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Federal Government Transition Update - 3.21.25 [1]

March 21, 2025 by Riley Black [2]

Dear Colleagues,

Please find a federal government update from our teams on developments this week.

Executive Order to Dismantle U.S. Department of Education

The President issued a long-expected executive order March 20, Improving Education Outcomes by Empowering Parents, States, and Communities [3], which calls for the closure of the U.S. Department of Education. The order instructs the Secretary of Education "to the maximum extent appropriate and permitted by law, take all necessary steps" to close the Department without disrupting the delivery of education services. The order also directs the Secretary to ensure federal education funds are not used to support "illegal" diversity, equity and inclusion or programs promoting gender ideology. A corresponding fact sheet [4] says the Department "burdens schools with regulations and paperwork" including through Dear Colleague letters. The Department released a Dear Colleague letter [5] in February outlining its interpretation of how universities should comply with the 2023 Supreme Court decision on race-based admissions.

The Department administers federal student aid, including Pell Grants and student loans; monitors student achievement; oversees rigorous education research, evaluation, and statistics; and enforces federal education laws on non-discrimination and civil rights, as well as other functions related to the oversight of higher education like accreditation. Secretary of Education Linda McMahon issued a statement [6] supporting the order and reiterating the Department will "follow the law and eliminate bureaucracy responsibly by working through Congress to ensure a lawful and orderly transition."

The Department, which was created by Congress in 1979 (PL 96-88 [7]), cannot be dismantled absent legislative action. So far, one bill seeking to close the Department has been introduced in the current Congress, H.R.899 [8], *To terminate the Department of Education.* S. 5384 [9], the *Returning Education to Our States Act*, was introduced in the previous Congress. Neither proposal has bipartisan support.

It is unlikely lawmakers will have the support needed to close the Department, as it would require 60 votes in the Senate. McMahon previously gave remarks [10] on “Our Department’s Final Mission” where she said, “True change does not happen overnight – especially the historic overhaul of a federal agency.” If the Department were closed, many of its responsibilities, which are required by federal statute, would continue at other agencies. For example, today the President said [11] he is moving the Department’s student loan portfolio to the Small Business Administration, and student special needs and nutrition programs to the Department of Health and Human Services. Previous reporting suggests the Office for Civil Rights would likely move to the Department of Justice.

Here are some of the statements issued by the national higher education associations on the proposal:

- American Council on Education [12]
- Association of Public and Land-Grant Universities [13]
- Association of American Universities [14]
- National Association of Student Financial Aid Administrators [15]

Our teams, in partnership with the President and Chancellors, will continue to monitor and assess future actions of the Department and their impact on programs of importance to our university.

U.S. Department of Education Reduction in Force

Roughly 1,300 employees at the U.S. Department of Education are being placed on administrative leave today following a reduction in force (RIF) announced [16] March 11. Acting Under Secretary of Education James Bergeron sent a letter [17] to education stakeholders outlining the scope of the RIF on March 14. The letter says employees responsible for the FAFSA, student loan servicing, TRIO programs, and Minority- Serving Institutions are not impacted, nor are employees in the Office of Policy, Planning, and Innovation, which oversees accreditation and negotiated rulemaking. The letter notes that the Office of Higher Education Programs will assume the functions of International and Foreign Language Education, which administers international education programs authorized in Title VI of the *Higher Education Act* .

Court Rules Administration Can Implement DEI Directives

Last week, the U.S. Court of Appeals for the Fourth Circuit lifted [18] a preliminary injunction, which had temporarily paused enforcement of two executive orders aimed at ending federal support for diversity, equity and inclusion (Ending Radical and Wasteful Government DEI Programs and Preferencing [19] and Ending Illegal Discrimination and Restoring Merit-Based Opportunity [20]). The decision allows federal agencies to fully enforce the orders until the appeal in the lawsuit *(National Association of Diversity Officers in Higher Ed v. Trump)* is decided. As a result of the stay, federal agencies may resume pausing or canceling “equity-related” awards, grants, and contracts, as well as require federal contractors like universities to “certify” they do not operate DEI programs that violate existing federal anti-discrimination laws such as the *Civil Rights Act of 1964.*

Federal Agencies Reinstate Probationary Workers

The administration is working to reinstate over 24,000 probationary workers across 18 agencies at the direction of two federal judges. On March 18, a federal judge ruled the

agencies must return the workers to their previous positions, not place them on administrative leave, as many had done. The workers were fired as part of the administration's reduction in force.

We recognize the challenges and uncertainty on our campuses during this time of change at the national level. We assure you the Federal Relations and General Counsel teams are monitoring developments to keep you informed. We appreciate all that you do and will continue to do for CU, and together we will navigate these changes. Please know we are here for you, and we are working closely with the President and Chancellors as well as the Colorado congressional delegation. We encourage you to contact your campus leadership with questions. Please visit the CU System Federal Transitions Update [21] page for up-to-date communications and federal memos.

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