LEGISLATION

BUDGET RECONCILIATION

Council of the Great City Schools®
THE NATION'S VOICE FOR URBAN EDUCATION
1331 Pennsylvania Ave., N.W., Suite 1100N, Washington, DC 20004
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

May 8, 2025

The Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Chairman Smith and Ranking Member Neal:

The Council of the Great City Schools, a coalition of the nation's largest urban school districts, urges the committee to recognize the impact reconciliation provisions it considers will have on our nation's public schools. In addition to those policies affecting state and local governments directly, a number of the proposals addressing tax liability for individuals and businesses will have significant implications for school districts' ability to raise revenue for the children and communities we serve.

We are encouraged by discussions to raise or eliminate the State and Local Tax (SALT) deduction cap that was included in the Tax Cut and Jobs Act (TCJA) of 2017. A recent Congressional Research Service report (April 2025) on that bill's SALT cap explained that by reducing the longstanding deduction's value, the SALT cap increases the cost of state and local taxes to taxpayers, affecting state and local tax and spending behavior. The resulting reductions in state and local revenues due to diminished SALT deductions were offset by reductions in outlays or increases to maintain budget outcomes. In other words, increasing the SALT deduction for state and local taxes supports the ability of school districts, cities, counties, and states to raise additional revenue for public services that benefit all citizens, such as K-12 schools, public safety, infrastructure, and community services.

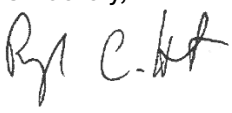
By contrast, the inclusion of federal tuition tax credit vouchers in the Committee's reconciliation package will provide a major financial benefit to the nation's wealthy while offering no federal support for the 90% of students who attend public schools. By encouraging donations for private school tuition scholarships, the tax credits offered in the Educational Choice for Children Act supports attendance at unaccountable private schools that can pick certain students and are not required to meet the same special education laws, civil rights requirements, curriculum standards, teacher qualifications, or reporting metrics as public schools. Offering a 100% tax credit for donations that boost private school attendance is estimated to cost more than $100 billion over ten years, an unnecessary and costly investment that the Council unequivocally opposes.

Finally, we urge the Committee not to eliminate tools that help local school districts adequately address their infrastructure needs, as past tax legislation has done. TCJA repealed a number of important bond provisions that districts used to finance public school facility improvements. TCJA eliminated any further issuances of qualified tax credit bonds, including Build America Bonds, Qualified School Construction Bonds, Qualified Zone Academy Bonds, Clean Renewable Energy Bonds, Qualified Energy Conservation Bonds, and others. The 2017 bill also notably eliminated the ability of

school districts to issue advance-refunding bonds, increasing the cost for issuers and borrowers to lock in debt service savings, restructure debt service, or to achieve relief from unfavorable financing terms. In the FY 2025 budget reconciliation bill currently being developed, tax-exempt municipal bonds and Elective Pay benefits from the Inflation Reduction Act, two essential tools that help school districts finance infrastructure projects, must be preserved.

The Council underscores the importance for the Committee to focus federal support on the public school districts where the overwhelming majority of families send their children. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,



Raymond Hart
Executive Director

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May 8, 2025

The Honorable Brett Guthrie
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

Chairman Guthrie and Ranking Member Pallone:

The Council of the Great City Schools, a coalition of the nation's largest urban school districts, urges the Committee to reject any cuts to Medicaid in the FY 2025 Budget Reconciliation package being developed. In addition to supporting schools by providing basic health services for eligible low-income children, the Medicaid program is a vital resource that reimburses school districts for a portion of the costs of providing "school-based" medical services for eligible students, most often students with disabilities. While we appreciate that the committee is considering a number of options to limit the harm of Medicaid cuts, any changes will threaten essential services to the students and communities we serve.

This week's Congressional Budget Office (CBO) analysis outlining the different Medicaid policy options under consideration and the resulting state responses confirm that any changes would shift additional cost burden onto states and local providers, including school districts. CBO projected that the proposed options would result in any number of state reactions to cover the shortfall, including: increasing state spending on Medicaid through higher state taxes and lower state spending on other programs; reducing payment rates to health care providers; limiting the scope or amount of optional benefits; and reducing enrollment in Medicaid.

The federal Individuals with Disabilities Education Act (IDEA) and Section 504 of the federal Rehabilitation Act require students with disabilities to have an individualized plan that outlines the specialized education, health, and related services necessary to ensure they benefit from their public education program. Although Congress initially intended to pay 40% of the cost of educating students with disabilities when IDEA was enacted in 1975, the federal government has never provided sufficient funding to meet this 40% commitment. Congress currently provides enough funding in IDEA to cover about 12% of the cost of educating students with disabilities, while the remainder of the funding gap for the federally-required services is filled with State and local money.

Federal Medicaid reimbursements for school-based services to eligible students with disabilities help school districts meet the additional medical costs of ensuring access to the free appropriate public education (FAPE) guaranteed to every special education student under IDEA and Section 504. Since these services are written into a student's individualized plan, continuation of the services are required even if federal Medicaid reimbursements are reduced. The result will be a reduction in fiscal resources for the broader general education population as funds will need to be shifted to accommodate the loss of Medicaid.

Examples of the types of Medicaid-eligible services that students with disabilities are currently receiving include:

- Physical therapy
- Occupational therapy
- Speech therapy
- Audiology
- Psychological services
- Nursing services
- Medication administration
- Counseling
- Medical screenings
- Personal care services
- Case management
- Transportation to services

As the CBO analysis highlighted, the result of any reconciliation changes under consideration by the Committee will be less Medicaid funds for each State, and a growing gap between eligible costs and available funding. This will put enormous financial pressure on States to raise taxes, cut funding for other programs, reduce eligible services, and lower or eliminate reimbursements to certain providers, including school districts. Since the health and related services provided to students with disabilities are federally-required under IDEA and Section 504, any loss of Medicaid funding will shift an even larger share of these costs onto State and local school district budgets.

Any reductions in Medicaid funding will have a severe impact on the health and education of low-income students in urban school districts and across the country, including their everyday readiness to learn and their absences due to sickness. The school nurse is often the only primary health-care professional that many low-income students see, and the Medicaid program helps school districts with the costs of providing school-based medical services for these children, as well as students with disabilities. Urban school districts will need to move additional funds to cover the health and related services required for students with disabilities, shortchanging other education expenditures to cover cuts to Medicaid. The fundamental harm this will cause to school districts' ability to serve and educate all students must be rejected by the Committee.

Sincerely,

Raymond Hart
Executive Director

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1331 Pennsylvania Ave., N.W., Suite 1100N, Washington, DC 20004
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

May 21, 2025

United States House of Representatives:
Washington, DC 20515

Dear Representative:

The Council of the Great City Schools, a coalition of the nation's largest urban school districts, urges the House to reject passage of H.R. 1, the One Big Beautiful Bill Act. As currently drafted, this FY 2025 Budget Reconciliation bill contains significant cuts to Medicaid and SNAP that will harm low-income communities around the nation, including urban students, families, and the school systems that serve them. The bill also includes excessive tax reduction provisions that will benefit the wealthiest Americans while severely impacting the country's revenue forecast and ability to support the education, health, and social programs that fuel better life outcomes in our country.

The significant reductions in Medicaid funding in H.R. 1 shifts federal budgetary responsibility for this essential program onto states. A recent Congressional Budget Office (CBO) analysis outlining the different Medicaid cuts highlight that the proposed changes would push additional cost burden onto states and local providers, including school districts. As states seek to fill the new gap resulting from H.R. 1, CBO projects that the federal changes could result in higher state taxes, lower state spending, reduced payment rates to health care providers, and limits to enrollment and benefits for Medicaid.

In addition to supporting schools by providing basic health services for eligible low-income children, the Medicaid program is a vital resource for school districts by reimbursing a portion of the costs of providing "school-based" medical services for eligible students, most often students with disabilities. The federal Individuals with Disabilities Education Act (IDEA) and Section 504 of the federal Rehabilitation Act require students with disabilities to have an individualized plan that outlines the specialized education, health, and related services necessary to ensure they benefit from their public education program.

Medicaid reimbursements for school-based services to eligible students with disabilities help school districts meet the additional medical costs of ensuring access to the free appropriate public education (FAPE) guaranteed to every special education student under IDEA and Section 504. Since the health and related services provided to students with disabilities are federally-required under IDEA and Section 504 are severely underfunded, any loss of Medicaid funding will shift an even larger share of these costs onto State and local school district budgets.

H.R. 1 also includes unprecedented cuts to the federal Supplemental Nutrition Assistance Program (SNAP) that helps low-income families afford the groceries and nutrition that are critical to health and well-being. The changes include capping annual increases, new work requirements, and a new Matching Funds requirement that would require each state to pay between 5 and 25 percent of the SNAP benefit costs that are fully covered by the federal government under current law.

Similar to the Medicaid cuts, states will likely need to take a range of actions in response to the SNAP budgetary shortfall that will reduce or eliminate nutrition benefits for some families. These cuts not only impact the ability of families to feed children and pay for food, but reduced eligibility for SNAP or Medicaid also directly impacts schools that directly certify students for school meal eligibility. The federal SNAP cuts will increase food insecurity for families, place additional funding burdens on school districts, and undo school meal application efficiencies that have been in place for years.

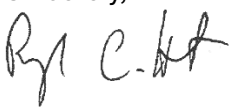
H.R. 1's treatment of low-income families and communities is further exacerbated by tax provisions that are heavily tilted towards the nation's highest income earners, including support for a national private school voucher initiative. The House bill includes tuition tax credit vouchers that offer a major benefit to the wealthy while offering no federal support for the 90% of students who attend public schools. By encouraging donations for private school tuition scholarships, the 100% tax credit offered in the Educational Choice for Children Act (ECCA) provides a 1:1 return to donors in order to fuel contributions to voucher scholarships.

Voucher programs support tuition at unaccountable private schools that can enroll certain students and are not required to meet the same special education laws, civil rights requirements, curriculum standards, teacher qualifications, or reporting metrics as public schools. Underwriting a 100% tax credit for donations that boost private school attendance is an unnecessary and costly investment that further underscores the misplaced priorities of H.R. 1.

Requiring states and cities to fill budget holes created by the FY 2025 Budget Reconciliation will intensify the problems of underfunded services and the negative impact on local communities around the country. The bill's cuts to Medicaid and SNAP will mean that school districts will have to shortchange other education expenditures to cover cuts to Medicaid. The fundamental harm this will cause to school districts' ability to serve and educate all students must be rejected. T

We urge all House members to vote NO on H.R 1.

Sincerely,



Raymond Hart
Executive Director

NCPE National Coalition for PUBLIC EDUCATION

May 19, 2025

Speaker Mike Johnson
568 Cannon House Office Building
Washington, DC 20515

Minority Leader Hakeem Jeffries
2433 Rayburn House Office Building
Washington, DC 20515

Majority Leader John Thune
322 Hart Senate Office Building
Washington, DC 20515

Minority Leader Chuck Schumer
317 Russell Senate Office Building
Washington, DC 20515

Dear Speaker Johnson, Leader Jeffries, Leader Thune, and Leader Schumer:

The 66 undersigned organizations, members of the National Coalition for Public Education (NCPE) and allies, write to express our strong opposition to the inclusion of funding for private school vouchers in the 2025 Budget Reconciliation Act.

In particular, we oppose the inclusion of a proposal to create a national voucher program that would divert $5 billion for four years in tax dollars to private schools and families who homeschool. This legislation is fiscally irresponsible, enables discrimination against students, undermines local control of education, and would severely damage public schools that educate 90% of American children.

Tuition tax credit voucher schemes may have a different name and structure, but they are simply another private school voucher: they divert taxpayer funds away from public education and into private schools. The school voucher provisions included provide individuals a dollar-for-dollar tax credit for donating money to a “scholarship granting organization” that pays the tuition for students who attend private schools or reimburses families who homeschool. This operates less like a tax incentive and more like a direct transfer of taxpayer funds away from public education and into private schools. In fact, taxpayers donating corporate stock to these private school voucher programs would receive more back in tax cuts than the amount they donated.[1]

The government should not redirect up to $5 billion dollars per year of taxpayer dollars to pay for ineffective, discriminatory, and unaccountable vouchers. Private school vouchers fail to improve students’ academic achievement. Indeed, they often cause students to perform worse

[1] Voucher boondoggle: house advances plan to give the wealthy $1.20 for every $1 They steer to private K-12 schools. (n.d.). ITEP. https://itep.org/school-vouchers-educational-choice-for-children-act-of-2024/

than their peers who aren't in the voucher program: large-scale studies of the Louisiana[2], Indiana[3], Ohio[4], and Washington, DC[5] programs show that voucher students experienced significant declines in their academic performance. The impact of accepting a voucher on academic achievement in these programs is on par with or worse than the learning loss caused by Hurricane Katrina and the COVID-19 pandemic.[6]

Although promoted as "educational freedom," private school vouchers do not provide real freedom of choice to students and parents. The "choice" in voucher programs actually lies with the private schools, which often reject students for a variety of reasons including disability, sexual orientation and gender identity, religion, academic achievement, and economic status.[7] Like other voucher legislation in states, this bill would fund private schools that are permitted to discriminate against students and families. In contrast, public schools are open to all and are a cornerstone of our communities particularly in rural areas of America. Private school voucher programs undermine our nation's public schools by funneling desperately needed resources away from public schools to fund the education of a few, select students in private, often religious, schools.

Indeed, private school voucher programs have a sordid history. Rooted in attempts to evade desegregation orders in the wake of *Brown v. Board of Education*, they still fund discrimination today. Despite receiving public funds, voucher schools do not have to abide by the same civil rights requirements as public schools, including many of those in Title VI and Title IX of the Civil Rights Act, the Individuals with Disabilities Education Act (IDEA), Title II of the Americans with Disabilities Act, and the Every Student Succeeds Act (ESSA). Students who attend private schools with vouchers are also stripped of other protections for their civil rights and liberties, including First Amendment, due process, and other constitutional and statutory rights.

Students with disabilities are especially underserved by vouchers. Voucher schools do not provide the same quantity and quality of services available to students with disabilities in public schools, including those mandated under each student's individualized education program (IEP). If admitted to a private school that accepts a voucher through a tax credit program, students and their families are responsible for complying with their selected private schools' code of conduct in order to maintain enrollment at the school. Disability and behavior are linked, as unmet needs can sometimes result in challenging behaviors. Voucher schools often deny

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[2] Jonathan N. Mills & Patrick J. Wolf, Univ. of Ark., The Effects of the Louisiana Scholarship Program on Student Achievement After Four Years, EDRE Working Paper No. 2019-10 (Apr. 2019).
[3] Megan Austin et al., Voucher Pathways and Student Achievement in Indiana's Choice Scholarship Program, Russell Sage Foundation J. of the Social Sciences (2019).
[4] David Figlio & Krzysztof Karbownik, Fordham Inst., Evaluation of Ohio's EdChoice Scholarship Program: Selection, Competition, & Performance Effects (July 2016).
[5] U.S. Gov't Accountability Office, GAO-13-805, District of Columbia Opportunity Scholarship Program: Actions Needed to Address Weaknesses in Administration and Oversight, 19 (2013).
[6] Cowen, J.. (2024, November 8). *OPINION: After two decades of studying voucher programs, I'm now firmly opposed to them*. The Hechinger Report. https://hechingerreport.org/opinion-after-two-decades-of-studying-voucher-programs-im-now-firmly-opposed-to-them/
[7] Polson, Diana, Rachel Tabachnick, and Stephen Herzenberg. "Pennsylvania's Track Record on Private School Vouchers: Still No Accountability." *Keystone Research Center* (2024).

students with disabilities admission or subject them to inappropriate or excessive suspensions or expulsions. This discrimination should not be supported by taxpayer funds.

