

COLLEGIS SUMMIT 2025

DISRUPTED

BREAKTHROUGH THINKING. BOLD RESULTS.



The Rules Just Changed: Surviving the 2025 Regulatory Backlash

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Agenda

1) Trump Administration Priorities

- Executive Order and Lawsuits Challenging EO
- Reduction in Force and Lawsuits Challenging RIF
- ED Communications

2) DEI DCL and Lawsuit Challenging DEI Directives

- DOJ DEI Memo

3) One Big Beautiful Bill Act

- Notice of Proposed Rulemaking

4) ED's Unified Agenda

5) Other Updates

6) What Does It All Mean?

Trump Administration Priorities

Reducing the Federal Footprint

Adjusting oversight functions

Increased state authority

Greater institutional flexibility

Streamlining processes

Promoting innovation

Executive Order and Lawsuits Challenging EO

- **EO on “Improving Education Outcomes by Empowering Parents, States, and Communities” (Mar. 20, 2025):** “take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities ” AND “any program or activity receiving Federal assistance terminate illegal discrimination obscured under the label ‘diversity, equity, and inclusion’ or similar terms promoting gender ideology”
 - Note: H.R. 369 (Rep. Rouzer (R-NC)), H.R. 899 (Rep. Massie (R-KY)), H.R. 2691 (Rep. Moore (R-AL)), H.R. 3345 (Rep. Higgins (R-LA)), and S. 1148 (Sens. Paul (R-KY), Lee (R-UT), Moreno (R-OH)) introduced to abolish ED.
- ***Somerville Pub. Sch. v. Trump*, Case No. 1:25-cv-10677-MJJ (D. Mass. Mar. 24, 2025):** Plaintiffs educators, schools districts, and unions filed a complaint to stop the dismantling of the ED and mass firings, alleging constitutional violations and violations of the APA. Consolidated with *New York v. McMahon*.
- ***NAACP v. U.S.*, Case No. 8:25-cv-00965-DLB (D. Md. Mar. 24, 2025):** Plaintiffs allege that the administration lacks constitutional and statutory authority to dismantle the Department. Preliminary injunction denied on Aug. 19, 2025.

Reduction in Force and Lawsuits Challenging RIF

- **March 11, 2025 RIF Notifications to ~1,315 Employees (nearly 50% of Workforce)**
- ***New York v. McMahon*, Case No. 1:25-cv-10601-MJJ (D. Mass. Mar. 13, 2025):**
 - Group of 21 Democratic attorneys general filed a complaint challenging the mass layoffs on the grounds that they violate the Constitution and APA.
 - District court granted PI and denied stay, First Circuit also denied stay, Supreme Court stayed PI. At parties' request, district court issued an indicative ruling that it would vacate the PI if First Circuit were to remand the case (Aug. 11, 2025). A scheduling order has been entered to manage discovery and motions for summary judgment (Aug. 21, 2025).
- ***Victim Rights Law Center v. U.S. Dep't of Educ.*, Case No. 1:25-cv-11042-MJJ (D. Mass. Apr. 21, 2025):**
 - Similar APA allegations focused on OCR. District court granted PI to enjoin RIF at OCR (June 18, 2025) and denied motion to vacate or stay (Aug. 13, 2025). Pending First Circuit decision on motion for stay pending appeal (fully briefed as of Aug. 28, 2025).

ED Communications

- **Letter from Acting Undersecretary James Bergeron to Education Stakeholders on Mar. 14, 2025**
 - Reductions are “strategic cuts to offices and programs that will not impact students and families.”
- **FSA Electronic Announcement: Notice of Updated School Participation Division Contact Information Mar. 14, 2025 (GEN-25-14)**
 - FSA is now centrally responding to all school eligibility inquiries at CaseTeams@ed.gov.
- **Reminder of Title IV Legal Obligations and Certification Request on April 3, 2025**
 - Requiring states to affirmatively certify compliance with ED’s interpretations of Title VI and *Students for Fair Admissions v. Harvard*.

