

AASA Federal Policy Update 2025

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Context Setting

- Take a deep breath.
- Don't take it literally, but do take it seriously.
- **So what's happening now and why?**
 - In the White House: So. Many. Executive Orders.
 - On the Hill: Last Congress was least productive Congress since the Great Depression. New Congress is here but not promising much of a different experience.
 - In the Courts: This session features 4 cases we are filing amicii in; it's the busiest Court term for education we've seen in more than 15 years.
- **Putting It All Together**: Our path is forward. Schools will still open. Kids will still show up. Federal policy will still need to be implemented. At the end of the day, Congress and the Administration and the Courts can only do better if they know better.





Executive Orders 101

- Executive orders do not create new laws, amend existing laws, or offer binding legal interpretations for schools to follow.
- Instead, they direct federal agencies on how the President intends to enforce existing laws. Federal agencies, including the Department of Education's Office for Civil Rights (OCR), will undoubtedly align their enforcement actions with these directives.
- However, their authority remains constrained by the text of existing statutes and regulations, as well as by court interpretations of those laws.
- Without action from Congress or the judiciary, many of the more aggressive interpretations reflected in these executive orders cannot, on their own, alter the legal landscape.

The orders, as currently drafted, are broad and sweeping, and at the same time lack detail to help reasonably anticipate actual next steps or impact.





Executive Orders

- Executive Order on School Choice
- Executive Order on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government
- Executive Order on Ending Illegal Discrimination and Restoring Merit-Based Opportunity
- Executive Order on Ending Radical Indoctrination in K-12 Schooling
- Executive Order on AI
- Executive Order on Workforce Development
- Executive Order on K12 Discipline
- Keeping Men Out of Women's Sports
- Executive Order on Closing the U.S. Department of Education





Executive Order on Closing ED

Directs the U.S. Department of Education to take steps to close their federal agency “to the maximum extent appropriate and permitted by law.”

AASA's believes **every administration should support strengthening the public school system.**

Maintaining a cabinet-level position for education signifies the importance of public education in our nation and recognizes that public schools are not only the largest employer in our country employing 7.2 million people and educating over 50 million children.





OCR Complaints

How do federal funds get rescinded?

- Step 1:** Complaint/compliance review
- Step 2:** Data collection/investigation (can take months/years)
- Step 3:** District responds to allegations
- Step 4:** OCR makes finding
- Step 5:** Opportunity to enter into voluntary agreement to correct noncompliance (typically the end)
- Step 6:** District challenge to OCR finding in admin court
- Step 7:** District challenge to OCR finding in federal court

However....in Maine, OCR HHS issued findings of Title IX noncompliance without investigations or voluntary resolution opportunities for the State/district.

OCR's approach suggests that federal civil rights agencies may be shifting toward aggressive enforcement tactics that bypass traditional investigative processes, allowing them to pursue violations without expending significant resources.





Reduction in Force

Key issues re RIF

- SGR: they interact/provide guidance to SEAs
- OELA: one person left to manage all of Title III
- NCES: their team of statisticians and data experts are responsible for determining whether schools qualify for Title I/REAP, etc. and work with U.S. Census Bureau to analyze school district boundaries, income levels and other characteristics that help the Department of Education determine grant eligibility.
- OCR: resolution of civil rights complaints/disputes





ESSER Late Liquidation Issue

- New York will pursue “legal redress” over the department’s “unilateral, unexplained reversal” if McMahon doesn’t withdraw the rule changes she announced on March 28.
- 16 Attorneys General and Governor Shapiro have challenged the action.
- The department sent a follow-up message to states outlining the new application process to get individual projects approved for extensions, or “late liquidation.” States that want to appeal late liquidation for individual projects—one at a time or in batches—have to include “a brief description of how a particular project’s extension is necessary to mitigate the effects of COVID on American students’ education,” and “a justification of why the Department should exercise its discretion to grant your request.” More details here.
- Some Senators are sending letters urging all submissions be approved under normal process.
- **REALITY CHECK:** This is bad politics. Denying funds to red/blue districts and private schools is a bad look for Admin. Calls are coming in from Republicans who are furious.
- **Advice:** Districts should turn up the pressure on federal lawmakers.





DEI Certification

- 10 states have already indicated they will not proceed. There is a strong legal arguments that this is a duplicative certification. A good # of states are going to try to certify on behalf of districts while others will follow OH and pass it to districts.
- Compliance is paused due to the AFT lawsuit.
- Nebulous definition of “illegal DEI.” Do districts sign something they don’t quite understand & assume they are will be OK?
- Reminder: districts already have to certify compliance and already are subject to False Claims Act. This warning re FCA is just another existing threat they are trying to scare districts with like rescinding of funds.
- If a district chooses not to certify they should accept that it could lead to a fast-tracked OCR complaint-weigh the options.





FY25 Funding

Congress finally completed FY25 funding with a "year-long" (through Sept. 30) continuing resolution passed on March 14.