In addition, private schools are not required to meet state-determined accountability requirements under the Elementary and Secondary Education Act currently known as the Every Student Succeeds Act (ESSA). They frequently do not have to meet any baseline standard for teacher qualification, student testing, financial accountability, or even safe facilities. Further, example after example demonstrates that the lack of oversight requirements results in waste, fraud, and abuse. In Arizona, vouchers were used to pay for Amazon gift cards, ski trips, pizza ovens, and trampolines,[8] while in Florida families used these funds to pay for paddle boards, big-screen televisions, foosball tables, and trips to Disney World.[9]

Finally, vouchers are unpopular with the general public. Just this year, voters in Nebraska, Kentucky, and Colorado resoundingly rejected vouchers or measures to allow for vouchers. This is no surprise given that for decades, voters across the country have rejected the creation or expansion of private school vouchers fourteen previous times.[10] Recent polling data[11] from All4Ed found that a majority of voters, regardless of party, support public education and would choose to use federal funding on public schools over voucher programs.

For all of the above reasons, we urge you to reject any efforts to include private school vouchers in any reconciliation package. Vouchers are bad public policy. Congress would better serve our children by using our limited taxpayer funds to ensure every child has access to strong public schools.

Thank you for your consideration of our views.

AASA, The School Superintendents Association
Advancement Project
AESA
AFT
AFL-CIO
All4Ed
Alliance for Educational Justice
Alliance to Reclaim Our Schools
American Atheists

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[8] Blasius, Melissa, and Garrett Archer. “ABC15 Arizona in Phoenix (KNXV).” *ABC15 Arizona in Phoenix (KNXV)* 3 Oct. 2023. Web.
[9] Dillon, Lucy. “Megacon Orlando Announces Its 2025 Return with Four Days of Fandom Madness.” *Orlando Weekly*, 31 Oct. 2024, www.orlandoweekly.com/arts/megacon-orlando-announces-its-2025-return-with-four-days-of-fandom-madness-38118474, https://doi.org/1025139/74700. Accessed 9 Nov. 2024.
[10]https://static1.squarespace.com/static/582f7c15f7e0ab3a3c7fb141/t/63d162c3ae7bc31595b41397/1674666706305/2023+-+NCPE+Voucher+Toolkit+FINAL.pdf
[11] OpinionatED: Voters’ Views on Education in 2024. All4Ed. Retrieved from https://all4ed.org/publication/executive-summary-opinionated-voters-views-on-education-in-2024/

American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
American Humanist Association
American Music Therapy Association
Americans for Democratic Action (ADA)
Americans United for Separation of Church and State
Association for Career and Technical Education
Association of School Business Officials International (ASBO)
Autistic Self Advocacy Network
Baptist Joint Committee for Religious Liberty
Center for American Progress (CAP)
Center for Inquiry (CFI)
Center for Learner Equity
Clearinghouse on Women's Issues
Cooperative Baptist Fellowship (CBF)
Council for Exceptional Children
Council of Administrators of Special Education
Council of the Great City Schools
Economic Policy Institute
Educators for Excellence
EdTrust
Families for Strong Public Schools
Feminist Majority Foundation
FFRF Action Fund
First Focus Campaign for Children
GLSEN
IDRA
In the Public Interest
Interfaith Alliance
League of United Latin American Citizens (LULAC)
Learning Disabilities Association of America
National Association of Counties (NACo)
National Association of Elementary School Principals
National Association of Federally Impacted Schools
National Association of School Psychologists
National Association of Secondary School Principals (NASSP)
National Center for Learning Disabilities
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Coalition on School Diversity
National Council of Jewish Women
National Disability Rights Network (NDRN)
National Education Association
National Parents Union

National PTA
National Rural Education Association
National School Boards Association
Network for Public Education
Parents for Public Schools
People For the American Way
Public Advocacy for Kids (PAK)
Public Funds Public Schools
ResearchEd
School Social Work Association of America (SSWAA)
Southern Education Foundation
The Arc of the United States
The Secular Coalition for America
UnidosUS
Union for Reform Judaism
United Church of Christ
Women of Reform Judaism

Email Alert on Reconciliation and 2025-26 Funding

From: Manish Naik via Council of the Great City Schools
Sent: Wednesday, June 25, 2025 2:51 PM
Subject: Senate Reconciliation Action and Funding for 2025-26 school year

Legislative Liaisons of the Great City Schools –

We apologize for the long message as the school year ends and you head into summer, but we wanted to provide some updates as action continues in Washington.

FY 2025 Budget Reconciliation
The Senate continues to work on their version of the FY 2025 bill, after the House passed their legislation at the end of May (H.R. 1, the One Big Beautiful Bill Act). The Senate version is evolving as internal negotiations about specific provisions continue, as well as ongoing decisions from the parliamentarian about what can be included in reconciliation legislation that is intended to focus on budgetary issues (rather than overt policy changes). Senate leadership remains eager to bring the bill to the floor soon, possibly even in the next day or two, despite ongoing differences among Senators and with the House.

We encourage you to contact your Senators (or contact them again!) and let them know that you oppose passage of H.R. 1 and any FY 2025 Budget Reconciliation bill that includes cuts to Medicaid, SNAP, and a tuition tax credit voucher provision. Feel free to also alert your local community and district partners and ask them to voice their opposition to both Senators, as well. While some of the details and total funding cuts continue to change as the reconciliation text evolves, the general message remains the same. I've attached the Council's letter to the House prior to their vote as an example and you can see the two articles below for additional detail.

Article on impact of cuts to Medicaid and SNAP
Article on Tuition Tax Credit Voucher Provisions

Federal Funding for Upcoming School Year 2025-26
In recent weeks, the U.S. Department of Education provided funding levels to States for the upcoming school year (2025-26) for some federal education programs, including Title I, IDEA Part B, Title IV, and Perkins CTE. Hopefully your State has shared this information with districts and has begun the application process so that you can access your local allocations in the future.

The U.S. Department of Education has not announced funding levels for a number of programs yet, including Title II for educator staff and professional development or Title III for English Learner programs. We continue to advocate that the remaining funding levels be announced so that school districts can know how much they will receive and make important budgetary decisions for the upcoming school year that is only weeks away.

Important Note: This Title II and Title III funding for the upcoming school year has already been approved by Congress as part of the FY 2025 Continuing Resolution that was enacted in March. This approved funding differs from the FY 2026 President's budget proposal that was recently released

and seeks to eliminate or block grant education funding for the following 2026-27 school year. Congress has not yet taken action on the FY 2026 budget proposal.

It is unclear whether the Administration is simply delaying the announcement of Title II and Title III funding and will release funding after July 1st as required, or whether they will attempt to impound this funding permanently. Please let us know if you hear anything about this funding from your State or any issues that are occurring locally due to the lack of information.

We will keep you posted on all developments and feel free to contact with us with any questions. Thank you.

Manish Naik
Director of Legislative Services
Council of the Great City Schools

BUDGET AND APPROPRIATIONS

Email Alert on FY 2025 Funding Hold

From: Ray Hart via Council of the Great City Schools
Sent: Wednesday, July 2, 2025 4:57 PM
Subject: RE: Council Urges Administration to Immediately Release Critical Federal Education Funding Approved by Congress

Great City Schools Superintendents/Chancellors/CEOs-

As we shared yesterday, the U.S. Department of Education announced this week that they would not be making federal funding for certain programs available to states as they typically do at the start of July. The decision to not make funds available was made by the White House Office of Management and Budget, even though this funding was approved by Congress in March in the FY 2025 Full-Year Continuing Appropriations and Extensions Act.

The affected programs are:

- Migrant Education (Title I-C)
- Supporting Effective Instruction (Title II-A)
- English Language Acquisition (Title III-A)
- Student Support and Academic Enrichment (Title IV-A)
- 21st Century Community Learning Centers (Title IV-B)

In order to advocate for the funds and prepare your district for this unprecedented action, we encourage Council members to **take the following steps**:

1. Determine how much funding the district is expected to receive in the affected programs, as well as the staff, services, students, and schools that will be impacted if the funding is not available this year.
2. Contact all of your members of Congress – House and Senate, Republicans and Democrats – to share the above information and ask them to urge the White House to make the funds available to states and school districts immediately.
3. Ask your Federal Grants staff to work with your State Educational Agency to confirm that your district's grant application has "substantially approvable" status (pursuant to 34 C.F.R. 76.708). This will help ensure that your district can obligate funds as of July 1 or the earliest date the district's application is deemed "substantially approvable" after the funds are released by ED. If this is not a part of your State's usual application and funding process, request that they do so anyway or identify a way to ensure your funding is available as soon as possible.

As always, please do not hesitate to contact us if you have any questions, and we will continue to provide updates and next steps for you and your team.

Best,

Raymond C. Hart, Ph.D. | Executive Director

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1331 Pennsylvania Ave., N.W., Suite 1100N, Washington, DC 20004
(202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

July 17, 2025

The Honorable Linda McMahon
Secretary
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Russell Vought
Director
Office of Management and Budget
725 17th St NW
Washington, DC 20503

Secretary McMahon and Director Vought:

The Council of the Great City Schools, the coalition of the nation's largest urban school districts, requests the U.S. Department of Education (ED) and White House Office of Management and Budget (OMB) to immediately release the federal FY 2025 education funding that is currently being withheld. As you know, this funding was approved by Congress in the FY2025 Full-Year Continuing Appropriations and Extensions Act and signed into law by President Trump in March.

Once Congress finalizes the appropriations levels for a federal fiscal year, school districts can estimate the amount of federal funding they will receive months before a school year begins. The grant funds themselves have historically been made available to state educational agencies at the start of July. This schedule allows urban school districts to responsibly budget and plan the instruction, programs, and supports that students will need, as well as hire staff and contract services required to operate the sizeable number of school sites in large cities. The current delay caused by ED and OMB's failure to release expected federal funds for the 2025-26 school year is placing these planned programs, supports, and services at risk.

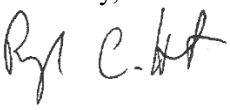
The funding hold affects education offerings in a variety of areas and impacts a wide array of students and staff. The withheld grants are used by urban school districts to pay for teacher salaries and professional development, offer summer and afterschool programming when school is not in session and parents are working, improve instruction for English language acquisition, and boost student support and enrichment through STEM education, college and career counseling, positive behavioral and mental health services, and school safety. The unprecedented and abrupt decision to withhold funding will require school districts nationwide to make sudden and unwanted choices for our students and schools across all educational settings.

More than two weeks have passed with no updates provided to local educators about when, or even if, the funding will ever be released. Stakeholders have fittingly highlighted the immediate negative impact that ED and OMB's freeze is having on summer school programs that are currently underway. The Council also wants to make clear that the new school year has already begun in a number of year-round schools, with the 2025-26 school year beginning for even more students in the coming days and weeks.

School districts cannot responsibly and effectively commit to staff and provide services without knowing the availability of federal funding. In many districts, the expected federal funds approved by Congress have already been budgeted for staff salaries and essential services in schools. If the funding hold continues, districts may need to either eliminate programs that schools offer or reallocate state and local funds to cover the shortfall, which will strain other programs and services that students rely on. The challenges that our schools face and the concerns about student performance that we all share are exacerbated by ED and OMB's action. We urge you to immediately release the approved funding to states so that school districts can proceed with the budgeting, planning, and operation of schools.

Thank you for your consideration of this request and please do not hesitate to contact me for additional information on the ongoing impact that this funding decision is having on urban schools.

Sincerely,



Raymond Hart
Executive Director

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July 17, 2025

The Honorable Bill Cassidy, M.D.
Chairman
Committee on Health, Education, Labor, and Pensions
United States Senate
Washington, DC 20510

The Honorable Tim Walberg
Chairman
Committee on Education and Workforce
United States House of Representatives
Washington, DC 20515

The Honorable Bernie Sanders
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate
Washington, DC 20510

The Honorable Robert C. Scott
Ranking Member
Committee on Education and Workforce
United States House of Representatives
Washington, DC 20515

Chairman Cassidy, Chairman Walberg, Ranking Member Sanders, and Ranking Member Scott:

The Council of the Great City Schools, the coalition of the nation's largest urban school districts, appreciates the consideration and commitment that the House and Senate education committees have provided to urban education, as well as our long history of working together to improve outcomes for students in the nation's cities. We respectfully ask you as leaders of the elementary and secondary education authorizing committees to make a bipartisan request to the White House Office of Management and Budget (OMB) to release the federal FY 2025 education funding that is currently being withheld. As you know, this education funding was approved by Congress in the FY 2025 Full-Year Continuing Appropriations and Extensions Act and signed into law by President Trump in March.

Once Congress finalizes the appropriations levels for a federal fiscal year, school districts can estimate the amount of federal funding they will receive months before a school year begins. The grant funds themselves have historically been made available to state educational agencies at the start of July. This schedule allows urban school districts to responsibly budget and plan the instruction, programs, and supports that students will need, as well as hire staff and contract services required to operate the sizeable number of school sites in large cities. The current delay caused by OMB's failure to release expected federal funds for the 2025-26 school year is placing these planned programs, supports, and services at risk.

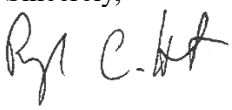
OMB's funding hold affects education offerings in a variety of areas and impacts a wide array of students and staff. The withheld grants are used by urban school districts to pay for teacher salaries and professional development, offer summer and afterschool programming when school is not in session and parents are working, improve instruction for English language acquisition, and boost student support and enrichment through STEM education, college and career counseling, positive behavioral and mental health services, and school safety. The unprecedented and abrupt decision to withhold funding will require school districts nationwide to make sudden and unwanted choices for our students and schools across all educational settings.

More than two weeks have passed with no updates provided to local educators about when, or even if, the funding will ever be released. Stakeholders have fittingly highlighted the immediate negative impact that OMB's freeze is having on summer school programs that are currently underway. The Council also wants to make clear that the new school year has already begun in a number of year-round schools, with the 2025-26 school year beginning for even more students in the coming days and weeks.

School districts cannot responsibly and effectively commit to staff and provide services without knowing the availability of federal funding. In many districts, the expected federal funds approved by Congress have already been budgeted for staff salaries and essential services in schools. If the OMB hold continues, districts may need to either eliminate programs that schools offer or reallocate state and local funds to cover the shortfall, which will strain other programs and services that students rely on. The challenges that our schools face and the concerns about student performance that we all share are exacerbated by OMB's action. We urge you to make a bipartisan request that OMB release the approved funding to states immediately so that school districts can proceed with the budgeting, planning, and operation of schools.

Thank you for your consideration of this request and please do not hesitate to contact me for additional information on the ongoing impact that OMB's decision is having on urban schools.

Sincerely,



Raymond Hart
Executive Director

23 June 2025

The Honorable Bill Cassidy, M.D.
Chair
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Bernie Sanders
Ranking Member
Committee on Health, Education, Labor, and Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Tim Walberg
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Robert C. Scott
Ranking Member Robert C. Scott
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Susan Collins
Chair
Committee on Appropriations
U.S. Senate
Washington, D.C. 20510

The Honorable Patty Murray
Vice Chair
Committee on Appropriations
U.S. Senate
Washington, D.C. 20510

The Honorable Tom Cole
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Rosa DeLauro
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Shelley Moore Capito
Chair
Committee on Labor, Health and Human Services, Education, and Related Services
U.S. Senate
Washington, D.C. 20510

The Honorable Tammy Baldwin
Ranking Member
Committee on Labor, Health and Human Services, Education, and Related Services
U.S. Senate
Washington, D.C. 20510

The Honorable Robert Aderholt
Chairman
Committee on Labor, Health and Human Services, Education, and Related Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Cassidy, Chairman Walberg, Chair Collins, Chairman Cole, Chair Capito, Chairman Aderholt, Ranking Member Sanders, Ranking Member Scott, Vice Chair Murray, Ranking Member DeLauro, and Ranking Member Baldwin:

As representatives of a broad coalition of associations serving English learners, we urge you to hold the U.S. Department of Education accountable in its responsibilities and legal obligations in the allocation of Fiscal Year 2025 appropriated funds for Title III, English Language Acquisition, of the Every Student Succeeds Act (ESSA).

