon-meets-with-governors/>



# Could it happen again? (cont.)

- Yes ☹️ - but maybe in a different way?
- As an example: ED decided to “reprogram” \$350 million of discretionary grants that would otherwise have gone to Minority-Serving Institutions (MSIs)
  - Why? Percentile thresholds for eligibility are unconstitutional “racial quotas”
    - These are statutory definitions!
  - Is this an impoundment? No because funds will be “reprogrammed”
  - Can they do this? Probably – lack of specificity in CR for post-secondary programs means there is some wiggle room to spend funding
- Similar to non-continuation of IDEA Part D grants

# Where is this all headed?



- Conflict between executive and legislative branch on who controls spending
  - How big a role does Congress have in enforcing spending?
  - Does GAO have oversight?
  - Can the executive pick and choose what they want to spend?
  - What happened to *Loper Bright* and the end of *Chevron* deference?

# Dismantling ED



# The Department of Education Organization Act (public law 96-88)

- Outlines which ED offices and staff are required by law
- There shall be in the Department, for example:
  - Assistant Secretaries of OESE, Post Secondary, OCTAE, OSERS, Civil Rights and related offices and staff
  - Inspector general, general counsel
- Outlines limits to Secretary to reorganize, move, discontinue or transfer functions vested by statute
- Items not listed/ discretionary, within Secretary's authority
- Statutes Vesting ED with Authority:
  - Impact Aid (1950)
  - HEA (1965)
  - ESEA (1965)
  - GEPA (1968)
  - Rehabilitation Act (1973)
  - IDEA (1975)

# Executive Order: Dismantle ED

Directs Secretary McMahon to “take all necessary steps to facilitate the closure the Department of Education and return education authority to the States, while continuing to ensure the effective and uninterrupted delivery of services, programs, and benefits on which Americans rely.”





# Reductions in Force (RIFs) (March)

- On March 11, the Department reduced about half its workforce
  - Closed 7 of 12 OCR regional offices
  - Reduced Federal Student Aid offices by approx. 50%
  - Reduced Office of General Counsel by approx. 75%
  - Reduced Institute of Education Sciences office by approx. 90%
  - One employee remaining in English Learner office
- Other Actions:
  - Terminated IES contracts; other federal contracts
  - Terminated discretionary grants (teacher preparation, mental health, competitive IDEA grants, etc.)

# The Lawsuits

## The Plaintiffs:

- Teachers Unions
- NAACP
- Democratic Attorney Generals (RIFs)
- COPAA
- Research Associations
- Etc.

## The Arguments:

- Separation of powers
- Ultra vires action
- Appropriations/spending clause
- Excess of statutory authority (APA)
- Not in accordance with law (APA)
- Arbitrary and capricious (APA)

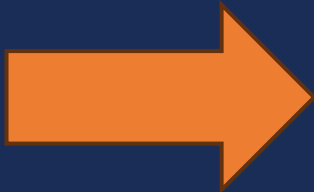
# Government's Response (NY, et al)

“President Trump ran on the promise to close the Department of Education (“Department”). After he was elected, he entrusted Secretary of Education Linda McMahon with reducing the bureaucratic excess in the Department in anticipation of ultimately closing it. But both President Trump and Secretary McMahon have been unequivocal that it will take an act of Congress to ultimately shutter the Department.”

# The Lawsuits (cont.)

- Lower courts provided preliminary injunctions, stopping the March RIFs and other actions by the Dept to dismantle ED
  - The multi-state case was eventually appealed to the Supreme Court
- **Supreme Court (July 14, 2025)** issued a three sentence, majority opinion that overturned the lower court preliminary injunctions, allowing ED to move forward with RIFs and other steps to close ED
  - Approx 18-page dissent: “When the Executive publicly announces its intent to break the law, and then executes on that promise, it is the Judiciary’s duty to check that lawlessness, not expedite it. ... Rather than maintain the status quo, however, this Court now intervenes, lifting the injunction and permitting the Government to proceed with dismantling the Department.”

**USED**



**DOL**





# Joint Management Agreement with DOL: Perkins/AEFLA

- Interagency agreement signed in May; follow-through after Supreme Court decision in July (announced July 15)
- Moves the day-to-day administration of Perkins and AEFLA to Dept of Labor
  - Unified state plan portal and timeline for submitting required plans for WIOA and Perkins
  - DOL to manage competitions, provide technical assistance, and monitoring of programs
  - GANs reissued in September to provide draws through DOL systems
  - “ED will maintain all statutory responsibilities and will continue its oversight of these programs”

# ED Agreements to Outsource Functions

- ED has made agreements to parcel out some portions of program management
- Had not been public knowledge until the declaration in a case was filed in June
- Prompted pushback from Democratic lawmakers:
  - “it is not within your authority to move the administration of these programs to any other agency”
- OCTAE transitioning some functions to DOL, including funds management (funds were temporarily unavailable for a few days due to transition)
  - October funds coming out of DOL now

