

NOVEMBER 7, 2025



NEA BIWEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

Litigation Updates

District Court Blocks ED from Terminating School Mental Health Services Grants

On October 27th, a Washington State district judge issued a [preliminary injunction](#) blocking the Department of Education (ED) from [terminating](#) \$1 billion in funding for School-Based Mental Health Services (SBMH) grants in 15 states. The judge held that the Administration's decision to cancel the grants was likely arbitrary and capricious in violation of the Administrative Procedure Act (APA). The judge also noted the concrete and imminent harm of the loss of critical mental health funding to schools, students, staff, parents, teachers, and graduate students hoping to enter various mental health professions. The injunction ensures continued SBMH funding to grantees in all plaintiff states except Nevada, where grant funding was set to expire before the effective date of the terminations.

District Court Blocks HHS from Removing "Gender Ideology" from Program Materials

On October 27th, an Oregon district judge issued a [preliminary injunction](#) preventing the Department of Health and Human Services (HHS) from requiring that 16 plaintiff states and D.C. remove all references to gender identity from federally-funded sex education program materials in order for them to remain eligible for grants. The court found that the new condition likely violated the U.S. Constitution's Spending and Appropriations Clauses and separation of powers principles, the APA, and state and federal civil rights laws. The judge characterized HHS's claim that the requirement was meant to facilitate "medical accuracy" as "absurd," "unavailing," and a pretext for discrimination against transgender and gender nonconforming individuals.

District Court Blocks Trump Administration from Shutdown-Related Layoffs

On October 28th, a California district judge issued a [preliminary injunction](#), further blocking the Trump Administration from laying off federal employees amid the ongoing government shutdown. The court found that shutdown-related RIFs at ED and other agencies were arbitrary and capricious, contrary to law, in violation of the APA, and in excess of executive authority. The judge had previously granted a [temporary restraining order](#) against the RIFs on similar grounds.

District Court Orders Trump Administration to Fund SNAP During Government Shutdown

On October 31st, a district judge in Rhode Island issued a [temporary restraining order](#) requiring the Department of Agriculture (USDA) to use contingency funds to support the Supplemental Nutrition Assistance Program (SNAP) during the government shutdown, finding that the program's statutes obligate the federal government to do so. That same day, a Massachusetts district judge [also found](#) that a coalition of states was likely to succeed on similar claims but held their TRO motion under advisement, directing the Trump Administration to reconsider authorizing at least partial November SNAP benefits. In response, USDA [released some](#), but not all, of the contingency funds and authorized SNAP benefits for this month at reduced levels. The Rhode Island district judge has now [ordered](#) the Administration to release full SNAP benefits by November 7th.

SCOTUS Allows Trump to End Policy of Self-Identifying Gender on Passports

On November 6th, in a 6-3 decision, the U.S. Supreme Court (SCOTUS) issued a [brief, unsigned order](#) permitting the Trump Administration to reverse a Biden policy that allowed transgender passport applicants to choose male, female, or "X" as gender markers and instead restrict sex designations based on sex assigned at birth. In the order, SCOTUS argued that the reversal "no more offends equal protection principles than displaying their country of birth," as "the Government is merely attesting to a historical fact without subjecting anyone to differential treatment." The passport case marks the [22nd time](#) that SCOTUS has granted an emergency request filed by the Administration via the shadow docket.

Recent Executive Actions Impacting Education

Narrowing Employer Eligibility for Public Student Loan Forgiveness

On October 31st, ED published its [final rule](#) that narrows employer eligibility for the Public Service Loan Forgiveness (PSLF) program in response to a March [EO](#). Employers could be disqualified if they engage in a broad range of activities that the Secretary of Education deems to have a “substantial illegal purpose,” such as providing gender-affirming care, running DEI programs, supporting “terrorists,” or assisting undocumented immigrants. Schools and universities are among those at risk of having their [eligibility jeopardized](#). The new rule takes effect on July 1, 2026.



Legally Speaking...

Two lawsuits have been filed contesting the changes to PSLF: [one](#) brought by a coalition that includes NEA, the American Federation of Teachers, AFSCME, and four cities, and [another](#) brought by attorneys general from 21 states and D.C. The suits allege that the final rule is impermissibly vague, arbitrary and capricious, and violates the First Amendment, which prohibits the government from blocking its political opponents or others expressing disfavored viewpoints from participating in federal programs. The suits also argue that the rule is contrary to the statutory provisions creating PSLF, which define a “qualifying employer” to include a host of federal, state, and local government entities and any certified 501(c)(3) nonprofit organization. ED’s attempt to redefine this statutory category without congressional approval violates the APA.

Discontinuing Teacher Pre-Service Training Grants

On November 4th, it [came to light](#) that ED recently sent non-continuation notices to 10 universities participating in the Augustus F. Hawkins Centers of Excellence grant program, canceling at least \$20 million in funding that those institutions were slated to receive between now and September 2029. The Hawkins Program, authorized under the Higher Education Act of 1965, supports teacher-preparation initiatives at Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and other Minority Serving Institutions (MSIs). ED justified the cancellations by saying that the universities’ grant applications promoted disfavored “DEI activities” that the Administration considers unlawful.



Legally Speaking...

ED can only cancel or discontinue previously awarded grants through statutory and regulatory processes, and only for limited reasons that generally do not include policy or political disagreements with Congress’s decision to create and fund the grant program. ED has not complied with these requirements, making the terminations unlawful. Further, as several courts have already found, Title VI precedent does not support the Administration’s claim that programs and policies promoting DEI are unlawful.