

NEA WEEKLY LEGAL RUNDOWN

From the Office of the General Counsel

Trump's Executive Actions to Dismantle Public Education

During its first two months, the Trump Administration has attacked public education and inclusive policies, often in direct conflict with existing law:

Gutting the Department of Education

The Trump administration has aggressively moved to dismantle the Department of Education (ED), issuing an [EO](#) on March 20th that instructs the Secretary of Education to take “all necessary steps to facilitate the closure of [ED] and return education authority to the states.” This directive follows a 50% reduction in ED’s staffing, along with the termination of \$1.5 billion in contracts and grants, rendering many offices non-functional.



Is This Legal?

NEA has [filed suit](#) challenging these actions as unconstitutional. Since ED was created by statute, only Congress can actually dismantle it—an executive order alone cannot dissolve the department. Actions to dismantle ED exceed the constitutional authority of the executive branch and violate the federal Administrative Procedure Act.

Slashing Federal Funding for DEI Efforts

On February 14th, ED published a [Dear Colleague Letter](#) warning schools that they could lose federal funding for advancing diversity, equity, and inclusion (DEI). The Letter claims, without evidence, that discrimination exists “in every facet of academia” and condemns DEI programs for promoting discussions of systemic racism. Schools were given until February 28th to comply with the directive or risk losing federal funding.



Is This Legal?

NEA has [filed suit](#) challenging the Letter as unlawfully vague. These restrictions on free speech coerce schools into self-censorship and create uncertainty, risking arbitrary enforcement that chills academic freedom. The Letter also imposes new legal obligations without proper procedure, contradicting long-standing civil rights precedent and misinterpreting Supreme Court rulings on affirmative action.

Rolling Back Protections for Transgender and LGBTQ+ Individuals

On his first day in office, Trump issued an [EO](#) mandating that federal agencies recognize only two genders based on biological sex at conception. He later signed an [EO](#) banning transgender and intersex athletes from female sports teams and facilities, which followed a [Dear Colleague Letter](#) issued by ED stripping away the Biden administration’s explicit protections for LGBTQ+ students.



Is This Legal?

As NEA explained in this [guidance](#), an EO cannot change federal civil rights laws or overrule court decisions interpreting those laws. Existing legal precedent affirms that Title IX’s protections extend to transgender individuals, and schools that impose blanket bans on transgender athletes or revoke gender-affirming accommodations may still face legal challenges under existing laws.

Undermining Public Education Funding

On January 29th, Trump issued an [EO](#) directing federal agencies to explore ways to use existing funding programs to support private and religious school vouchers. It tasks the ED with promoting K-12 school choice and instructs other agencies to assess how other funding mechanisms could expand access to private education.



Is This Legal?

An EO cannot overwrite federal law. Given that existing laws specify both how funding will flow and what it will flow for (i.e. to support public schools rather than voucher programs), the EO is largely symbolic unless Congress amends existing laws.

Penalizing K-12 Educators for Supporting for Gender Equity

On January 29th, Trump signed an [EO](#) directing federal agencies to develop a plan to eliminate funding used in K-12 schools to support “equity” and “gender ideology.” It echoes a similar [2020 EO](#) that courts deemed impermissibly vague. Most notably, it instructs the Attorney General to coordinate with prosecutors to take legal action against educators who allegedly violate parental rights—particularly those who support transgender students in socially transitioning.



Is This Legal?

As NEA explained in this [guidance](#), federal law does not criminalize the support of transgender students. How schools support gender-diverse students rests entirely on what state/local laws and district policy require; the President does not have authority to direct states and local authorities otherwise.

Prohibiting “Divisive Concepts” in DODEA Schools

On January 27th, Trump passed an [EO](#) banning military-run schools from teaching “divisive concepts” about race, sex, and gender identity. The directive also mandates that curriculum emphasize American exceptionalism. Additionally, it orders the Secretaries of Defense and Homeland Security to conduct a sweeping review of leadership, instructors, and curriculum to ensure compliance with this directive.



Is This Legal?

Unlike public schools which are primarily governed by state and local agencies, DODEA schools are federally operated, meaning that the federal government generally has authority over curriculum. However, any changes must still comply with existing federal laws, including those related to free speech, civil rights, and equal access to education.

NEA’s Legal Challenges Against Federal Overreach

Given that many of the Trump administration’s executive actions are in direct conflict with existing law, NEA is preparing litigation to curb unlawful efforts that threaten the rights of students, parents, and educators:

NEA and ACLU Sue U.S. Department of Education Over February 14th Dear Colleague Letter

On [March 5th](#), NEA and ACLU filed suit challenging ED’s [Dear Colleague Letter](#) that imposes impermissibly vague restrictions on DEI efforts and threatens federal funding cuts. The lawsuit argues that ED exceeded its authority, using the Letter to violate the First and Fifth Amendments and suppress academic freedom. Educators nationwide are already feeling the chilling effects of the ED’s overreach and have reported growing fears of disciplinary action for teaching honest and inclusive curricula.

NEA, NAACP, and Broad Coalition Sue Trump Administration for Attempts to Dismantle the U.S. Department of Education

NEA, NAACP, and a coalition of education, civil rights, and school employee groups [filed a lawsuit](#) on March 24th asking the federal district court to immediately halt the government’s attempt to dismantle ED. The lawsuit argues that staff cuts have left the agency unable to carry out many of its statutorily-mandatory functions and put student civil rights in jeopardy. It alleges that actions to dismantle the Department exceed the constitutional authority of the executive branch and violate the federal Administrative Procedure Act.