DEI DCL and Lawsuit Challenging DEI Directives

- **Dear Colleague Letter (“DCL”) Issued by OCR on Feb 14, 2025**
 - Issued by OCR. Announced that the use of race in any education program or activity will be viewed as unlawful under Title VI, the Equal Protection Clause, and “other federal civil rights and constitutional law principles.”
- ***Amer. Fed. of Teachers v. Dep’t of Educ.*, Case No. 1:25-cv-00628-SAG (D. Md. Aug. 14, 2025)**
 - Order on summary judgment vacating both the February 14 DCL and the Certification Request.
 - Vacated on procedural grounds; district court was careful to “take[] no view as to whether the policies at issue in this case are good or bad, prudent or foolish, fair or unfair.”
 - Government has not indicated whether it will appeal.

DOJ DEI Memo

- **AG Pam Bondi July 29, 2025, Memo: “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination”**
 - Characterized as “non-binding” but lays out the DOJ’s current interpretation of federal antidiscrimination laws as applied to DEI programs.
 - Prohibition on using protected characteristics.
 - Focus on facially neutral criteria like “lived experience” or “overcoming obstacles” as unlawful proxy discrimination.
 - Impact on geographic or institutional recruitment strategies if “intent” is to influence demographic composition of the class.

One Big Beautiful Bill Act

Signed into law July 4, 2025, many higher education provisions are effective July 1, 2026:

Asset Exemptions: Reinstates exemption of family farm and small business assets from Student Aid Index (SAI) calculation and expands asset exemption to family-owned commercial fisheries.

Pell Grants:

- Requires foreign income to be included in the income calculation.
- Prevents students from receiving Pell Grants if SAI exceeds twice the maximum Pell Grant award.
- Students who receive grants or scholarships that cover their entire cost of attendance (COA) are ineligible for Pell.
- Creates a Workforce Pell Grant program for students attending qualified programs based on certain outcome metrics between 150-600 clock hours in length between 8 and 15 weeks in duration.

Regulatory Relief: No 90/10 or GE in OBBBA, but Biden administration BDR and closed school discharge rules delayed until July 1, 2035.

One Big Beautiful Bill Act

Loan Limits

Loan Type	New Provisions (effective July 1, 2026)
Parent PLUS Loans	Annual limit: \$20,000 per dependent student Aggregate limit: \$65,000 per dependent student
Graduate PLUS Loans	Eliminated with exception for current borrowers to complete program of study
Graduate Student Unsubsidized Loans	Annual limit: \$20,500 Aggregate limit: \$100,000
Professional Student Unsubsidized Loans	Annual limit: \$50,000 Aggregate limit: \$200,000
Lifetime borrowing cap on all federal loans	\$257,500, excluding Parent PLUS loans
Institutionally-determined loan limits	Institutions may impose program-level loan limits
Less than full-time enrollment	Institutions must prorate annual loan amounts in proportion to student's enrollment as % of full-time

One Big Beautiful Bill Act

Loan Repayment

- **New borrowers (loans made on or after July 1, 2026):** only two plans to choose from – Standard Repayment Plan or Repayment Assistance Program (RAP, the new income-based repayment plan).
- **Current borrowers:** continue to be eligible to enroll in current Standard, IBR, Graduated, and Extended repayment plans, or opt into new RAP. However, current borrowers in ICR, PAYE, or SAVE must transition to one of these repayment plans by July 1, 2028. If no selection is made, they will be moved into RAP.
- **RAP:** requires \$10 minimum monthly payment. Monthly payments based on AGI and number of dependents.
- **Economic hardship and unemployment deferments:** eliminated for borrowers who receive a loan on or after July 1, 2026.

One Big Beautiful Bill Act

Institutional Accountability

Program Type	New Provisions
Undergraduate Programs	Compares the median earnings of completers four years after program completion with the earnings of “working adults” with only a high school degree or GED who are not enrolled in higher education.
Graduate Programs	Compares the median earnings of completers four years after program completion with the earnings of “working adults” with only a bachelor’s degree who are not enrolled in higher education.