# Other ED Agreements Behind the Scenes

- Treasury
  - Detailee agreement
  - 8-10 staff with expertise in federal contracting, SFA, DOGE
  - Reasons not specified in agreement, but declaration says for purpose of student loan management



# Other Moves?

- Could other programs be moved?
  - **IDEA** / Title Programs → HHS
  - Student Financial Aid → Treasury, Small Business Association
  - McKinney-Vento → HHS
  - All civil rights enforcement → DOJ
  - Impact Aid → DOD
  - Indian Education → Interior

# Reductions in Force (RIFs) (October)

- On October 10, the Department issued RIFs to 466 employees\*\*
- Program offices were significantly impacted, leaving only a handful of positions (leadership level) in:
  - Office of Elementary and Secondary Education
  - Office of Special Education and Rehabilitative Services
  - Postsecondary Grant Offices (TRIO, etc.)
- Additional cuts impacting:
  - Office for Civil Rights
  - Office of Impact Aid

***\*\*Subject to Temporary Restraining Order\*\*\****

# What's Next

- Complete shuttering of ED would involve Congress
- Signs that Congress opposes closing ED:
  - Senate bill included “bill strengthening” language;
  - Senate Republicans supported the release of withheld Title funds over the summer
- However, what we’ve seen so far and might anticipate:
  - Significant reduction in force, impacting administration and oversight capabilities at ED (less monitoring, technical assistance, etc.)
  - Interagency agreements to transfer the operation of programs to other agencies, maintaining bare minimum authority within ED



# ED Political Appointee Updates

Position	Nominee	Status	Serving in Interim?
Deputy Secretary	Penny Schwinn	WITHDRAWN	Richard Smith
Under Secretary	Nicholas Kent	CONFIRMED	N/A
Asst. Sec for Elementary and Secondary Education	Kirsten Baesler	CONFIRMED	N/A
Asst. Sec for Civil Rights	Kimberly Richey	CONFIRMED	N/A
Asst. Sec for Career, Tech, and Adult Ed	Kevin O-Farrell	WITHDRAWN	Nick Moore
Asst. Sec for Special Ed and Rehabilitative Services	TBD	N/A	Diana Diaz
Asst. Sec for Postsecondary Education	David Barker	CONFIRMED	N/A

Position	Nominee	Status	Serving in Interim?
Asst. Sec for Communications and Outreach	TBD	N/A	Madi Biedermann
Asst. Sec for Legislation and Congressional Affairs	Mary Riley	CONFIRMED	N/A
Asst. Sec for Planning, Evaluation, and Policy Development	TBD	N/A	Murray Bessette
Director IES	TBD	N/A	Matthew Soldner
Commissioner RSA	TBD	N/A	Christopher Pope
General Counsel	Jennifer Mascott	WITHDRAWN	Candice Jackson
Inspector General	TBD	N/A	Heidi Semann
Chief Financial Officer	TBD	N/A	Richard Lucas

# PRWORA



# PRWORA!



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+ UH

**aka... the Personal Responsibility and Work Opportunity Reconciliation Act of 1996**

# A change in interpretation...

- PRWORA prohibits undocumented immigrants from accessing “federal public benefits,” including:
  - Grants, loans, contracts, or professional/commercial licenses
  - Any “retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of the United States”
  - Limited exceptions for disaster relief, emergency medical treatment, etc.
  - Nonprofit charitable organizations that administer federal, state, or local benefit programs are not required to verify a participant’s immigration status.
- Since 1997, had been interpreted to exclude preK-12 education benefits



# A change in interpretation...

- New interpretations say that educational benefits are subject to PRWORA where not constrained by other laws:
  - “Therefore, the Department interprets and finds that “Federal public benefits” under [8 U.S.C. 1611\(c\)\(1\)](#) includes all educational benefits that are provided to individuals, households, or family eligibility units, regardless of age, and including when benefits are provided as in-kind services at the community level, such as through public or private nonprofit agencies, except those benefits that are basic public education benefits under Plyler.”
- Includes Perkins, AEFLA, Head Start, Community Services Block Grant, and others

# Agency Notifications

- Published in the Federal Register on July 11
- ED: <https://public-inspection.federalregister.gov/2025-12925.pdf>
- Higher Education: <https://www.ed.gov/media/document/notification-grantees-and-subgrantees-of-assistance-under-higher-education-act-of-1965-of-updated-prwora-interpretation-of-federal-public-benefits-7102025>
- DOL TEGL: <https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEGL/2023/TEGL%2010-23%20Change%202/TEGL%2010-23%20Change%202.pdf>
- HHS: <https://www.hhs.gov/sites/default/files/prwora-notice.pdf>

# What about K-12 education?

- Constrained by 1982 Supreme Court decision in *Plyler v. Doe*
  - Upheld the right of undocumented immigrants to attend public schools under the 5<sup>th</sup> and 14<sup>th</sup> amendments (equal protection).
    - “Even if the State found it expedient to control the conduct of adults by acting against their children, legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice.”
  - Guidance from ED and DOJ in 2014 read Plyler to say that K-12 schools could not ask students for proof of immigration status and must accept any reasonable documentation of age, including from foreign countries.
- ED notices: “In codifying the exceptions under Plyler, Congress made clear the term “Federal public benefits” does not cover basic public education benefits that are received by children.”