The Full-Year Continuing Appropriations and Extensions Act 2025 was signed into law on 15 March and kept our government funded for the remainder of the fiscal year. While this law extended the fiscal year 2024 budget through 30 September 2025, it gave agencies and departments, including the U.S. Department of Education, 45 days from enactment to "submit to the Committees on Appropriations of the House of Representatives and the Senate a spending, expenditure, or operating plan for fiscal year 2025" (Section 1113.a).

To date, Title III ESSA appropriations for FY2025 have not been communicated, either to the Committees on Appropriations or to the State Education Agencies, whose fiscal year begins 1 July 2025.

On 3 June 2025, Secretary Linda McMahon in her hearing before the Senate Committee on Appropriations stated that those allocations would come "in the [government's] fiscal year"[1].

The Secretary's delay in allocating Title III ESSA funding FY2025 severely impacts the budgeting and planning process of the States in serving and supporting the 5.3 million English learners[2] in our public schools.

We the undersigned representatives from the National English Learner Roundtable strongly urge you to hold the U.S. Department of Education accountable to the Full-Year Continuing Appropriations and Extensions Act 2025 and to demand that it immediately allocate $890 million for Fiscal Year 2025 Title III of the Every Student Succeeds Act.

Thank you for your time and consideration in this request.

Sincerely,

Participating Organizations from the
National English Learner Roundtable

[1] https://www.appropriations.senate.gov/hearings/a-review-of-the-presidents-fiscal-year-2026-budget-request-for-the-department-of-education

[2] https://nces.ed.gov/programs/coe/indicator/cgf/english-learners-in-public-schools

ACTFL

AFT

Association of Language Companies

Association of Latino Administrators and Superintendents - ALAS

Californians Together

Center for Applied Linguistics

Children at Risk

Council of the Great City Schools

English Learner Portal

Immigrant Connections

Intercultural Development Research Association (IDRA)

Internationals Network for Public Schools

Joint National Committee for Languages

National Association for Bilingual Education

National Association of English Learner Program Administrators (NAELPA)

National Council for Languages and International Studies

National Education Association

Revolución Educativa

TESOL International Association

UnidosUS

April 22, 2025

Secretary Linda McMahon
United States Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Secretary McMahon,

On behalf of the undersigned organizations, representing public school superintendents, school principals, educators, and other education stakeholders, we are writing to urge you to quickly allocate the $2.19 billion Congress and the President approved for Title II, Part A (Title II-A) of the Elementary and Secondary Education Act (ESEA) for Fiscal Year (FY) 2025. Additionally, we urge the administration to adhere to Congressional intent that Title II-A's funds be allocated based on funding allocations specified in the FY 2024 Further Consolidated Appropriations Act.

When President Trump signed the FY25 Continuing Resolution on March 15, thousands of school districts were able to finalize their budgets for the 2025-2026 school year, ensuring level funding for Title II-A. Any reductions or changes to allocations at this time will have a devastating impact on students, educators and communities across the country. In many states, school districts are legally required to provide professional development or induction programs – which means other services or supports for students would be eliminated if Title II-A funds are not allocated as intended by Congress. District leadership will be forced to make impossible decisions of where to make budget cuts - potentially even laying off staff - if Title II funding is not allocated in an identical manner to FY24.

Talented, motivated, and highly effective educators and school leaders are essential to student success. Investing in their growth, success, and support is one of the most important steps we can take to secure the future of our nation. Yet, decades of research show that students in high-poverty schools are more likely to be taught by inexperienced teachers. Title II-A – Supporting Effective Instruction State Grants – helps close these gaps by increasing students' access to highly-qualified, effective educators. Title II-A provides essential resources to help current teachers build their skills and expertise through high-quality professional development, while also funding induction and mentoring programs that support new educators and help retain them in the profession. Additionally, districts can leverage these funds to meet their local needs like reducing class sizes, providing additional certifications for teachers to expand offerings for students or building a principal and school leader pipeline.

Access to these resources is essential to ensure educators have the knowledge and skills necessary to help all students meet career and college-ready standards. As schools continue to grapple with educator and school leader shortages and a rising number of less-experienced teachers, investments in Title II are more critical than ever.

Across the country, school district leaders and staff are working to navigate evolving federal policy while also confronting persistent challenges like chronic absenteeism, staffing shortages, academic recovery, and the growing need for student mental health support. School districts

remain focused on their mission to ensure every student in their schools receives a high-quality education that prepares them to succeed in whatever path they choose but to do this critical work it is paramount that school districts can rely on continued robust federal investments.

We implore you to ensure Title II-A funds for FY25 are protected and allocated by July 1, as the Department has done historically, including under the previous Trump/DeVos administration.

Sincerely,

AASA, The School Superintendents Association
AACTE: American Association of Colleges for Teacher Education
ACTFL (American Council on the Teaching of Foreign Languages)
AFT
American Federation of School Administrators
American Psychological Association
Association of Education Service Agencies (AESA)
Association of Latino Administrators and Superintendents
Association of School Business Officials International (ASBO)
CAST
Council of Administrators of Special Education
Council of the Great City Schools
EDGE Consulting Partners
Educators for Excellence
Joint National Committee for Languages
Learning Forward
National Association for Family, School, and Community Engagement
National Association for Music Education
National Association of Elementary School Principals
National Association of Secondary School Principals (NASSP)
National Center for Learning Disabilities
National Center for Teacher Residencies
National Council for Languages and International Studies
National Council for the Social Studies
National Council of Teachers of Mathematics
National Education Association
National PTA
National Rural Education Association (NREA)
Public Advocacy for Kids (PAK)
TEACH
Teach For America

CC: House and Senate Appropriations Committees, Majority and Minority Staff
House and Senate Labor HHS Education Appropriations Subcommittees, Majority and Minority Staff
House Education & Workforce Committee, Majority and Minority Staff
Senate Health, Education, Labor, and Pensions Committee, Majority and Minority Staff

Quick Summary of Trump Administration's FY 2026 Education Budget Proposal
(school year 2026-27)

- Cuts overall funding for U.S. Department of Education by approximately $12 billion or 15%
  - Title I is level-funded
  - IDEA – Part B and most other special education programs kept level but block-granted into one funding stream
  - Title II, Title IV, 21st Century Afterschool, and 15 other K-12 programs currently receiving approximately $6 billion are block-granted into one funding stream and cut them by more than $4 billion
  - Title III for ELs eliminated
  - Migrant Education eliminated
  - Adult Education eliminated
  - Most IES (education research) funding eliminated

Trump Education Funding Proposal for Federal FY 2026
(school year 2026-27)

Federal Education Program	FY 2024 Final	FY 2025 Full-Year CR	FY 2026 Trump Proposal
Title I - Grants to LEAs	18,406,802	18,406,802	18,406,802
Migrant Education	375,626	**375,626**	0
Neglected and delinquent	49,239	49,239	0*
Homeless children and youth	129,000	129,000	0*
Impact Aid	1,625,151	1,625,151	1,625,151
Comprehensive Literacy Dev. Grant	194,000	194,000	0*
Title IV - Support & Academic Grant	1,380,000	**1,380,000**	0*
State assessments	380,000	380,000	0*
Rural education	220,000	220,000	0*
Education for Native Hawaiians	45,897	45,897	0*
Alaska Native Education Equity	44,953	44,953	0*
Promise Neighborhoods	91,000	91,000	0*

Federal Education Program	FY 2024 Final	FY 2025 Full-Year CR	FY 2026 Trump Proposal
21st century learning centers	1,329,673	**1,329,673**	0*
Full-Service Community Schools	150,000	150,000	0
Indian Education	194,746	194,746	194,746
Education Innovation and Research	259,000	259,000	0
Title II - Effective Instruction	2,190,080	**2,190,080**	0*
Teacher quality partnership (HEA)	70,000	70,000	0
Teacher and Leader Incentive Fund	60,000	60,000	0
Charter schools grants	440,000	440,000	500,000
Magnet schools assistance	139,000	139,000	0*
School Safety National Activities	216,000	216,000	0*
Title III - English Language Acquisition	890,000	**890,000**	0
IDEA - Part B	14,213,704	14,213,704	14,891,264**
IDEA Preschool	420,000	420,000	0**
IDEA National Activities	257,560	257,560	0**
IDEA Infants and Families	540,000	540,000	540,000
Perkins CTE	1,439,848	1,439,848	1,439,848
Adult Education	729,167	**729,167**	0
GEAR UP	388,000	388,000	0
Research, dev., and dissemination	245,000	245,000	0
Statistics	121,500	121,500	0
Regional educational laboratories	53,733	53,733	0
National assessment (NAEP)	185,000	185,000	129,900
National Assessment Governing Board	8,299	8,299	7,430
Statewide data systems	28,500	28,500	0
U.S. Department of Education Discretionary Appropriations total	**79,052,000**	**78,762,000**	**66,702,839**

* Funding for this program was consolidated into a new K-12 Simplified Funding Block Grant

** Funding for this program/activity was consolidated into a new Special Education Block Grant

FY 2025 funding amounts listed in **RED** have not yet been made available to states as of July 8, 2025 (includes Title I-C for Migrant Education, Title II-A for Effective Instruction, Title III-A for English Learners, Title IV-A for Student Support, Title IV-B for 21st Century Afterschool, and Adult Education)

RECENT COURT ACTIONS

SUMMARY OF EDUCATION-RELATED DECISIONS
U.S. SUPREME COURT & FEDERAL COURTS

**Council member general counsels were notified via CGCS Communities of the major case developments contained herein.*

U.S. Supreme Court

A. RECENT SUPREME COURT DECISIONS

1. Religious Charter Schools
Oklahoma Statewide Charter School Board v. Drummond

Docket No.	On Appeal From	Argument	Opinion	Vote	Author	Term
24-396 24-394	Oklahoma Supreme Court	Apr. 30, 2025	May 22, 2025	4-4	Per Curiam	Oct. 2024

Vote breakdown: No opinion written and vote breakdown not publicized

Background and Issue: St. Isidore of Seville Virtual Charter School, Inc. (a Church Corporation), applied to the Oklahoma Virtual Charter School Board to establish, St. Isidore of Seville Virtual Charter School (SISVC), which would be the nation's first Catholic public charter school. The application and sponsorship contract permitted the Church Corporation to establish a public school created to fully incorporate Catholic teachings into every aspect of the school, including curriculum and co-curricular activities, to serve the evangelizing mission of the church. The Oklahoma Attorney General challenged the contract approval, and the Oklahoma Supreme Court issued a writ of mandamus ordering the Charter Board to rescind the SISVC contract. The Oklahoma Supreme Court held that the expenditure of state funds for St. Isidore's operations constitutes the use of state funds for the benefit and support of the Catholic church, which violates the Oklahoma Constitution. The Court also found that the contract violated the Establishment Clause of the U.S. Constitution, and SISVC did not have a valid Free Exercise claim because SISVC School is a public rather than private school. On appeal, SISVC sought a U.S. Supreme Court reversal of the Oklahoma Supreme Court ruling, arguing that it is a private actor entitled to protection under the Free Exercise Clause of the U.S. Constitution, not a state actor subject to the state or federal Constitution's prohibition against government-sponsored religion. Justice Amy Coney Barrett recused herself from the case.

*The Council joined onto an amicus brief in support of affirming the ruling of the Oklahoma Supreme Court that a religious charter school violates the U.S. Constitution.

Ruling: The Supreme Court issued a 4-4 per curiam opinion affirming the Oklahoma Supreme Court.

Rationale: The judgment was affirmed by an equally divided Court.

2. **Employment Discrimination: Reverse Discrimination/Sexual Orientation**
Ames. v. Ohio Department of Youth Services

Docket No.	**On Appeal From**	**Argument**	**Opinion**	**Vote**	**Author**	**Term**
23-1039	6th Cir.	Feb. 26, 2025	June 5, 2025	9-0	Jackson	Oct. 2024

Vote breakdown: Jackson delivered the opinion for a unanimous Court. Thomas filed a concurring opinion, in which Gorsuch joined.

Background and Issue: Marlean Ames, a heterosexual woman, worked for the Ohio Department of Youth Services in various roles since 2004. In 2019, the agency interviewed Ames for a new management position but ultimately hired another candidate-a lesbian woman. The agency subsequently demoted Ames from her role as a program administrator and later hired a gay man to fill that role. Ames filed a lawsuit against the agency under Title VII, alleging that she was denied the management promotion and demoted because of her sexual orientation. The U.S. District Court granted summary judgment to the agency, and the U.S. Court of Appeals for the Sixth Circuit affirmed. The courts below analyzed Ames's claims under *McDonnell Douglas Corp. v. Green*, 411 U. S. 792, which sets forth the traditional framework for evaluating disparate treatment claims that rest on circumstantial evidence. At the first step of that framework, the plaintiff must make a prima facie showing that the defendant acted with a discriminatory motive. Like the District Court, the Sixth Circuit held that Ames had failed to meet her prima facie burden because she had not shown background circumstances to support the suspicion that the defendant is that unusual employer who discriminates against the majority. The court reasoned that Ames, as a straight woman, was required to make this showing in addition to the usual ones for establishing a prima facie case. This could be accomplished with evidence that a member of a minority group made the allegedly discriminatory decision, or with evidence demonstrating a pattern of discrimination against members of the majority group, The decision-makers in Ames' case were also straight, and there was no pattern of reverse discrimination beyond her own case. Ames asked the Supreme Court to reverse the Sixth Circuit and hold that she was not required to make a showing of "background circumstances" that the Department was an unusual employer who discriminates against the majority.

Ruling: The Supreme Court vacated and remanded the case to the Sixth Circuit to apply the proper prima facie standard to the plaintiff's claim.

Holding/Rationale: The Supreme Court held that the Sixth Circuit's "background circumstances" rule incorrectly required plaintiffs who are members of a majority group to bear an additional burden at step one of the *McDonnell Douglas* framework in violation of Title VII's disparate-treatment provision. Title VII does not impose such a heightened standard on majority group plaintiffs.

3. **ADA/Section 504 Disability Discrimination**
A.J.T. v. Osseo Area Schools, Independent School District No. 279

Docket No.	**On Appeal From**	**Argument**	**Opinion**	**Vote**	**Author**	**Term**
24-249	8th Cir.	Apr. 28, 2025	June 5, 2025	9-0	Roberts	Oct. 2024

Vote breakdown: Roberts delivered the opinion for a unanimous Court. Thomas filed a concurring opinion in which Kavanaugh joined. Sotomayor filed a concurring opinion in which Jackson joined.

