

## Litigation Updates

### District Judge Enjoins USDA's Anti-DEI Funding Conditions

On June 5th, a Massachusetts district judge granted a [preliminary injunction](#) blocking a Department of Agriculture (USDA) [requirement](#) that states certify that they do not operate any DEI programs or “promote gender ideology” in order to receive funding for programs like SNAP and the National School Lunch Program. States challenged the requirement under the Constitution’s Spending Clause and the Administrative Procedure Act (APA).

### District Judge Blocks \$100K Fee for H-1B Visas

On June 8th, a Massachusetts district judge granted [summary judgement](#) for a group of states that challenged Trump’s [Presidential Proclamation](#) requiring a \$100,000 fee for new H-1B visa petitions. The court held that the fee violates the separation of powers and exceeds the President’s authority under the Immigration and Nationality Act (INA). The government has [appealed](#) the decision.

### Nebraska to End In-State Tuition Policy for Undocumented Students

On June 3rd, a Nebraska district judge [approved](#) a voluntary consent decree between the Department of Justice (DOJ) and Nebraska to end the state’s law allowing certain undocumented students to pay in-state tuition at public colleges, after DOJ [sued](#) in April 2026. Nebraska is the fourth state to enter a consent decree (following [Texas](#), [Oklahoma](#), and [Kentucky](#)). DOJ’s lawsuit against [Minnesota](#) was [dismissed](#) in March, and challenges remain pending in [California](#), [Illinois](#), and [Virginia](#).

### State Coalition Challenges Anti-DEI Federal Contracting EO

On June 10th, a coalition of 19 states and DC filed a [lawsuit](#) challenging President Trump’s March 2026 [executive order](#) that requires all federal contractors to certify that they do not engage in “racially discriminatory DEI activities.” The states argue that the order impedes their ability to combat racial discrimination and is unconstitutionally vague and seek an injunction blocking it.

### AFL-CIO Sues DOL Over New Union Reporting Requirements

On June 10th, the AFL-CIO filed a [lawsuit](#) challenging the Department of Labor’s [final rule](#) that significantly increases financial disclosure requirements for labor unions filing LM-2 reports. AFL-CIO alleges that the rule violates the APA and has asked the court to delay its effective date of July 1, 2026, until at least July 1, 2027.

### States Sue ED Over Special Education Grant Cuts

On June 9th, California, Rhode Island, and Wisconsin filed a [lawsuit](#) challenging the Department of Education’s (ED) discontinuation of multi-year [State Personnel Development Grants](#) (SPDGs), which fund professional development for special educators. The states contend that the cancellations violate the APA and the Constitution.

# Recent Executive Actions

## Transferring ED's Special Education and Civil Rights Responsibilities

On June 16th, ED [announced](#) four new interagency agreements (IAAs). Under the first, ED's [Office of Special Education and Rehabilitative Services](#) (including the administration of nearly all IDEA grant programs) will move to the Department of Health and Human Services (HHS). A second IAA transfers many functions of ED's [Office for Civil Rights](#) (OCR) to DOJ. DOJ will also assume responsibility for complaints involving [parental rights and student privacy](#), and will administer the [Equity Assistance Centers](#), mandated by statute to provide guidance to school boards and government agencies on school desegregation.



### Legally Speaking...

The Department of Education Organization Act (DEOA) assigns ED primary responsibility for enforcing the civil rights laws in federal education programs through OCR. The DEOA, IDEA, and other statutes explicitly require ED to administer grant programs to ensure educational access for students with disabilities. Further, the FY 2026 appropriations act bans ED from transferring funds appropriated to carry out its statutory duties to other agencies, which casts doubt on ED's authority to enter and implement the IAAs.

## Rescinding Title VI Disparate Impact Protections at USDA

On June 17th, USDA published a direct [final rule](#) rescinding its longstanding Title VI regulations prohibiting disparate impact discrimination (when a facially neutral policy or action has the effect of disproportionately harming individuals on the basis of race, color, or national origin). The rule applies to all USDA programs, including the National School Lunch Program and School Breakfast Program. USDA is the third agency — following [DOJ](#) and the [Department of Energy](#) — to repeal its disparate impact regulations. Several other agencies (including ED) are pursuing similar final rules, with the Department of Homeland Security's rule [scheduled](#) to be published in the Federal Register on June 22nd.



### Legally Speaking...

Title VI does not explicitly ban disparate impact discrimination, but virtually all federal agencies adopted decades-old rules under Title VI to do so. The Administration argues that Title VI does not reach disparate impact discrimination, and that disparate impact bans are unconstitutional. The Supreme Court has never ruled on the constitutionality of disparate impact and has recognized disparate impact theories under several civil rights laws. In addition, USDA issued this final rule without prior notice or opportunity for public comment, claiming the APA does not require notice and comment for rules related to grants and contracts. That exception, however, generally applies only to rules directly related to the use of federal funds.

## Waiving ESEA Funding and Accountability Requirements for Indiana

On June 16th, ED [approved](#) Indiana's [request](#) to waive certain requirements under the Elementary and Secondary Education Act (ESEA). The waiver allows Indiana to consolidate a small portion of its state-level activities funds from five separate ESEA formula grants into a single block grant, approves a state pilot program permitting certain school districts to consolidate their funding under two ESEA programs into a block grant and authorizes Indiana to relax certain high school accountability requirements, like test scores and graduation rates, in favor of career-readiness metrics. ED has encouraged states to apply for ESEA waivers since [July 2025](#) and approved similar waivers for [Iowa](#) and [Louisiana](#).



### **Legally Speaking...**

The Secretary of Education has relatively broad authority under the ESEA to waive statutory and regulatory requirements, subject to important limits set forth in the law. The waiver provision allowing Indiana to consolidate certain ESEA funds for state-level activities, likely complies with these restrictions, but ED's approval of the school district pilot program and waiver of certain accountability requirements raise questions about the reach of its statutory waiver authority.