# PRWORA Litigation

- *NY, et al v. US, DOJ, HHS, ED, DOL*
  - Four agencies issued guidance revoking longstanding interpretations of PRWORA; asking for verification of immigration status to access programs
    - Arguing guidance places “post acceptance” “retroactive” conditions on grants, inconsistent with underlying laws and requirements
    - Declaration that notices are unlawful; injunction against enforcement/implementation
- *WA State Assoc. of Head Start v. HHS*
  - Original case challenged the degradation of Head Start in HHS through office shuttering and RIFs
  - Case was amended to include a challenge on excluding undocumented migrants
  - Argument includes vagueness consideration: who counts as undocumented? (The kid? Their parents? Their caretakers?)

# PRWORA Litigation (cont.)

- *NY, et al v. US, DOJ, HHS, ED, DOL*
  - Rules were legislative, not interpretive, and therefore required notice and comment, which didn't happen
  - Rules did not provide adequate explanation / consideration of reliance interests, and therefore were arbitrary and capricious
  - Rules (or at least certain aspects of the rules) were contrary to law
    - HHS: PRWORA does not extend to programs that do not have eligibility requirements; Head Start is not post secondary education benefit; Block grants are not "Federal public benefit"
    - ED: Adult ed is defined as secondary education services; Perkins includes both postsecondary and non-postsecondary, and non-postsecondary is not covered
    - DOL: Broad language sweeps in programs that would be specifically exempt, such as provided in secondary school setting
  - Rules fail to provide notice and imposed conditions that function as coercive ultimatums

# PRWORA Litigation (cont.)

- *NY, et al v. US, DOJ, HHS, ED, DOL*

“The bottom line is this: the States’ Motion for a Preliminary Injunction—a temporary court order that maintains the status quo, at least while the case works its way through the judicial system—is GRANTED.”

- *WA State Assoc. of Head Start v. HHS*
  - Injunction granted against HHS from implementing new rule in any Head Start Program (nationwide)



# PRWORA Litigation (cont.)

## Next Steps

- Agencies could reissue the rules after formal rulemaking
- Agencies could appeal District Court decision
- NY Injunction only in Plaintiff states- will agencies begin enforcement in nonplaintiff states?
  - WA Head Start Injunction – covers all Head Start providers nationwide

# Other Lawsuits Impacting K-12



# State of Washington, *et al.* v. ED

- **Lawsuit filed Monday, June 30, 2025**
- The lawsuit argues that ED illegally terminated \$1 billion in grant programs that Congress had created and funded in direct response to school shootings and the youth mental health crisis.
- ED claims the funding conflicted with the administration's priorities and DEI (diversity, equity, and inclusion) concerns—despite no evidence of mismanagement or misuse.
- 16 “Plaintiff States” = New York, California, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, New Mexico, Nevada, Oregon, Rhode Island, Washington and Wisconsin.
  - <https://ag.ny.gov/sites/default/files/court-filings/state-of-washington-et-al-v-united-states-department-of-education-complaint-2025.pdf>

# St. Isidore of Seville v. Drummond

- **Whether a state may authorize the creation of a religious charter school?**
- Oklahoma supreme court rejected religious charter school contract
  - “[W]hat St. Isidore requests from this Court is beyond the fair treatment of a private religious institution in receiving a generally available benefit . . . It is about the State’s creation and funding of a new religious institution violating the Establishment Clause.”
- **Supreme Court Decision (May 22, 2025):**
- **“The judgment is affirmed by an equally divided Court. JUSTICE BARRETT took no part in the consideration or decision of these cases.”**
- [https://www.supremecourt.gov/opinions/24pdf/24-394\\_9p6b.pdf](https://www.supremecourt.gov/opinions/24pdf/24-394_9p6b.pdf)

# Mahmoud v. Taylor

- **Whether parents must be provided the option to “opt out” of elementary school instruction on gender and sexuality against their parents’ religious convictions?**
- Opt out was removed because of “administrative burdens”
- **Supreme Court Decision (June 27, 2025)**
- The Government violates parents’ free exercise rights when they “substantially interfere with the religious development” of children by placing them in environments “hostile” to their religious beliefs with “pressure to conform” to contrary viewpoints.
- The Board continues to permit opt-outs for other curricula, including family life and human sexuality instruction, and provides parallel programming for other student populations.
- The availability of private school or homeschooling does not cure the constitutional violation, as public education is a public benefit that cannot be conditioned on surrendering religious exercise rights.

# Questions??





# Disclaimer

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