Background and Issue: Petitioner A.J.T. has a rare form of epilepsy that causes daily seizures and impairs her cognitive and physical functioning. She communicates inconsistently using limited signs and cannot independently walk, feed herself, or use the bathroom. She became an Osseo Area School District (District) student as a fourth grader in 2015, when her family moved to Minnesota from Kentucky. As part of the IEP process, the school district considered and adopted many of the accommodations that she had received in Kentucky, including a 12 pm start time as proposed by her parents and treating neurologist. The school district also provided AJT with an extended school day to allow her time to navigate dismissal, which extended her direct specialized instructional time from 12-4:15 PM, equaling 4.25 hours per day. Upon her transition to middle school, where the school day ended at 2:40 p.m., the school district reviewed her current seizure plan and medical needs, and proposed a revised schedule that would end her school day at 3:00 p.m. Her parents rejected the proposal and instead requested the hours of instruction (12-4:15 PM) similar to those provided at her elementary school. The school district refused and litigation ensued, while her IEP services remained in "stay-put" mode. The parents brought an administrative claim pursuant to the Individuals with Disabilities in Education Act (IDEA) challenging the IEP's adequacy, alleging that by providing AJT with 4.25 hours of dedicated educational instruction instead of the 6.5 hours of school time generally available to other students, the school district had deprived her of a free appropriate public education (FAPE). The administrative law judge (ALJ) ordered the school district to increase AJT's total daily instructional hours from 4.25 to 5.75—the same hours she had received in Kentucky—and also ordered 495 hours of compensatory education instruction. The school district appealed the ALJ's order, but the United States District Court for the District of Minnesota affirmed it in favor of the student and her parents. The school district appealed again, but the Eighth Circuit also affirmed the ALJ's order, resulting in an ongoing injunction requiring the school district to extend her instructional day until 6:00 p.m. The parents separately brought a parallel claim for disability discrimination under the ADA and Section 504 of the Rehabilitation Act based on the same factual assertions. They alleged that the school district's violations of the IDEA also violated AJT's rights under the ADA and the Rehabilitation Act. They sought injunctive relief to enforce the ALJ's order permanently and damages to reimburse them for the money spent on disability evaluations, special education, and related services. The District Court rejected the ADA and Section 504 discrimination claims, finding that the plaintiffs failed to show that the District had acted with "bad faith or gross misjudgment." The Court explained that there was no evidence supporting the assertion that the school district "expressed ignorance of [her] discrimination complaints." The District Court further concluded that the school district had "followed

acceptable professional judgement and standards," and that any "[f]ailure to provide extended schooling at home was at most negligent." The school district held multiple IEP meetings, lengthened AJT's school day in response to concerns from her parents, modified her IEP in response to her doctor's educational evaluation, and ensured that she always had at least one and often two aids with her at school. In other words, while the District Court agreed that her IEP was not sufficient under the IDEA, it concluded that the school district's attempts to meet that standard did not evince any discriminatory animus under the ADA or the Rehabilitation Act. The Eighth Circuit affirmed and denied rehearing en banc. The Eighth Circuit stated that a school district's failure to provide a reasonable accommodation was not enough to state a prima facie case of discrimination under *Monahan v. Nebraska*, 687 F. 2d 1164 (8th Cir. 1982), which required a plaintiff to prove conduct by school officials rising to the level of bad faith or gross misjudgment. In *Monahan*, the Eighth Circuit reasoned that to prove discrimination under the Rehabilitation Act in the educational context, a plaintiff must show "something more than a mere failure to provide" a free appropriate public education. The Eighth Circuit explained a heightened showing of bad faith or gross misjudgment was necessary to "harmonize" the Rehabilitation Act and the IDEA and to reflect the proper balance between disabled children's rights, state officials' responsibilities, and courts' competence in technical fields. The parents then sought a Supreme Court reversal of the Eighth Circuit's ruling on the ADA and Section 504 discrimination claims, arguing that the bad faith/gross misjudgment standard was unfairly applied only to disability discrimination cases.

*The Council joined onto an amicus brief in support of affirming the Eighth Circuit's ruling that something more than a FAPE denial is required to prove discrimination under the ADA and Section 504.

Ruling: The Supreme Court vacated and remanded the case to the Eighth Circuit to apply the proper discrimination standard to the plaintiff's claim.

Holding/Rationale: The Supreme Court held that schoolchildren bringing ADA and Rehabilitation Act claims related to their education are not required to make a heightened showing of "bad faith or gross misjudgment" but instead are subject to the same standards that apply in other disability discrimination contexts. The Court found that nothing in the text of the applicable substantive protections or remedial provisions of Title II of the ADA or Section 504 of the Rehabilitation Act suggests that claims based on educational services should be subject to a distinct, more demanding analysis. The Court did not explicitly announce the standard but explained that outside the educational services context most circuits apply a "deliberate indifference" standard requiring only a showing that the defendant disregarded a strong likelihood that the challenged action would violate federally protected rights.

4. Transgender Care for Minors
United States v. Skrmetti

Docket No.	On Appeal From	Argument	Opinion	Vote	Author	Term
23-477	6th Cir.	Dec. 4, 2024	June 18, 2025	6-3	Roberts	Oct. 2024

Vote breakdown: Roberts delivered the opinion of the Court, in which Thomas, Gorsuch, Kavanaugh, and Barrett, and in which Alito, joined as to Parts I and II–B. Thomas, filed a concurring opinion. Barrett filed a concurring opinion, in which Thomas joined. Alito filed an opinion concurring in part and concurring in the judgment. Sotomayor filed a dissenting opinion, in which Jackson joined in full, and in which Kagan joined as to Parts I–IV. Kagan filed a dissenting opinion.

Background and Issue: In 2023, Tennessee joined the growing number of States restricting sex transition treatments for minors by enacting the Prohibition on Medical Procedures Performed on Minors Related to Sexual Identity, Senate Bill 1 (SB1). SB1 prohibits healthcare providers from prescribing, administering, or dispensing puberty blockers or hormones to any minor for the purpose of (1) enabling the minor to identify with, or live as, a purported identity inconsistent with the minor's biological sex, or (2) treating purported discomfort or distress from a discordance between the minor's biological sex and asserted identity. At the same time, SB1 permits a healthcare provider to administer puberty blockers or hormones to treat a minor's congenital defect, precocious puberty, disease, or physical injury. Three transgender minors, their parents, and a doctor challenged SB1 under the Equal Protection Clause of the Fourteenth Amendment. The District Court partially enjoined SB1, finding that transgender individuals constitute a quasi-suspect class, that SB1 discriminates on the basis of sex and transgender status, and that SB1 was unlikely to survive intermediate scrutiny. The Sixth Circuit reversed, holding that the law did not trigger heightened scrutiny and satisfied rational basis review. The Supreme Court granted certiorari to decide whether SB1 violates the Equal Protection Clause.

Ruling: The Supreme Court affirmed the ruling of the Sixth Circuit in favor of the state.

Holding/Rationale: The Supreme Court held that Tennessee's law prohibiting certain medical treatments for transgender minors is not subject to heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment and satisfies rational basis review. On its face, SB1 incorporates two classifications: one based on age (allowing certain medical treatments for adults but not minors) and another based on medical use (permitting puberty blockers and hormones for minors to treat certain conditions but not to treat gender dysphoria, gender identity disorder, or gender incongruence). Classifications based on age or medical use are subject to only rational basis review. States have "wide discretion to pass legislation in areas where there is medical and scientific uncertainty." Tennessee determined that administering puberty blockers or hormones to minors to treat gender dysphoria, gender identity disorder, or gender incongruence carries risks, including irreversible sterility, increased risk of disease and illness, and adverse psychological consequences. The legislature found that minors lack the maturity to fully understand these consequences, that many individuals have expressed regret for undergoing such treatments

as minors, and that the full effects of such treatments may not yet be known. At the same time, the State noted evidence that discordance between sex and gender can be resolved through less invasive approaches.

5. E-Rate Program/Non-Delegation Doctrine
Federal Communications Commission v. Consumers' Research

Docket No.	**On Appeal From**	**Argument**	**Opinion**	**Vote**	**Author**	**Term**
24-354	5th Cir.	Mar. 26, 2025	June 27, 2025	6-3	Kagan	Oct. 2024

Vote breakdown: Kagan delivered the opinion of the Court, in which Roberts, Sotomayor, Kavanaugh, Barrett, and Jackson joined. Kavanaugh and Jackson filed concurring opinions. Gorsuch filed a dissenting opinion, in which Thomas and Alito joined.

Background and Issue: The Telecommunication Act of 1996 directs the FCC to establish interstate telecom services with affordable rates throughout the United States. A set of programs known as The programs are administered by the Universal Service Administrative Company (USAC), a private, not-for-profit corporation subject to FCC oversight and control. The USAC makes projections for carriers' contributions to the USF for the FCC's review and approval and calculates and collects carrier contributions. Carriers may pass the cost of contributions on to customers. Respondents—a nonprofit organization, a carrier, and a group of consumers—asserted that the USF is unlawful because Congress unconstitutionally delegates legislative power to the FCC and the Commission unconstitutionally redelegates power to the USAC. A panel of judges from the U.S. Court of Appeals for the Fifth Circuit upheld the USF program, but the Court then granted a rehearing, and the full en banc panel of judges reversed the 3-judge panel, holding that the "double-layered delegation" was unconstitutional. The FCC sought a U.S. Supreme Court reversal of the Fifth Circuit's ruling and a ruling that the USF violates the nondelegation doctrine.

*The Council joined onto an amicus brief in support of the FCC in its argument to reverse the Fifth Circuit's en banc ruling in hopes of maintaining the Universal Service Fund program for the benefit school districts.

Ruling: The Supreme Court reversed and remanded the case to the Fifth Circuit.

Holding/Rationale: The universal-service contribution scheme does not violate the nondelegation doctrine. When Congress amended the Communications Act in 1996, it provided the FCC with clear guidance on how to promote universal service using carrier contributions. Congress laid out the "general policy" to be achieved, the "principle[s]" and standards the FCC must use in pursuing that policy, and the "boundaries" the FCC may not cross. The FCC, in carrying out Congress's policy, is not prohibited from obtaining the USAC's assistance in projecting revenues and expenses, so that carriers pay the needed amount. For nearly three decades, the work of Congress and the FCC in establishing universal service programs has led to a more fully connected country. And it has done so while leaving fully intact the separation of powers integral to our Constitution.

6. **Curriculum Opt-Outs**
Mahmoud v. Taylor

Docket No.	**On Appeal From**	**Argument**	**Opinion**	**Vote**	**Author**	**Term**
24-297	4th Cir.	Apr. 22, 2025	June 27, 2025	6-3	Alito	Oct. 2024

Vote breakdown: Alito delivered the opinion of the Court, in which Roberts, Thomas, Gorsuch, Kavanaugh, and Barrett joined. Thomas filed a concurring opinion. Sotomayor filed a dissenting opinion, in which Kagan and Jackson joined.

Background and Issue: Respondent Montgomery County Public Schools (MCPS) in Maryland incorporated new books into the curriculum to include characters, families, and historical figures from a range of cultural, racial, ethnic, and religious backgrounds. At the start of the 2022-2023 school year, MCPS approved a handful of storybooks featuring lesbian, gay, bisexual, transgender, or queer characters for use in the language-arts curriculum. The storybooks were approved for instructional use pursuant to MCPS's written policy for selecting new instructional materials. Petitioners were three sets of parents who asked MCPS to notify them, excuse their children from class, and arrange alternate lessons whenever the storybooks are read. After MCPS announced in March 2023 that it would not permit any further opt-outs of language-arts instruction involving the storybooks, for any reason, the parents sued and moved for a preliminary injunction requiring notice and opt outs, arguing that their children's exposure to the storybooks was a burden on their right to freely exercise their religion. The District Court denied the motion. The Fourth Circuit affirmed the District Court, explaining that a claim for burden on religious exercise requires coercion, direct or indirect, to believe or act contrary to one's religious views, and there was no evidence that MCPS pressured their children to affirm or disavow particular views, compelled their children to act in violation of their religious beliefs, influenced what parents could teach their own children, or denied access to public benefits. The parents asked the Supreme Court to reverse the Fourth Circuit's ruling and hold that the school district's policy of no opt-out violated their substantive due process rights to direct the upbringing of their children and their right to free exercise of their religion.

*The Council joined onto an amicus brief in support of neither party but emphasizing the burden a constitutional opt-out would place on school districts.

Ruling: The Supreme Court reversed and remanded to the Fourth Circuit to enter a preliminary injunction.

Holding/Rationale: The Supreme Court held that the parents are entitled to a preliminary injunction requiring notice and an opt-out of the LGBTQ storybook instruction during the remainder of the litigation. Referencing *Wisconsin v. Yoder*, a 1972 case that ruled for Amish parents challenging a Wisconsin law that required children to attend school until the age of 16, the Court concluded that the school board's use of the storybooks—along with its decision to withhold notice to parents and to forbid opt outs—substantially interferes with the religious development of their children and imposes a burden on religious exercise. The Court found that the school board's argument was weakened by the opt-outs that it allows in

other scenarios, such as sex education: "This robust 'system of exceptions' … undermines the Board's contention that the provision of opt outs to religious parents would be infeasible or unworkable."

7. Nationwide Injunctions (Birthright Citizenship)
Trump v. Casa

Docket No.	On Appeal From	Argument	Opinion	Vote	Author	Term
24A884, 24A885, 24A886	4th Cir.	Apr. 22, 2025	June 27, 2025	6-3	Barrett	Oct. 2024

Vote breakdown: Barrett, Roberts, Thomas, Alito, Gorsuch, and Kavanaugh. Thomas filed a concurring opinion, in which Gorsuch joined. Alito filed a concurring opinion, in which Thomas joined. Kavanaugh filed a concurring opinion. Sotomayor filed a dissenting opinion, in which Kagan and Jackson. Jackson filed a dissenting opinion.

Background and Issue: Individuals, organizations, and States filed three separate suits to enjoin the implementation and enforcement of President Trump's Executive Order No. 14160, *Protecting the Meaning and Value of American Citizenship*, 90 Fed. Reg. 8449. The Executive Order identifies circumstances in which a person born in the United States is not "subject to the jurisdiction thereof" and is thus not recognized as an American citizen. The plaintiffs allege that the Executive Order violates the Fourteenth Amendment's Citizenship Clause, §1, and §201 of the Nationality Act of 1940. In each case, the District Court entered a "universal injunction"—an injunction barring executive officials from applying the Executive Order to anyone, not just the plaintiffs. And in each case, the Court of Appeals denied the Government's request to stay the sweeping relief. The Government argues that the District Courts lacked equitable authority to impose universal relief and has filed three nearly identical emergency applications seeking partial stays to limit the preliminary injunctions to the plaintiffs in each case. The applications did not raise—and thus the Court did not address—the question whether the Executive Order violates the Citizenship Clause or Nationality Act. Instead, the issue the Court decided was whether, under the Judiciary Act of 1789, federal courts have equitable authority to issue universal injunctions.

Ruling: The Supreme Court granted the Government's applications for a partial stay of the injunctions entered below, but only to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue.

Holding/Rationale: The Supreme Court held that universal injunctions likely exceed the equitable authority that Congress has given to federal courts. The Government is likely to succeed on the merits of its claim that the District Courts lacked authority to issue universal injunctions. The issuance of a universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power. The Judiciary Act of 1789 endowed federal courts with jurisdiction over "all suits . . . in equity," §11, 1 Stat. 78, and still today, this statute "is what authorizes the federal courts to issue equitable remedies." This Court has held that the statutory grant encompasses only those sorts of equitable remedies "traditionally accorded by courts of equity" at our country's inception. Universal injunctions were conspicuously nonexistent for most of the Nation's history. Their

absence from 18th and 19th century equity practice settles the question of judicial authority. Because the universal injunction lacks a historical pedigree, it falls outside the bounds of a federal court's equitable authority under the Judiciary Act.
In dissent, Sotomayor gave a preview of the merits of the Government's case. She cited *Dred Scott v. Sandford*, holding that the children of enslaved black Americans were not citizens. To remedy that grievous error, she explained, Congress passed in 1866 and the States ratified in 1868 the Fourteenth Amendment's Citizenship Clause, which enshrined birthright citizenship in the Constitution. Here, the Government did not ask for complete stays of the injunctions, as it ordinarily would, because to get such relief, the Government would have to show that the Executive Order is likely constitutional, which she believes it cannot do. The Government asked the Court to hold that, no matter how illegal a law or policy, courts can never simply tell the Executive to stop enforcing it against anyone. Instead, the Government says, it should be able to apply the Citizenship Order (whose legality it does not defend) to everyone except the plaintiffs who filed this lawsuit.