- After one year of failing to meet these earnings thresholds, institutions must provide disclosures to students.
- Programs failing to meet these earnings thresholds in 2 of 3 years will lose eligibility to participate in the Direct Loan program.
- A program that has lost eligibility can reapply to regain eligibility after two years of ineligibility.

Notice of Proposed Rulemaking

Notice of Proposed Rulemaking (July 25, 2025):

- **Reimagining and Improving Student Education (RISE) Committee**
 - Phase out of graduate and professional PLUS loans; establishment of new annual loan limits and lifetime borrowing caps; simplification of repayment plans; institutional flexibility to apply lower annual limits.
- **Accountability in Higher Education and Access through Demand-Driving Workforce Pell (AHEAD) Committee**
 - Changes in institutional and programmatic accountability measures, including FVT/GE; establishment of new Workforce Pell eligibility requirements; exclusion of Pell for students receiving assistance over COA or students with SAI more than 2x Pell.

ED's Unified Agenda

- **Published 2x/year and is a non-binding list of regulatory activities that ED is currently working on and expects to work on in the coming months (Sept. 4, 2025):**
 - **Title IV Eligibility Issues:** "The Department proposes to address Title IV eligibility issues to remove requirements that unnecessarily target faith-based or for-profit institutions and interfere with efficient and beneficial mergers, sales, and transfers of institutions of higher education. Such issues to be addressed in the context of institutional eligibility for participation of Federal student financial aid include rules governing change of ownership, cash management, administrative capability standards, and financial responsibility requirements."
 - **Accreditation:** "The Department proposes to engage in negotiated rulemaking to address accreditation issues to clarify institutional flexibility to pursue changes of accreditors without prior Department approval and remove other burdensome requirements that erect barriers to entry for new accreditation agencies."

ED's Unified Agenda (cont.)

- **Documentation of Foreign Source Gifts and Contracts, Section 117 of the Higher Education Act of 1965:** revised reporting requirements
- **Public Service Loan Forgiveness:** redefine “qualifying employer” to exclude organizations that engage in activities that have a substantial illegal purpose
- **Elimination of Disparate Impact Theory Under Title VI of the 1964 Civil Rights Act:** remove the regulation that utilizes a disparate impact theory of race-based discrimination “to align [ED] regulations with Supreme Court precedent that requires Title VI violations to rest upon intentional discrimination”
- **Procedures for Investigations and Enforcement of Title VI and Title IX Violations:** amend procedural regulations to “streamlin[e] the process by which OCR seeks termination of Federal financial assistance to institutions that intentionally violate Federal civil rights laws and refuse to voluntarily come into compliance”

Other Updates

- **90/10 Revised Interpretation, 90 Fed. Reg. 29734 (July 7, 2025):** The 90/10 Rule may include revenue generated from ineligible programs (offered online or not on campus) so long as funds are “paid by a student, or on behalf of a student by a party other than the institution” and any of the following criteria are met: (1) the program is approved or licensed by the appropriate State agency; (2) the program is accredited by an accrediting agency recognized by the Secretary; or (3) the program provides an industry-recognized credential or certification. 20 U.S.C. 1094(d)(1)(B)(iii).
- **Borrower Defense to Repayment:** Parties agreed to dismiss Supreme Court case on August 11, 2025. BDR is back in the district court with settlement negotiations ongoing.
- **Bare Minimum Rule:** Rule restricts Title IV to vocational programs that meet the required minimum hours mandated by state licensing authorities. District court entered PI (July 21, 2024). Case stayed while ED re-regulates program length rule in negotiated rulemaking, likely in the AHEAD Committee.

What Does It All Mean?

- **Regulatory and Compliance Change**

- Reductions in ED staff may cause significant operational challenges but, over time, policy changes may alleviate those risks.

- **Financial Aid and Institutional Funding Risks**

- The loss of Graduate PLUS loans and the many operational changes coming to financial aid because of the OBBBA present new compliance risks and may also result in intermittent disruption or loss of access to aid.

- **Shift in Civil Rights Enforcement Priorities and Process**

- Focus on antisemitism, race discrimination (as defined in DOJ's non-binding memo), and Title IX (particularly transgender in sports).

Questions?

