

Executive Action and the U.S. Department of Education—Its Role in IDEA and How Dismantling ED Harms Students with Disabilities

On March 20, the President signed an [executive order](#) (EO) that says:

- (a) The Secretary of Education to the maximum extent appropriate and permitted by law, [shall] take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the States and local communities while ensuring the effective and uninterrupted delivery of services, programs, and benefits on which Americans rely.
- (b) Consistent with the Department’s authorities, the Secretary of Education shall ensure that the allocation of any Federal Department of Education funds is subject to rigorous compliance with Federal law and Administration policy, including the requirement that any program or activity receiving Federal assistance terminate illegal discrimination obscured under the label “diversity, equity, and inclusion” or similar terms and programs promoting gender ideology.¹

The EO notes that nothing in the EO shall “be construed to impair or otherwise affect” the authority of any agency, the federal budget office, and “must be implemented consistent with current law.” Finally, it states that the EO “is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable law...”

COPAA developed this brief to summarize the EO and shed light on its impact on students with disabilities and their families. For those interested in further reading, additional resources are provided at the end of the document. COPAA also developed a related brief summarizing which powers belong to the executive branch, and which belong to the legislative branch as it applies to Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973 (Section 504) and other federal education and civil rights laws.

What the EO Means for Children with Disabilities

- The EO **is silent on children with disabilities**, however, both the President and the Secretary of Education Linda McMahon have said they intend to move programs for “special needs students” to Health and Human Services (HHS)² ³ which has raised serious concerns. Note: Only Congress has the authority to move IDEA programs to HHS. This and other details related to ED’s authority are covered in COPAA’s explainer: *Federal Authority Over Education Laws and Funding*.
- The EO **does not eliminate any of the education, disability, or civil rights for students with disabilities** under Section 504, the IDEA, the Civil Rights Act, or the Americans with Disabilities Act (ADA). These laws remain intact and continue to require states and districts to educate all students with disabilities and protect them from discrimination. States are still obligated to ensure school districts meet their obligations under these and all other laws.

“If the Administration moves forward, every child with a disability stands to be harmed when federal funding is separated from key federal requirements, when federal oversight of discrimination in education is obliterated, and when investments in education research, technical assistance/training and data collection and transparency in outcomes for children no longer exist.” Denise Marshall, COPAA CEO

¹ *Improving Education Outcomes by Empowering Parents, States, and Communities*, The White House (3/20/25),

<https://www.whitehouse.gov/presidential-actions/2025/03/improving-education-outcomes-by-empowering-parents-states-and-communities/>

² The Hill, (3/21/25) <https://thehill.com/homenews/education/5207597-trump-student-loans-sba-special-needs-disabled-students-hhs-mcmahon-kennedy/>

³ U.S. Senate hearing: *Nomination of Linda McMahon to serve as Secretary of Education*, (2/13/25), <https://www.youtube.com/watch?v=9hbSTLV6EVA>

COPAA's Response

- COPAA issued a [statement opposing the EO](#) and noted,
- COPAA filed [a lawsuit](#) challenging the administration's actions to decimate the Office for Civil Rights through a reduction in force (RIF) that also eliminated key positions in the Office of Special Education and Rehabilitative Services (OSERS), the Rehabilitative Services Administration (RSA), Elementary and Secondary Education and other offices that intersect with special education research, technical assistance and more.⁴

Key Functions of the Department of Education

The Department of Education (ED) was established by Congress on May 4, 1980⁵ with a mission to promote student achievement and preparation for global competitiveness by fostering excellence and ensuring equal access. Since that time, and through Congress' establishing and updating a myriad of education laws that are housed at ED, the Department has these key functions:

- Distribute funds and oversee state fiscal and programmatic implementation of federal laws⁶
- Invest in and lead research, collect and report data, and disseminate best practices
- Prohibit discrimination and ensure equal access to education
- Focus attention on issues of national importance and direct discretionary funding toward priorities (as allowed by statute(s)).

The Role of the Department of Education in Supporting IDEA

- **ED distributes funds** to states via Part B (ages 3-21), Part B 619 (preschool) and Part C (ages 0-2), and Part D, as Congress makes available through annual appropriations. Part D funds critical functions such as parent training, personnel preparation, media and technology/accessible materials, research and technical assistance to help schools with positive behavior supports, inclusive classrooms, transition planning for youth/young adults in middle/high school and into college/career/vocational rehabilitation
- **ED issues regulations and guidance documents** to help states and districts implement and follow IDEA's fiscal and programmatic requirements. While states are given some latitude in how they identify, serve and support IDEAs promises for students with disabilities (e.g., states can set their own criteria for how children qualify under IDEA, states provide an annual performance plan to ED etc.), federal law sets forth the minimum requirements. States can always exceed federal law
- **ED conducts oversight activities to monitor state compliance** with IDEA which requires expertise in education and special education through the Office of Special Education
- **ED leads innovative research, conducts longitudinal studies and provides technical assistance** integral to providing tools and information to improve access and opportunity
- **ED oversees laws aligned and funded by Congress -in addition to IDEA-** that provide a necessary ecosystem of support to improve access to education and employment for students with disabilities (e.g., career and technical education, vocational rehabilitation, higher education).

For an overview of each of the federal education and disability laws, please visit [COPAA's Public Policy](#) page.

The Department of Education Does Not

- Set standards in reading, math or other academic standards, states do this
- Develop and design state assessments systems to determine student proficiency in reading, math or other subjects, states do this
- Set high school graduation requirements, states do this
- Determine teacher or school leader credentials, states do this
- Determine teacher or school leader pay rates, states and districts do this
- Determine what curriculum, materials or technology students have access to, states and districts do this

⁴ See: Chart of U.S. Department of Education layoffs, Education Week, (3/13/25), <https://www.edweek.org/policy-politics/data-which-ed-dept-offices-lost-the-most-workers/2025/03>

⁵ See: P.L. 96-88, Oct. 1979

⁶ See: [A Summary of Federal Education Laws Administered by the U.S. Department of Education](#), Congressional Research Service (2024)

How Dismantling ED and Moving it to HHS Harms Students with Disabilities

The Administration and some Members of Congress are proposing to close ED and relocate some of its offices to other federal agencies. In the case of IDEA, as noted above, the President and the Secretary, along with some in Congress have proposed to move these functions to the Department of Health and Human Services (HHS) whose mission is “to enhance the health and well-being of all Americans, by providing for effective health and human services...fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.”⁷

COPAA opposes the move because IDEA is an education and civil rights law, and HHS focuses on health not education. The proposed move puts students with disabilities at great risk because:

- They will be placed on a path leading directly away from educational access and into a medical morass
- They are more likely to be viewed as medical problems to be solved or set aside (when needs are complex) not as individuals with rights and educational needs.

[Students have spoken up](#). They fear that a move to HHS means—

- Segregation
- Fewer rights
- Reduced opportunities with limited or no access to a regular diploma, career training, college and employment.

Indeed, their greatest fear is that when you eliminate the focus and need for an education, society and schools will be more likely to recommend less education and for some -institutionalization- where children and young adults may be shut in with no access to educational freedom and lifelong opportunity.

COPAA has more information on how to communicate with Congress about these issues on its [Take Action page](#).

To learn more about federal education, disability, and employment laws aligned to support students with disabilities please visit [COPAA's Public Policy](#) page and review nonpartisan materials developed by the [Congressional Research Service](#) about the nation's education laws.

⁷ See: About HHS at, <https://www.hhs.gov/about/index.html>