Status: The plaintiffs filed a motion for class certification in the District Court on June 27, 2025.

B. RECENT SUPREME COURT DECISIONS DENYING CERTIORARI

1. K-12 Education: Dress Code and Material Disruption
L.M. v. Town of Middleborough

Docket No.	**On Appeal From**	**Lower Court**	**Cert. denied**
23-1535 23-1645	1st Cir.	Dist. Mass.	May 27, 2025

Background: The First Circuit Court of Appeals upheld a Massachusetts school district's dress code provision that prohibited a middle school student from wearing two versions of a shirt that read, "There Are Only Two Genders." According to the school policy: "Clothing must not state, imply, or depict hate speech or imagery that target[s] groups based on race, ethnicity, gender, sexual orientation, gender identity, religious affiliation, or any other classification," and "Any other apparel that the administration determines to be unacceptable to our community standards will not be allowed." The complaint alleged that the dress code provision violated the student's rights under the First and Fourteenth Amendments, and that its prohibitions on hate speech that targets groups and on clothing unacceptable to community standards were facially unconstitutional because they were impermissible prior restraints, void for vagueness, and overbroad. The school district countered that the shirt would make LGBTQ+ students feel unsafe and excluded in the educational environment, thereby making it inconsistent with the school's basic educational mission of inclusivity and creating a safe welcoming environment for all students to learn. The Court instructed that *Tinker v. Des Moines'* material disruption limitation can be applied to passive, silent speech, so long as two conditions are met: (1) that the speech can be reasonably interpreted to demean someone's personal identity, and (2) that the message could be reasonably assumed to have a serious negative psychological impact on students with the demeaned characteristic, thereby causing substantial disruption of their learning. School administrators need to maintain security and order, warranting a certain degree of

flexibility in school disciplinary procedures. The First Circuit affirmed in favor of the school district. The school district's interpretation of the message on the student's t-shirt met the conditions of *Tinker's* material disruption limitation on student speech, and the school district properly applied the dress code prohibition to the student plaintiff.

Issue: The student asked the Supreme Court to reverse and rule that his constitutional rights were violated by the school's dress code policy.

Status: The student's petition for certiorari was denied by the Supreme Court. The First Circuit's ruling in support of the school district stands.

2. **Employment and Religious Accommodations**
Harvey v. Bayhealth Medical Center, 715 F.Supp.3d 594 (Dist. Del. Feb. 5, 2024)

Docket No.	**On Appeal From**	**Lower Court**	**Cert. Denied**
24-996	3rd Cir.	Dist. Del.	June 30, 2025

Background: On August 12, 2021, Delaware Governor John Carney ordered all Delaware state healthcare employees to either become vaccinated or submit to regular testing for the COVID-19 virus by September 30, 2021. In November 2021, the CMS issued a COVID-19 vaccine mandate requiring certain healthcare facilities to ensure their covered staff were vaccinated against COVID-19, but it also allowed for medical and religious exemptions. In response to the mandate, Bayhealth required employees wishing to decline the vaccine on religious grounds to submit an exemption form. Exempted employees would be required to comply with alternative health and safety protocols. Each petitioner submitted the required exemption request form explaining their individual religious beliefs and their reasons for refusing the vaccine. Each cited a scriptural basis for their refusal, mostly related to sincerely believing their body is a temple of the Holy Spirit, and they must be careful to monitor what they introduce into their body. The employment of each employee was terminated for failure to be vaccinated. Bayhealth argued that the beliefs upon which the petitioners based their objections to the vaccine were secular beliefs based on each petitioner's personal moral code as opposed to religious beliefs that formed a part of their Christian faith. The District Court dismissed the petitioners' claims, and the Third Circuit affirmed the dismissal, finding the requests to be akin to a "blanket privilege" to make their own standards on matters of conduct in which society as a whole has important interests.

Issue: The petitioners asked the Supreme Court to reverse and rule that the requests did not amount to a "blank privilege" but were sincerely held individual religious beliefs, and that lower courts should not be permitted to make a factual determination about whether a professed religious belief supported by citations to religious materials is a personal or medical belief as opposed to an avowed religious belief.

Status: The employees' petition for certiorari was denied by the Supreme Court. The Third Circuit's ruling in support of healthcare company stands.

C. RECENT SUPREME COURT CASES GRANTING CERTIORARI

1. Transgender Students in Sports

a. *Bradley Little, Governor of Idaho v. Lindsay Hecox and Jane Doe*

Docket No.	**On Appeal From**	**Ruling**	**Cert. Granted**
34-38	9th Cir.	Preliminary injunction against Idaho law upheld	July 3, 2025

Background: In March 2020, Idaho enacted the Fairness in Women's Sports Act, a first-of-its-kind categorical ban on the participation of transgender women and girls in women's student athletics. The Act bars all transgender girls and women from participating in, or trying out for, public school female sports teams at every age, from primary school through college, and at every level of competition, from intramural to elite teams. The Act also provides a sex dispute verification process whereby any individual can "dispute" the sex of any student athlete participating in female athletics in the State of Idaho and require her to undergo intrusive medical procedures to verify her sex, including gynecological exams. Student athletes who participate in male sports are not subject to a similar dispute process. The Act is one of 25 such state laws around the country. The Ninth Circuit decided the narrow question of whether the District Court, on the record before it, abused its discretion in finding that plaintiff Lindsay was likely to succeed on the merits of her claim that the Equal Protection Clause prohibits Idaho from drawing a sex-based distinction. The Ninth Circuit upheld the District Court's order granting preliminary injunctive relief as applied to Lindsay and vacated the injunction as applied to non-parties.

Issue: The Idaho attorney general and the Alliance Defending Freedom, on behalf of the petitioners, are seeking an interlocutory ruling from the Supreme Court that laws that seek to protect women's and girls' sports by limiting participation to women and girls based on sex do not violate the Equal Protection Clause of the Fourteenth Amendment. They requested that the Supreme Court also grant the concurrently filed petition in *State of West Virginia v. B.P.J.* and hear arguments in the two cases the same day.

b. *State of West Virginia v. B.P.J.*

Docket No.	**On Appeal From**	**Ruling**	**Cert. Granted**
24-43	4th Cir.	Preliminary injunction in favor of the student pending appeal	July 3, 2025

Background: West Virginia passed a law in 2021 categorically banning girls who are transgender from participating on all girls' sports teams from middle school through college. A parent sued on behalf of her child, B.P.J. The District Court entered summary judgment for the State on claims under the Equal Protection Clause and Title IX. A divided Fourth Circuit panel reversed and granted an injunction pending appeal. The Fourth Circuit addressed the "as applied" challenge on whether West Virginia's categorical ban could be applied to prevent a 13-yearold transgender girl who takes puberty blocking medication and has publicly identified as a girl since the third grade from participating in her school's cross

country and track teams. The Fourth Circuit held that H.B. 3293 discriminated against B.P.J. on the basis of sex in violation of Title IX, explaining that adverse treatment on the basis of transgender status is necessarily adverse treatment based on sex. With respect to B.P.J.'s as-applied equal protection claim, the Fourth Circuit held that the District Court granted summary judgment prematurely before resolving the parties' pending expert evidence challenges. The court held that B.P.J. brought a cognizable as-applied challenge, rejecting Petitioners' assertion that "B.P.J. can only win by making the same showing needed to demonstrate the Act is facially invalid." It explained that "[b]ecause B.P.J. has never felt the 12 effects of increased levels of circulating testosterone," the physiological differences that manifest during endogenous puberty "provide[] no justification—much less a substantial one—for excluding B.P.J. from the girls['] cross country and track teams." And it further explained that there remained a disputed question of fact with respect to whether any meaningful athletic advantages exist for transgender girls "without undergoing [endogenous] puberty." It thus vacated the grant of summary judgment regarding equal protection.

Issue: The West Virginia attorney general, on behalf of the State, is seeking a Supreme Court ruling that Title IX and the Equal Protection Clause do not prevent a state from offering separate boys' and girls' sports teams based on biological sex determined at birth.

SUPREME COURT PETITIONS PENDING

1. **Government Speech and Religion**
   Cambridge Christian School, Inc. v. Florida High School Athletic Association, Inc., 22-11222 (11th Cir. Sept. 3, 2024).

Docket No.	**On Appeal From**	**Lower Court**	**Ruling**
24-1261	11th Cir.	M.D. FL	Affirmed in favor of FHSAA

Background: Cambridge Christian serves students in pre-kindergarten through twelfth grades. Religion is central to the school's mission. Communal prayer is a regular feature of athletics at Cambridge Christian. Coaches lead prayer at practices, and all home sporting events open with public prayer using the loudspeaker. It is Cambridge Christian's practice to offer a prayer over the PA system before all home football games, even when the opponent is a secular school. For away games Cambridge Christian "defer[s] to the tradition of the home team," and when those games are against non-Christian schools, Cambridge Christian does not use the PA system when praying. But most of Cambridge Christian's opponents are other private Christian schools, all of which also use a PA system for prayer before their home games. The Florida High School Athletic Association is one of the governing bodies for high school athletics in Florida. Cambridge Christian has been a member of the FHSAA since 1989. On Friday December 4, 2015, Cambridge Christian played against University Christian in the 2015 Class 2A state championship game at the Citrus Bowl in Orlando. Following protocol for championship games at the Citrus Bowl, the Central Florida Sports Commission selected and hired the PA announcer for that game. As it did for all playoff games, the FHSAA also prepared the PA script. And like all other playoff PA scripts, the 2015 finals script included paid sponsor messages. There was no evidence that anyone other than the PA announcer made announcements over the PA system before

or during that game. During a conference call that took place three days before the December 4, 2015 state championship game, a University Christian representative had asked the FHSAA for permission to say a pregame prayer over the stadium loudspeaker, as it had (apparently) been allowed to do at the 2012 championship game (but at no other time has a school been permitted to do so). Cambridge Christian's athletic director was on the call and supported the request. The FHSAA responded that neither school would be allowed to use the PA system to broadcast a pregame prayer. The Eleventh Circuit Court affirmed the grant of summary judgment to the FHSAA on both the free speech and free exercise claims.

Issue: The school is seeking a reversal by the Supreme Court, framing the issue as whether the government has a special veto for a private party's religious speech on any government owned platform.

Status: The school filed a petition for cert on June 6, 2025. Responses are due July 10, 2025.

2. **Employment and Religious Accommodations**
John Does 1-2 v. Hochul, 22-2858 (2nd Cir. Dec. 6, 2022)

Docket No.	**On Appeal From**	**Lower Court**	**Ruling**
24-1015	2nd Cir.	E.D. NY	Dismissal affirmed

Background and Issue: Plaintiffs were five employees in the New York health care industry who filed an action challenging the lawfulness of a New York State regulation that required most healthcare workers to be fully vaccinated against COVID-19. The plaintiffs objected to taking the vaccine on religious grounds and argued that requiring them to comply violated their rights. Three of the plaintiffs received religious exemptions that were later reversed when the pandemic became more severe. The plaintiffs alleged that they have sincerely held religious beliefs that "all life is sacred, from the moment of conception to natural death, and that abortion is a grave sin against God and the murder of an innocent life." The plaintiffs claim the COVID19 vaccines were developed and produced from, tested with, researched on, or otherwise connected with the aborted fetal cell lines. They claim that the absence of a religious exemption forces them to choose between maintaining the ability to feed their families and the free exercise of their sincerely held religious beliefs. The plaintiffs sought a blanket exemption from the requirement; they did not seek accommodations, such as assignments that would not include direct contact with vulnerable patients and residents. The District Court dismissed the claims, determining the New York regulation to be a neutral law of general applicability that is subject to rational basis review. The District Court dismissed the action because the plaintiffs did not allege any facts demonstrating the State was motivated by anything other than protecting the public from exposure to a highly contagious and potentially fatal infection. The plaintiffs are asking the U.S. Supreme Court to reverse and hold that a reasonable accommodation for religious beliefs may not serve as an undue hardship for an employer.

Status: The employees filed a petition for certiorari on March 20, 2025. Time to file responses has been extended to July 21, 2025.

Recent Federal Circuit Court Decisions

1. **<u>K-12 Education: Gender Support Plans</u>**
   Littlejohn v. School Board of Leon County, Florida, 132 F.4th 1232 (11th Cir. Mar. 12, 2025)

Docket No.	Circuit	Lower Court	Ruling
24-1261	11th	N.D. FL	Affirmed in favor of the school

Background and Issue: The Littlejohns' child was thirteen years old and attended Deerlake Middle School in Tallahassee, Florida. The Littlejohns' child was assigned female at birth, but before the 2020-21 school year, asked to go by they/them pronouns and a "male" name, J. The Littlejohns did not allow their child to use a different name or pronouns, though they permitted the child to use "J." as a "nickname" at school. Mrs. Littlejohn informed the child's teacher that a private therapist that the Littlejohns hired was seeing the child, and she asked the teacher not to use a different name or pronouns for the child. But the child told the school counselor that the child wanted to use the name J. and they/them pronouns. The school board maintains an LGBTQ+ Support Guide ("Guide"). Among other resources, the 2018 Guide contained a Question-and-Answer portion, which discussed parental-notification procedures. After the Littlejohns' child expressed a desire to socially transition at school, a counselor and other school staff met with the child to develop a Student Support Plan. Because the child did not affirmatively request parental presence at that meeting, in accord with the Guide, school officials did not notify the Littlejohns. And the Student Support Plan stated that the Littlejohns were "aware, but not supportive" of their child's desire to use a preferred name and pronouns. When the Littlejohns learned about their child's Student Support Plan meeting and social transition at school, they contacted school and district administrators and were told that they were not invited to their child's Student Support Plan meeting because, "by law," the child had to request parental attendance. The counselor stated that the child was "protected" under a non-discrimination law that did not require parental notification. They were told by an administrator, "We currently do not have any Florida specific law that obligates us to inform the parents or says we cannot listen to the student without their parent present." The Littlejohns filed a Section 1983 action against school board and school officials alleging that school officials violated their right to direct upbringing of and medical and mental health decision-making for their child, their right to familial privacy, and their substantive due process rights when they met with student outside of their presence to discuss support plan for student's gender confusion and desire to use self-identified name and pronouns at school. The District Court dismissed the claims.

Ruling: The Eleventh Circuit affirmed the dismissal.

Holding/Rationale: The Littlejohns did not allege executive conduct that "shocks the conscience," which is the standard for alleging violations of substantive due process.

Status: A petition for rehearing en banc is pending with the Eleventh Circuit.

Recent Lawsuits in Federal District Courts

1. **K-12 Education: Title VI Discrimination**
   Californians for Equal Rights Foundation v. Misty Her

Docket No.	District Court	Filed	Judge
1:25-cv-00250	E.D. CA	Feb. 27, 2025	Barbara A. McAuliffe

Causes of Action: Plaintiff, the Californians for Equal Rights (CFER) states in its complaint that it is a nonprofit organization dedicated to ensuring that government entities comply with constitutional and statutory prohibitions against race-based discrimination. The plaintiff alleges a substantial majority of Fresno Unified students—over two-thirds—are identified as Hispanic (over 48,000 students in 2022–23). Students identified as African American comprise roughly 5,100 of the District's enrollment, and students identified White and non-Hispanic number slightly over 5,300. Other sizeable populations include Asian students (around 7,400) and smaller groups of American Indian, Filipino, and Pacific Islander students. Socioeconomic disadvantage is prevalent, affecting more than 60,000 students. About one in five students qualify as English Learners. The plaintiff further alleges that the Fresno Unified School District's "Office of African American Academic Acceleration" (A4 Office) was created to address the lower performance of Black students in the district, and that the A4 Office sponsors over a dozen programs which are designed, marketed, and promoted as available only to Black students. The plaintiff alleges that this program constitutes race-based discrimination under the Equal Protection Clause of the U.S. Constitution and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, as well as the California Constitution. The plaintiff seeks a permanent injunction prohibiting the school district from using race in any manner in operating, funding, advertising, or admitting students into the A4 Office programs, and requiring notice and equal outreach to all eligible students regardless of race.