Title II funding is less clear-cut. The Administration has the ability to transfer funds elsewhere within the Department. AASA will continue to monitor and update members as soon as we know more.

Many smaller programs fall under this category where funds are not guaranteed and will depend on the Department of Education.

Program	Final FY25
Title I	\$18.407 billion (level)
IDEA	\$14.214 billion (level)
Title III	\$890 million (level)
REAP	\$220 million (level)
Title IV, A	\$1.38 billion (level)
Impact Aid	\$1.65 billion (level)
Head Start	\$12.27 billion (level)



Looking Ahead: FY26 Funding



President's budget expected in **late May**

History has shown that the budget is usually DOA in Congress. **Will that continue to be the case?**

Based on last Administration, expect:

- Block-grant proposal
- Cuts to critical formula programs





Looking Ahead: **FY26 Funding**

- The FY25 House proposal is the best insight into what we can expect for education funding
- Leadership is pointing towards NAEP and ARP "failures" as evidence that money in education doesn't matter
- Significant fight ahead for funding



Vouchers—especially ECCA (H.R. 833/S. 292)

- Creates a national voucher program
- Thune and Johnson both co-sponsor the ECCA
- Available to families up to 300% of median gross income (different than poverty line— 400k in Scottsdale, AZ) for any K-12 expense including full tuition at ANY private school and for expenses related to homeschooling
- Tax credit would be for individuals (up to 5k) or corporations (up to 5% of the taxable income of the corporation for such taxable year)
- \$10 billion for 10 years
- 30 co-sponsors in Senate and 160 in the House



Medicaid

- Multiple proposals to block-grant/cap Medicaid funding
- Medicaid is the 4th largest funding stream for schools (7.5b)
- 25+ states have expanded Medicaid programs to include students w/out IEPs and help cover/pay for a variety of healthcare services including MH services
- They need to pay for tax cuts and border/security and this is their biggest target
- School based Medicaid programs are among the smallest Medicaid programs in a state, when Medicaid funding is squeezed what state will prioritize schools being reimbursed over clinics, hospitals, and other primary-health providers?



So break it down for me, what's at stake?

- \$3.2b in **E-Rate** funding is on the chopping block at SCOTUS
- \$7.5 billion of **Medicaid** dollars are at risk with Medicaid cap proposal by House GOP
- \$14.3 billion in **IDEA**- no increase/no decrease.
- \$14.6b for **school meals** could decrease considerably as House GOP proposal would require every family to document household income when applying for FRLP
- \$16.5b in **Title I** could go down to \$12.5b re House GOP proposal

E-Rate

- The Universal Service Fund (USF) provides for four programs that support internet connectivity: low-income (home internet); high cost (Expensive to connect areas) and rural health care (think: telehealth).
- The 5th Circuit Ruled that USF is unconstitutional
- SCOTUS will heard the case yesterday. If they rule it is unconstitutional, then we need to have Congress act to clarify if USF is allowed to collect fees and keep funding E-Rate
- Need to lay the groundwork for importance of E-Rate





Let's not forget the third branch

Aside from E-Rate, there are 3 major cases before the court:

Mahmoud v. Taylor

- What it will decide: If the mere exposure to views contrary to one's religious belief exerts pressure to change one's beliefs significant enough to violate the Free Exercise Clause.
- State law often dictates when opt-out is required, BUT what is "sensitive" or related to "sex"?
- Backdrop: SCOTUS has been expanding Free Exercise rights for religious institutions and individuals.

A.J.T. v. Osseo Area Schools, Independent School District

- What it will decide: Whether the ADA and Rehabilitation Act require children with disabilities to satisfy a uniquely stringent "bad faith or gross misjudgment" standard when seeking relief for discrimination relating to their education. Currently, student has to prove public school officials acted with discriminatory intent through "bad faith or gross misjudgment."

Drummond ex rel. State v. Oklahoma Statewide Virtual Charter School Board

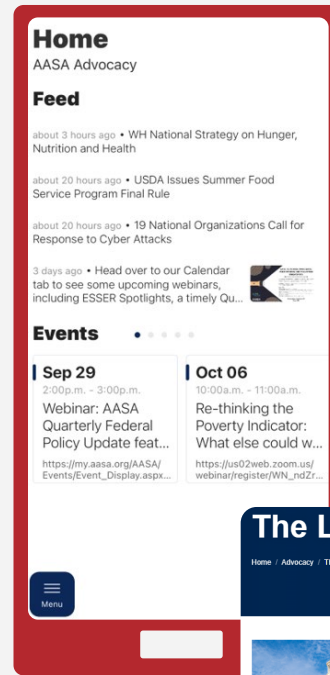
- What it will decide: It is discrimination to prohibit religious charter schools?





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USED Resource: Frequently Asked Privacy-Related Questions About Filing a Complaint with OCR

Today, USED's Office for Civil Rights (OCR) released a new resource with helpful details about how information – including the identity of a complainant – will be used by OCR when OCR investigates a complaint.

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IES Releases New Literacy Resource

IES releases new literacy resource

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Questions?



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