Status: A motion to dismiss is pending.

2. **Higher Education: Title VI Discrimination**
   Zhong v. The Regents of University of CA

Docket No.	District Court	Filed	Judge
2:25-cv-00495	E.D. CA	Feb. 11, 2025	Daniel J. Calabretta

Causes of Action: Plaintiffs Stanley Zhong, Nan Zhong, and Students Who Oppose Racial Discrimination ("SWORD"), brought a civil rights action against the University of California ("UC") and UC officials alleging that they engage in racially discriminatory admissions practices that disadvantage highly qualified Asian American applicants, including Stanley

and members of SWORD. (SWORD was subsequently voluntarily dismissed from the lawsuit because they could not obtain legal counsel). The plaintiffs allege that, despite Stanley's exceptional academic achievements and remarkable professional accomplishments at a young age, his applications to undergraduate programs at five University of California campuses were either rejected or waitlisted, and that UC's admissions practices violate the Fourteenth Amendment to the United States Constitution, Title VI of the Civil Rights Act of 1964, and the California Constitution's prohibition on racial discrimination in public education. The plaintiffs also assert claims against the U.S. Department of Education ("ED") challenging the use of numeric racial targets in its federal grant programs, which they allege violates the Fifth Amendment and incentivizes violations of the Fourteenth Amendment and Title VI of the Civil Rights Act of 1964. Plaintiffs further assert claims against ED for its failure to properly investigate and address UC's racially discriminatory practices, in violation of the Administrative Procedure Act (APA).

Status: As of July 1, 2025, an amended complaint is required within 30 days. The UC and ED defendants have 30 days to answer the amended complaint once filed.

3. Trump Administration Actions

a. *State of New York v. Trump* - **Federal Funding Freeze**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00039	Dist. RI	TRO Jan. 31, 2025 PI March 6, 2025	Chief Judge John J. McConnell, Jr.

Causes of Action: On January 27, 2025, Matthew J. Vaeth, Acting Director of the federal Office of Management and Budget (OMB), issued a memorandum directing federal agencies to complete a comprehensive analysis of all of their federal financial assistance programs to identify programs, projects, and activities that may be implicated by any of the President's executive orders. The memorandum stated that in the interim, to the extent permissible under applicable law, federal agencies must temporarily pause all activities related to the obligation or disbursement of all federal financial assistance, and other relevant agency activities that may be implicated by the executive orders, including, but not limited to, financial assistance for foreign aid, nongovernmental organizations, DEI, woke gender ideology, and the green new deal. Additionally, the memorandum directed that each agency must pause: (i) issuance of new awards; (ii) disbursement of Federal funds under all open awards; and (iii) other relevant agency actions that may be implicated by the executive orders, to the extent permissible by law. The memorandum stated that the temporary pause would become effective on January 28th at 5:00 PM. Twenty-two (22) attorneys general from Massachusetts, Michigan, Illinois, Arizona, California, Connecticut, Colorado, Delaware, Hawaii, Maine, Maryland, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, and Wisconsin—and the District of Columbia filed suit seeking a temporary restraining order (TRO) to halt implementation of the OMB memorandum.

OMB issued a new memorandum that purported to rescind the original one. Shortly after the new memorandum was issued, White House Press Secretary Karoline Leavitt announced from her official social media account that the new memorandum was "NOT a rescission of the federal funding freeze, but simply a rescission of [OMB memorandum M-25-13]." The District Court issued a TRO on January 31st. The restraining order prohibited the defendants (President Trump, OMB, and eleven federal agencies) from pausing, freezing, impeding, blocking, canceling, or terminating their compliance with awards and obligations to provide federal financial assistance to the plaintiff States. The order also prohibited the defendants from reissuing, adopting, implementing, or otherwise giving effect to the [OMB memorandum M-25-13] under any other name or title, . . . such as the continued implementation identified by the White House Press Secretary's statement of January 29th. On February 7th, the States filed an emergency motion to enforce the TRO, citing evidence that they continued to be denied access to federal funds. On February 10th, the court granted the States' motion and ordered the defendants to immediately restore frozen funding, end any federal funding pause, and take every step necessary to effectuate the TRO during its pendency. The defendants filed an emergency motion to resume withholding FEMA funding on the basis that "FEMA seeks to withhold Shelter and Services Program (SSP) funding based on concerns regarding the program." The declaration by a senior official in support of the motion states that "a substantial portion of Shelter and Services Program money goes to funding alien housing at the Roosevelt Hotel in New York City. According to media reports, the vicious Venezuelan gang Tren De Aragua has taken over the hotel and is using it as a recruiting center and base of operations to plan a variety of crimes." The motion was denied. On March 6th, the District Court entered a preliminary injunction in favor of the Plaintiff States and the District of Columbia. The States filed a motion to enforce the preliminary injunction, which was subsequently granted. The Trump administration's application for a stay was denied by the First Circuit on March 27, 2025. The defendants' emergency motion for reconsideration was denied on April 14, 2025. On April 24, 2025, the defendants filed a required notice of compliance regarding $2.2 billion dollars in FEMA payments to the Plaintiff States. The defendants' appeal of the denial of the motion for reconsiderations was dismissed by the First Circuit on May 12, 2025 for failure to pay the filing fee.

Ruling: Plaintiffs' motion for **preliminary injunction was granted**.

Status: One of the defendants' attorneys, Special Counsel for the Justice Department, withdrew as counsel stating that his last day of employment was June 6, 2025.

b. *Commonwealth of Massachusetts v. National Institutes of Health* – **Change to Grant Indirect Costs**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-10338 25-cv-10340 25-cv-10346	Dist. MA	TRO Feb. 10, 2025 PI Mar. 5, 2025	Angel Kelly

Causes of Action: The National Institutes of Health ("NIH") issued a Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates (NOT-OD-25-068) ("Rate Change Notice") on Friday night, February 7, 2025, slashing and capping previously negotiated indirect cost rates on all existing and future grant awards for biomedical research, with an effective date of February 10th. The notice impacts thousands of existing grants, totaling billions of dollars across all 50 states—a unilateral change over a weekend, without regard for on-going research and clinical trials. Twenty-two (22) attorneys general filed suit on behalf of their states, Massachusetts, Michigan, Illinois, Arizona, California, Connecticut, Colorado, Delaware, Hawaii, Maine, Maryland, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, and Wisconsin ("Plaintiff States"). In the related case (25-cv-0340), five (5) medical associations, including the Association of American Medical Colleges, the American Association of Colleges of Pharmacy, the Association for Schools and Programs of Public Health, the Conference of Boston Teaching Hospitals, Inc., and the Greater New York Hospital Association ("AAMC") also filed suit. In another related case (25-cv-10346), seventeen (17) associations and universities, including the Association of American Universities, the American Council on Education, the Association of Public and Land-grant Universities, Brandeis University, Brown University, the Regents of the University of California, Carnegie Mellon University, The University of Chicago, Cornell University, The George Washington University, John Hopkins University, Massachusetts Institute of Technology, the Trustees of the University of Pennsylvania, University of Rochester, the Trustees of Tufts College, and the California Institute of Technology ("AAU") filed a similar complaint and all three cases were consolidated. The Defendants in each action are the National Institutes of Health and the Department of Health and Human Services ("HHS"). The Rate Change Notice is a legislative rule and no exception is applicable; NIH was required to submit the Rate Change Notice to notice-and-comment rulemaking. Failure to comply with these requirements renders the rule procedurally invalid. The imminent risk of halting life-saving clinical trials, disrupting the development of innovative medical research and treatment, and shuttering of research facilities, without regard for current patient care, warranted the issuance of a ***nationwide temporary restraining order*** to maintain the status quo, until the matter could be fully addressed before the Court. The District Court first entered a temporary restraining order (TRO) on February 10th and then converted the TRO to a preliminary injunction on March 5th.

Ruling: Plaintiffs' motion for **preliminary injunction was granted** and **converted to a permanent injunction** on April 4, 2025. The defendants filed an appeal on April 8, 2025.

c. *National Association of Diversity Officers in Higher Education ("NADOHE") v. Trump* – **Termination of DEI-related Grants**

Docket No.	**District Court**	**Order**	**Judge**
1:25-CV-00333	Dist. MD	PI Feb. 21, 2025 4th Cir. Stay Mar. 14, 2025	Adam Abelson

Causes of Action: The District Court considered a challenge to Trump Executive Orders from January 20 and January 21, 2025. One provision called for government agencies to

"terminate. . . equity-related' grants or contracts." The NADOHE Plaintiffs were federal grant recipients whose grants remained active, but who feared termination pursuant to the January 20th order. They claimed that the fear of losing their funding chilled their freedom of speech, as they were afraid that engaging with DEI values would cause them to lose their funding. They also claimed the January 20th order was vague because it "failed to define any material terms, including 'DEI,' 'illegal DEI,' 'DEI programs or principles,' or 'illegal discrimination or preferences.'" The plaintiffs filed a motion for a temporary restraining order or preliminary injunction about ten days after filing the complaint. The Court found that the terminations were unconstitutionally vague and interfered with the plaintiffs' right of free speech or of association.

Ruling: The plaintiffs' motion for **preliminary injunction was granted**. The defendants are enjoined from pausing, freezing, impeding, blocking, canceling, or terminating any awards, contracts, or current obligations or changing the terms of any current obligation on the basis of the Executive Orders, or from requiring any grantee or contractor to make any "certification" or other representation pursuant to the Executive Orders.

Status*:* On March 14, 2025, the **Fourth Circuit Court of Appeals blocked the injunction** by issuing a stay pending appeal (No. 25-1189), on the basis that the government met its burden that it was entitled to a stay. A motion to vacate the injunction and for amended complaint was denied on April 25, 2025. On appeal, the DOJ filed a notice of supplemental authority citing *Trump v. Casa* and arguing that the District Court's injunction was in error because it extends to non-parties.

d. *National Council of Nonprofits v. Office of Management and Budget* – **Federal Funding Freeze**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00239	Dist. D.C.	PI Feb. 25, 2025	Loren L. AliKhan

Causes of Action: See background facts set forth above in 1. *State of New York v. Trump.* In this similar case, the plaintiffs alleged that OMB's action violated the Administrative Procedure Act ("APA"), 5 U.S.C. § 701. They also alleged that Defendants' action was arbitrary and capricious, violated the First Amendment of the U.S. Constitution, and exceeded OMB's statutory authority. On February 3rd, the Court granted the plaintiffs' motion for a temporary restraining order (TRO) and on February 25, a preliminary injunction enjoining the defendants from implementing, giving effect to, or reinstating under a different name the unilateral, non-individualized directives in OMB Memorandum M-25-13 with respect to the disbursement of Federal funds under all open awards. Specifically, the court found that Plaintiffs had demonstrated that they were likely to succeed on their arbitrary and capricious claim because the defendants offered no rational explanation for why they needed to freeze all federal financial assistance with less than twenty-four-hours' notice to "safeguard valuable taxpayer resources." Defendants also ignored significant reliance interests. When an agency suddenly changes course, it must recognize that longstanding policies may have engendered serious reliance interests that must be considered. The Court further determined that Plaintiffs had produced evidence that they would suffer irreparable injury in the absence of emergency relief because "the funding freeze

threaten[ed] the lifeline that keeps countless organizations operational." The order prohibited implementing a freeze on the disbursement of Federal funds under all open awards. Within days of the TRO, payments began to resume.

The Court noted that the defendants attempted to freeze as much as $3 trillion dollars—the sum total of all activities related to the obligation or disbursement of all Federal financial assistance. The Court found that the scope of power OMB sought to claim was "breathtaking," and its ramifications are massive.

The plaintiffs' First Amendment claim alleged that the OMB's Pause Memorandum made several policy statements targeting concepts like "Marxist equity," "transgenderism," and "woke gender ideology." The Court determined that expressing viewpoints on these issues (or being associated with them at all) does not appear to be tied to the contours of the funding programs themselves. By appearing to target specific recipients because they associate with certain ideas, the defendants may be crossing a constitutional line. In a status report filed by the defendants on February 28, 2025, the defendants informed the Court that they did not believe its order granting a preliminary injunction pertained to a February 26, 2025 Executive Order titled *Implementing the President's "Department of Government Efficiency" Cost Efficiency Initiative*. The plaintiffs sought clarification and the judge summarily denied their motion.

Ruling: Plaintiffs' motion for **preliminary injunction was granted**.

Status: The case is stayed pending the OMB's appeal of the preliminary injunction to the D.C. Circuit.

e. *California v. Carter* – **Teacher Quality Grant Cancellations**

Docket No.	**District Court**	**Order**	**Judge**
25-10548	Dist. MA	TRO Mar. 10, 2025 SCOTUS Stay Apr. 4, 2025	Myong J. Joun

Causes of Action: Starting on February 7, 2025, the U.S. Department of Education arbitrarily terminated approximately $65 million in grants previously awarded under the Teacher Quality Partnership Program ("TQP") and the Supporting Effective Educator Development Program ("SEED") because the Department seeks to ensure that the Department's grants "do not support programs or organizations that promote or take part in diversity, equity, and inclusion ("DEI") initiatives or any other initiatives that unlawfully discriminate on the basis of race, color, religion, sex, national origin, or another protected characteristic." (See also case below). The States of California, Massachusetts, New Jersey, Colorado, Illinois, Maryland, New York, and Wisconsin filed a complaint in the U.S. District Court for the District of Maryland. On March 10th, the Court granted a temporary restraining order requiring the Department to restore the teacher preparation program grants that were terminated and prohibiting the Department from implementing, giving effect to, maintaining, or reinstating under a different name the termination of any previously

awarded TQP or SEED grants for recipients in the Plaintiff States. The Court found that the Department's action in terminating the grants was arbitrary and capricious. There was no individualized analysis of any of the terminated grant programs and the Department failed to provide any reasoning, rationale, or justification for the termination of the grants. In granting the TRO, the District Court held that the plaintiffs are likely to succeed on the merit, the plaintiffs established irreparable harm, and that the issuance of the TRO was in the public interest. The Court adopted the reasoning in *Massachusetts v. Nat'l Institutes of Health*.

Status: The U.S. **Supreme Court granted a stay of the TRO** on April 4, 2025. On April 4, 2025 in a 5-4 decision, the Supreme Court construed the Court's March 10 temporary restraining order "as an appealable preliminary injunction" and stayed the order pending disposition of the pending appeal. The majority's brief per curiam opinion concluded that "the Government is likely to succeed in showing the District Court lacked jurisdiction" under the particular circumstances of this case. The majority said the states backing the suit have the funds to continue the teacher-training programs while the states fight in court to recover the federal funding. The majority determined that "any ensuing irreparable harm would be of their own making" if they choose not to fund the programs themselves. The majority also suggested the states filed suit in the wrong court, because disputes about federal contracts are ordinarily heard by the Court of Federal Claims. Consequently, the Plaintiff States withdrew their pending motion for a preliminary injunction. On June 30, 3025, the Department of Education filed a Motion to Dismiss for Lack of Jurisdiction or, in the Alternative, to Transfer to the Court of Federal Claims.

f. *American Assn. of Colleges for Teacher Education v. Carter* – **Teacher Quality Grant Cancellations**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00702	Dist. MD	PI Mar. 17, 2025 4th Cir. Stay Apr. 10, 2025	Julie Rebecca Rubin

Causes of Action: A lawsuit similar to *California v. Carter* was filed by the Association of Colleges for Teacher Education, the National Center for Teacher Residencies, and the Maryland Association of Colleges for Teacher Education, in the U.S. District Court for the District of Maryland, alleging Fifth Amendment Due Process and APA violations by the U.S. Department of Education for the February 2025 termination of grants awarded under the Teacher Quality Partnership Program ("TQP"), the Supporting Effective Educator Development Program ("SEED"), and the Teacher and School Leader Incentive Program ("TSL"). These programs are used to prepare and develop educators pursuant to the Higher Education Resources and Student Assistance statute, 20 U.S.C.A. § 1001 to § 1161aa–1. The teacher residency programs consist of partnerships between higher education institutions and K-12 school districts in traditional public and charter schools located in rural, suburban, and urban areas. The SEED Program is authorized by Congress under section 2242 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. § 6672). The TQP program is authorized by section 202 of the Higher Education Act of 1965, as amended (20 U.S.C. § 1022). The TSL Program is authorized by section 2212 of the

Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. § 6632), and serves educators in high-need schools who raise student academic achievement and close the achievement gap between high- and low-performing students and helps develop, implement, improve, or expand comprehensive performance-based compensation systems or human capital management systems for teachers, principals, or other school leaders.

The purported basis provided for the grant terminations was that they are "inconsistent with, and no longer effectuate[], Department priorities," and as a result of "[i]llegal DEI policies and practices." The plaintiffs are association members that comprise hundreds of teacher preparation programs throughout the United States. The plaintiffs allege that without prior warning, and in reliance on the President's recent Executive Order 14151 regarding DEI initiatives, the Department summarily terminated many of the TQP, SEED, and TSL grants. They allege that the terminations were unlawful in reliance on Executive Order 14151 and for the Department's failure to follow statute and Federal regulations in terminating the grants under the Administrative Procedures Act. Priorities for any competitive grant program must generally be set by Congress or through notice and comment rulemaking by the Department. TQP, SEED, and TSL grants' Notices for Inviting Applications at issue in this case were published in the Federal Register in 2020, 2022, 2023, and 2024.

The plaintiffs also rely upon an order by the same court in *NADOHE v. Trump*, asserting that it covers and forbids the continued enforcement of the termination of the grants at issue in this lawsuit. Plaintiffs seek relief directing the Department to return the Grant Awardees to the status quo ante with respect to Executive Order 14151 and rescind the termination of their TQP, SEED, and TSL grants. On March 17th, the **Court entered a preliminary injunction** requiring the Defendants United States Department of Education and Linda McMahon, to reinstate TQP, SEED, and TSL Grant Awards of Plaintiff NCTR and Plaintiffs' Grant Recipient members in accordance with the Grant Award Notification terms and conditions in place immediately prior to issuance of Termination Letters by the Department and prohibiting the Defendants from terminating, any TQP, SEED, or TSL Grant Program award in a manner this court has determined is likely unlawful as violative of the Administrative Procedure Act. Plaintiffs provided counsel for Defendants a list of Plaintiff NCTR and Plaintiffs' Grant Recipient members whose TQP, SEED, and TSL Grant Awards were terminated by the Department Termination Letter.

Status: The Fourth Circuit granted a stay of the preliminary injunction based on the Supreme Court's stay in *California v. Carter*.

g. *American Federation of Teachers et al v. U.S. Department of Education* – **Dear Colleague Letter of Feb. 14, 2025, Re: DEI-related Grant Terminations**

Docket No.	**District Court**	**Orders**	**Judge**
1:25-cv-00628	Dist. MD	Stay of DCL and FAQs Apr. 24, 2025	Stephanie Gallagher

Causes of Action: On February 14, 2025, the U.S. Department of Education issued a "Dear Colleague Letter," cautioning districts not to violate Title VI by implementing unlawful

DEI. A complaint was filed by the American Federation of Teachers, American Federation of Teachers-Maryland, American Sociological Association, and Eugene School District was filed in the U.S. District Court for the District of Maryland alleging that the Letter violates Fifth Amendment Due Process because of its vagueness and the Administrative Procedures Act for the manner in which it was issued outside of the proper regulatory process.

The District Court did not find that the AFT and ASA have independent associational standing, but it considered facts relating to all of the plaintiffs in addressing the preliminary injunction factors. The Court found the Dear Colleague Letter to be final agency action for the purpose of review. The Court said there is no basis in Title VI or SFFA for concluding that discussion of race—in the two ways highlighted in the Letter or otherwise—is ever, or especially always, discrimination. The government cannot proclaim entire categories of classroom content discriminatory to side-step the bounds of its statutory authority. The plaintiffs are likely to succeed on the merits of their claim that the Letter exceeds DOE's statutory authority by exercising control over the content of curriculum.

Status: Stay of administrative actions on the DCL and FAQs entered April 24, 2025. The stay of administrative actions does not apply to the Department's Title VI requested certification because there were no facts relating to certification in the amended complaint. The Department's motion to dismiss was filed on July 1, 2025.

h. *NEA v. U.S. Department of Education* – **Dear Colleague Letter of Feb. 14, 2025, Re: DEI-related Grant Terminations**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00091	Dist. N.H.	PI April 24, 2025	Chief Judge Landya B. McCafferty

Causes of Action: On February 14, 2025, the U.S. Department of Education issued a "Dear Colleague Letter," cautioning districts not to violate Title VI by implementing unlawful DEI. On April 3, the Department issued a requirement that SEAs and LEAs certify that they are not violating Title VI, as interpreted by the Department. The plaintiffs are the Center for Black Educator Development, the National Education Association and its members, NEA New Hampshire and its members, and several small school districts. The Court found that it undisputed that defendants issued the 2025 Letter without complying with the APA's notice-and-comment requirements, and therefore, the plaintiffs are likely to succeed on their claim that the 2025 Letter was issued without observance of procedure required by law and that the plaintiffs were suffering irreparable harm from First Amendment violations as a result of defendants' coercion of educational institutions into censoring their members' speech. The defendants are enjoined from enforcing and/or implementing the Dear Colleague Letter issued on February 14, 2025, including through the February 28, 2025 "Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act," the End DEI Portal, and the April 3, 2025 certification requirement, against the plaintiffs, their members, and any entity that employs, contracts with, or works with one or more plaintiffs or one or more of plaintiffs' members. The Court declined to issue a nationwide injunction.

Status: Preliminary injunction granted April 24, 2025. The plaintiffs filed a motion for summary judgment on June 10, 2025.

i. *NAACP v. U.S. Department of Education* – **Dear Colleague Letter of Feb. 14, 2025, Re: DEI-related Grant Terminations**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-01120	Dist. D.C.	PI April 24, 2025	Dabney Friedrich

Causes of Action: On February 14, 2025, the U.S. Department of Education issued a "Dear Colleague Letter," cautioning districts not to violate Title VI by implementing unlawful DEI. On April 3, the Department issued a requirement that SEAs and LEAs certify that they are not violating Title VI, as interpreted by the Department. The District Court found that the NAACP did not demonstrate a substantial likelihood of standing to challenge the Dear Colleague Letter, the FAQs, or the Certification (the Title VI Documents) under the First Amendment. Its alleged First Amendment injury stems from the independent decisions of school boards and administrators to end certain programs implicating DEI. For instance, the plaintiff alleges that one member's son will be injured by a resolution from the Virginia Beach School Board directing schools to remove "social emotional learning" programs. But an injunction from the District Court would not eliminate the resolution that the School Board passed. Nor did the plaintiff provide evidence that the Virginia School Board would reverse course if the challenged documents were enjoined. The NAACP demonstrated a substantial likelihood of standing to challenge the Title VI Documents under the APA but did not show a likelihood of success on the merits of its APA claim. The District Court found that because the documents do not create new law, but merely narrow leeway previously afforded regulated parties, they are interpretive rules not subject to notice and comment rulemaking. The District Court found that the plaintiff did not have standing to raise APA claims based on an equal protection violation because the challenged documents direct the schools to eliminate all illegally racial classifications under existing laws and purport to mandate compliance with Title VI and the Equal Protection Clause. The Court could not conclude that they are discriminatory on their face and the plaintiff did not identify any discriminatory purpose or implementation. The NAACP did not demonstrate a substantial likelihood of standing to challenge the Dear Colleague Letter and the FAQs under the Fifth Amendment but did show a substantial likelihood of standing to challenge the Certification under the Fifth Amendment. The NAACP demonstrated a likelihood of success on the merits of its Fifth Amendment void for vagueness claim with regards to the Certification because the defendants failed to provide an actionable definition of what constitutes "DEI" or a "DEI" practice or delineate between a lawful DEI practice and an unlawful one. Upon finding that NAACP demonstrated that it would be irreparably harmed absent a preliminary injunction and that the balance of the equities and the public interest tipped in its favor, the Court entered a preliminary injunction from implementing and enforcing the Certification.

Status: Preliminary injunction entered on enforcement of the **certification requirement only** on April 24, 2025. The defendants filed a motion to dismiss on June 23, 2025.

j. *New York v. Department of Education* - **Dear Colleague Letter of Feb. 14, 2025 Re: DEI-related Certification**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-11116	Dist. MA	--	William G. Young

Causes of Action: 19 Plaintiff States, New York, Illinois, California, Massachusetts, Colorado, Connecticut, Delaware, Hawaii, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and Wisconsin, filed a lawsuit challenging the U.S. Department of Education's April 3 email requiring SEAs and LEAs to certify compliance with Title VI by signing a document titled, "Reminder of Legal Obligations Undertaken in Exchange for Receiving Federal Financial Assistance and Request for Certification under Title VI and SFFA v. Harvard." The States allege that the Department's "efforts to weaponize Title VI of the Civil Rights Act of 1964 to eliminate programs that support Diversity, Equity, and Inclusion" constitutes illegal discrimination. They further allege that the Department's course of action is engineered to guarantee Plaintiff States' failure to meet ED's new funding and collection conditions and subsequent termination of their federal education funding. They bring forth claims pursuant to the APA, Separation of Powers, the Appropriations Clause, the Spending Clause and Ultra Vires.

Status: The Plaintiff States did not file a motion for a preliminary injunction. On June 30, 2025, the Department filed an answer to the complaint. In the answer, the Department denies the category of unlawful diversity, equity, and inclusion school programs is not defined in the Trump Executive Orders and the Department's DCL, FAQs, and certification requirement.

k. *Somerville Public Schools v. Trump* – **Reduction in Force at U.S. Dept. of Education**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-10677 1:25-cv-10601 - *lead case	Dist. Mass.	PI May 22, 2025	Myoung J. Joun

Causes of Action: On March 11, 2025, the Department of Education announced a massive reduction in force ("RIF"), cutting the Department's staff by half. On March 20, 2025, President Trump issued an executive order directing the Secretary to "take all necessary steps to facilitate the closure of the Department of Education." On March 21, 2025, President Trump further announced that the federal student loan portfolio as well as the special needs programs would be transferred out of the Department. Defendants argue that the RIF was implemented to improve "efficiency" and "accountability" in the Department. The American Association of University Professors, American Federation of State, County, and Municipal Employees, Council 93, American Federation of Teachers, AFT Massachusetts, Service Employees International Union and two small school districts brough a lawsuit challenging the Department of Education's RIF. The District Court found

that the Department was created pursuant to Congress's authority and cannot be dismantled without it. The Department's actions were contrary to the DEOA's mandate that the Department itself must exist—not just in name only, but to carry out the functions outlined in the DEOA and other relevant operating federal statutes. The Plaintiff States demonstrated they are likely to suffer irreparable harm to their educational systems because of cuts to research, data, accreditation, and compliance services at the Department. Plaintiff States showed that such cuts to the OCR will likely impede their ability to investigate civil rights complaints and adjudicate claims of discrimination as a result the RIF. Thus, given the impact to its citizenry, Plaintiff States demonstrated a sufficient risk of irremediable harm for purposes of the preliminary injunction. Like Plaintiff States, the School Districts demonstrated they are likely to suffer irreparable harm because cuts to vital resources and expertise will undermine the School Districts' ability to educate their students. The Defendants are enjoined from carrying out the reduction-in-force announced on March 11, 2025; from implementing President Trump's March 20, 2025 Executive Order; and from carrying out the President's March 21, 2025 Directive to transfer management of federal student loans and special education functions out of the Department; implementing, giving effect to, or reinstating the March 11, 2025, the President's March 20, 2025 Executive Order, or the President's March 21, 2025 Directive under a different name; Defendants shall reinstate federal employees whose employment was terminated or otherwise eliminated on or after January 20, 2025, as part of the reduction in-force announced on March 11, 2025 to restore the Department to the status quo such that it is able to carry out its statutory functions; Defendants shall provide notice of this Order of Preliminary Injunction within 24 hours of entry to all their officers, agents, servants, employees, attorneys, and anyone acting in concert with them; The Agency Defendants shall file a status report with the Court within 72 hours of the entry of the Order, describing all steps the Agency Defendants took to comply with this Order, and every week thereafter until the Department is restored to the status quo prior to January 20, 2025.

Status: A **preliminary Injunction was entered** on May 22, 2025. The case was consolidated with *New York v. McMahon*, 1:25-cv-10601 (see below). The Department's motion to stay injunction was denied by the First Circuit on June 4, 2025. The Department has filed an emergency application to stay the injunction with the U.S. Supreme Court (No. 24A1203).

I. *State of New York v. McMahon* – **Reduction in Force at U.S. Dept. of Education**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-10601 - *lead case 1:25-cv-10677	Dist. MA	PI May 22, 2025	Myong J. Joun

Causes of Action: Plaintiff States, New York, Massachusetts, Hawaii, California, Arizona, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, Oregon, Rhode Island, Vermont, Washington, Wisconsin, and the District of Columbia, filed a lawsuit alleging that the U.S. Department of Education's Reduction in Force (RIF) plan to lay off more than 1,300 Department employees is part of a larger plan to

usurp Congress's authority. The plaintiffs allege that the RIF was ultra vires (outside the scope of Executive authority), and that it violates the Separation of Powers Doctrine of the U.S. Constitution and the Administrative Procedure Act because it is contrary to law and arbitrary and capricious. 192 members of Congress filed an amicus brief in support of the Plaintiffs' motion for preliminary injunction.

Status: A preliminary injunction was entered May 22, 2025. The case was consolidated with *Somerville Public Schools v. Trump*, 1:25-cv-10677 (see above). The Department's motion to stay the injunction was denied by the First Circuit on June 4, 2025. On July 14, 2025, the **U.S. Supreme Court** (No. 24A1203) **granted the Department's emergency application to stay the preliminary injunction**.

m. *San Francisco Unified School District, et al., v. AmeriCorps* – **Grant Certification Requirement**

Docket No.	**District Court**	**Order**	**Judge**
3:25-cv-02425	N.D. CA	TRO granted March 31, 2025 PI June 17, 2025	Edward Chen

Causes of Action: San Francisco Unified School District and the City of Santa Fe use AmeriCorps grants to fund support services for vulnerable students, seniors, and other residents. AmeriCorps approved the grants to support climate change initiatives and provide culturally sensitive programs to children and seniors. SFUSD received a $667,194 grant from AmeriCorps to fund Healthy Choices for the 2024-25 school year. The grants expressly required verification of a commitment to diversity, equity, inclusion, and accessibility in their applications. However, on February 13, 2025, the federal AmeriCorps agency announced that grant recipients could only continue using grant funds for their approved purposes if they agreed to implement President Trump's anti-equity, anti-LGBTQ+, and anti-environmental policy preferences in their programs. AmeriCorps gave recipients, including the plaintiffs, until February 19th to either change their programs to eliminate any activities that promote DEI, promote "gender ideology," or address climate change or other environmental issues—without explaining what that means—or lose their AmeriCorps grant funding entirely. The plaintiffs allege that this action violated the Separation of Powers Doctrine and the Spending Clause of the U.S. Constitution, as well as the Administrative Procedure Act. They are seeking a permanent injunction barring enforcement of the AmeriCorps directive.

Status: A **TRO was entered** on March 31, 2025, prohibiting defendants from stopping any grants or requiring certifications. On June 18, 2025, the motion for a **preliminary injunction was granted** with the same substantive provisions as the TRO.

n. *State of New York v. USDOE* – **Recission of Waivers for COVID-19 Funds to School Districts**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-02990	S.D.N.Y.	PIs May 6, 2025 and June 3, 2025	Edgardo Ramos

Causes of Action: On Friday, March 28, 2025, at 5:03 pm, with no advance notice or warning, ED and Education Secretary McMahon abruptly and arbitrarily reversed course, notifying Plaintiffs by letter that as of 5:00 pm that day, ED had unilaterally rescinded extensions of time to liquidate grant funds previously approved. Plaintiff States, New York, California, Arizona, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, Oregon, Pennsylvania, and the District of Columbia, filed a lawsuit. An injunction was entered by the District Court on May 6, 2025. On May 11, 2025, the Department issued a letter to Plaintiffs explaining why it rescinded its previously-granted extensions and providing Plaintiffs fourteen days to submit liquidation requests relating to properly obligated funds, wind down contracts where necessary, and transition to the Department's project-specific process for requesting liquidation extensions. In response, the States filed an emergency motion for relief seeking that the Department be enjoined from implementing its new process for obtaining extensions and be ordered to promptly pay funds requested by the States.

The Defendants are preliminarily enjoined from enforcing or implementing as against Plaintiffs during the pendency of this litigation or until further order of the Court the directives in the March 28, 2025, letter from Education Secretary Linda McMahon to State Education Chiefs, which purported to terminate the periods of time for Plaintiffs to liquidate their obligations under the Education Stabilization Fund ("ESF"), as that term is defined in the March 28 Letter, as of 5:00pm ET on March 28, 2025. The Defendants are preliminarily enjoined from enforcing or implementing as against Plaintiffs during the pendency of this litigation or until further order of the Court the directives in the May 11, 2025, "Dear Colleague" letter from Hayley B. Sanon, which purported to terminate the periods of time for Plaintiffs to liquidate their obligations under the ESF, as that term is defined in the May 11 Letter, as of May 24, 2025. Defendants are preliminarily enjoined from attempting to modify ED's previously approved periods for Plaintiffs to liquidate their obligations under the ESF without providing notice to Plaintiffs at least thirty (30) days prior to the effective date of such modification in order to provide Plaintiffs sufficient time to review the bases for the attempted modification and seek appropriate relief, as necessary, from the Court. The Defendants are hereby directed to process Plaintiffs' outstanding and future requests for liquidation of ESF without delay, and within one month from the issuance of this Order shall file with the Court a status report listing for each Plaintiff the payment requests for liquidation of ESF that are then outstanding, including the amount of each request, the date each request was submitted, and the anticipated date by which each request will be processed. The Defendants must provide written notice of this Order to all personnel within the U.S. Department of Education. The written notice shall instruct all personnel that they must comply with the provisions of this Order.

Status: Preliminary Injunctions granted on **May 6, 2025 and June 3, 2025**. The Department filed an interlocutory appeal of the injunction in the Second Circuit on June 4, 2025 and an administrative stay was denied on June 10, 2025. On July 3, 2025, the Department filed a report that lists for each Plaintiff, as of 12:00 P.M. E.T. on June 30, 2025, the payment requests for liquidation of ESF that are outstanding, including the amount of each request, the date each request was submitted, and the anticipated date by which each request will be processed.

o. *National Urban League et al. v. Trump* – **DEI Grants**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00471	Dist. D.C.	PI denied May 2, 2025	Timothy J. Kelly

Causes of Action: The National Urban League (NUL), the National Fair Housing Alliance (NFHA), and the AIDS Foundation of Chicago (AFC) challenged three executive orders issued by President Donald Trump in January 2025, which significantly altered federal policies on diversity, equity, inclusion, and accessibility (DEIA) programs and transgender rights. The District Court found that the plaintiffs are not likely to prevail on the merits because presidential directives to subordinates that inflict no concrete harm on private parties—or at least not on these parties— do not present a justiciable case or controversy. Plaintiffs' constitutional claims falter for various reasons. The government need not subsidize the exercise of constitutional rights to avoid infringing them, and the Constitution does not provide a right to violate federal antidiscrimination law. And those pressure points are even harder to overcome for Plaintiffs, who bring facial rather than as-applied challenges.

Status: Preliminary injunction denied May 2, 2025. An amended complaint was filed on June 30, 2025.

p. *State of Washington v. United States Department of Education* – **Mental Health Grant Cancellations**

Docket No.	**District Court**	**Order**	**Judge**
2:25-cv-01228	W.D. WA	--	Kymberly K. Evanson

Causes of Action: In 2022, two grants funding the nation's high-need, low-income, and rural schools—the Mental Health Service Professional Demonstration Grant Program (MHSP) and its School-Based Mental Health Services Grant Program (SBMH) ("Programs")—received an additional $1 billion after President Joe Biden signed a sweeping bipartisan gun-control bill into law, known as the Bipartisan Safer Communities Act. On or about April 29, 2025, the Department of Education decided to discontinue funding to these Programs based on an alleged conflict with the current Administration's priorities. The Department implemented its Non-Continuation Decision by sending boilerplate notices to Plaintiffs claiming that their grants conflicted with the Trump Administration's priorities and would not be continued. The Department intends to recompete these Program funds based

on new priorities, which it identified as “merit, fairness, and excellence in education,” and which it communicated to the grantees for the first time in these boilerplate notices. Congress funded these grants because they served the government’s interests in safe, educational environments for our nation’s children. Spurred by episodes of tragic and devastating loss from school shootings, Congress established and funded MHSP in 2018 and SBMH in 2020 to provide students access to mental health services: MHSP addresses the shortage of school-based mental health service providers in low-income schools–a Congressional directive–by awarding multi-year grants to projects that expand the pipeline for counselors, social workers, and psychologists through partnerships between institutes of higher education and local educational agencies; and SBMH funds multi-year grants to increase the number of professionals that provide school-based mental health services to students through direct hiring and retention incentives. The ultimate goal of the Programs was to permanently bring 14,000 additional mental health professionals into U.S. schools that needed it the most primarily in low-income and rural communities. 16 Plaintiff States—Washington, California, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, New Mexico, New York, Nevada, Oregon, Rhode Island, and Wisconsin—bring this action against the Department and United States Secretary of Education Linda McMahon seeking to vacate the Department’s actions because they violate the APA and the Constitution.

Status: Case filed June 30, 2025.

q. *State of California v. McMahon* – **Freezing of Title II, III, IV Education Funds**

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00329	Dist. RI	--	John J. McConnell, Jr.

Causes of Action: Rhode Island, California, Colorado, Massachusetts, Arizona, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Office of Governor Andy Bashear, Maine, Maryland, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Office of Governor Josh Shapiro, Vermont, Washington, and Wisconsin filed a complaint in the U.S. District Court for Rhode Island, bringing forth ten (10) causes of action against the U.S. Department of Education (ED) and Office of Management and Budget (OMB), alleging that they have unlawfully frozen over $6 billion in education funding for K-12 schools and adult education. According to the plaintiffs, under federal law, these funds are federal formula funds appropriated by Congress for six ED programs authorized by Congress (Impacted Programs) and must be made available to the States on July 1 in order for the States and their local school districts to have the resources necessary to staff, to supply materials for, and to prepare facilities for the imminent school year. This year, contrary to decades of legal requirements (and OMB’s and ED’s consistent compliance with those requirements), those funds have been withheld. On the evening of June 30, 2025, ED sent an email to the States, stating that the funds for the Impacted Programs were being withheld for a “review” of the programs’ consistency with, among other things, the “President’s priorities.” The plaintiffs are requesting declaratory, injunctive, and mandamus relief that will result in apportionment of the funds. Importantly, pursuant to 5 U.S.C.§706, they also request that the court vacate the ED Funding Freeze and any agency implementation thereof.

Status: Case filed July 14, 2025.

Department of Homeland Security Recission of Protected Areas Policy

1. *Philadelphia Yearly Meeting of the Religious Society of Friends v. the Department of Homeland Security*

Docket No.	**District Court**	**Order**	**Judge**
8:25-cv-00243	Dist. MD	Feb. 24, 2025	Theodore D. Chuang

Decision: On January 20, 2025, the U.S. Department of Homeland Security (DHS) officially ended policies that previously limited immigration enforcement in protected areas/"sensitive" locations, such as schools, hospitals, and churches. Immigration enforcement actions, including arrests, can now occur in these previously protected areas. In *Philadelphia Yearly Meeting of the Religious Society of Friends v. the Department of Homeland Security* ("Quaker case"), several religious groups, including Quakers, Cooperative Baptists, and Sikhs, filed a lawsuit alleging First Amendment and Religious Freedom Restoration Act (RFRA) violations by DHS because ICE intrusions in their places of worship in order to arrest individuals will deter attendance at worship. The plaintiffs were successful in obtaining a temporary restraining order and preliminary injunction prohibiting DHS from enforcing immigration laws at the ***plaintiffs' places of worship*** (only), unless authorized by administrative or judicial warrant. The Court also entered a protective order for all of the names and addresses for the plaintiffs' places of worship.

Holding: The 2025 policy violates the plaintiffs' First Amendment right to expressive association and substantially burdens the Free Exercise of their religions under the RFRA, and DHS has not made a showing justifying such burdens.

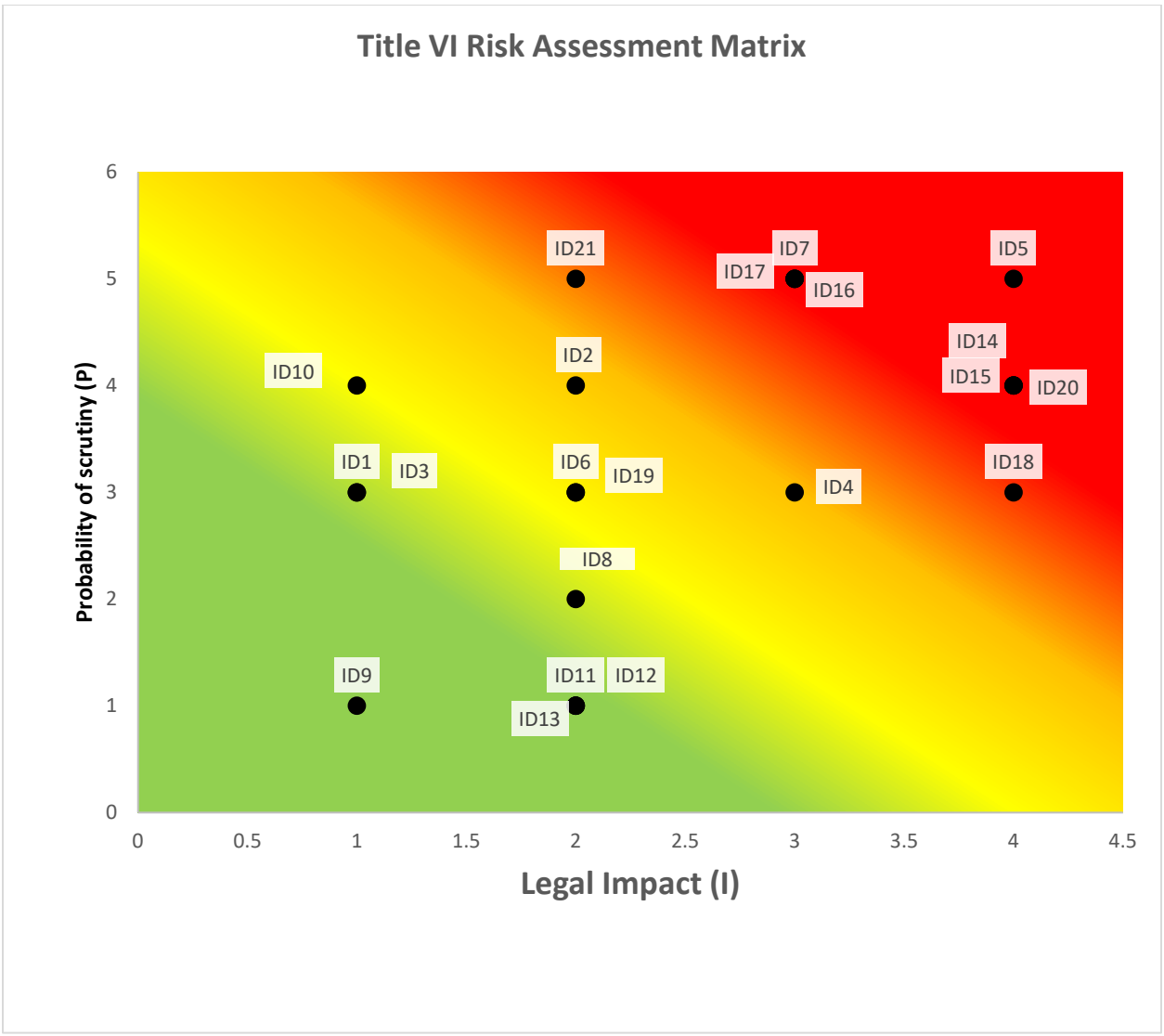
Ruling: The **temporary restraining order and preliminary injunction were granted** in favor of the plaintiffs barring application of the 2025 policy and requiring a return to the 2021 policy as to the plaintiffs' places of worship.

2. *Denver Public Schools v. Noem*

Docket No.	**District Court**	**Order**	**Judge**
1:25-cv-00474	Dist. CO	Mar. 7, 2025	Daniel D. Domenico

Decision: Denver Public Schools filed a complaint requesting the same prohibition on enforcement at schools that was granted in the Quaker case for religious institutions. DPS alleged decreased attendance, hinderance in fulfilling its mission of providing education and life services to the students, and diversion of resources from its educational mission to prepare for immigration arrests on DPS school grounds. DPS's causes of action included violations of the Administrative Procedure Act and the Freedom of Information Act.

Ruling: DPS's motion for **temporary restraining order and motion for preliminary injunction were denied**.


Title VI Risk Assessment Matrix
Probability of scrutiny (P)
Legal Impact (I)
0
1
2
3
4
5
6
0
0.5
1
1.5
2
2.5
3
3.5
4
4.5
ID21
ID7
ID17
ID16
ID5
ID14
ID2
ID10
ID15
ID20
ID1
ID3
ID6
ID19
ID4
ID18
ID8
ID9
ID11
ID12
ID13

Risk Legend	
Color Code	**Score**
High	>12
Medium	5-12
Low	1-4

High Probability (5)	•Funding rescinded/threatened •New OCR investigation pending •Based on antisemitism •Executive Order or other Administration Action against	Expected to occur in most circumstances
Medium Probability (3-4)	•Localized complaints/debate •State/District vocal support for DEI •Some Administration action against or indicated	Expected to occur sometimes
Low Probability (1-2)	•State/District complies with all USDOE interpretations •OCR investigation pending prior to 2025 •No Administration action yet	Expected to occur rarely

High Impact (5)	•Current administration / OCR has targeted •Mandatory in nature •No readily apparent legal authority •Race-conscious eligibility or grouping •Court decisions against •Federal funds applied directly •Terminology includes DEI •Hostile environment complaints

Medium Impact (3-4)	•Program has received numerous complaints •Based on state law that conflicts with federal law •Based on old court settlement/consent decree •Policy has not been reviewed in recent years •Based on disparate impact •Based on old disparity study •Based on longstanding unitary status order or consent decree
Low Impact (1-2)	•Based on statute •Curricular •Permissive/voluntary •Not exclusionary/open invitation •Based on favorable case law •Marketing •Based on recent disparity study