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# **The Federal Update for April 4, 2025**

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Re: Federal Update

Date: April 4, 2025

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## Legislation and Guidance

### Secretary Reverses Course on COVID Relief Late Liquidations

In a letter sent to grantees shortly after 5pm ET last Friday, the U.S. Department of Education (ED) announced that it is revoking the late liquidation authority previously granted for any COVID-19 relief funds authorized under the Coronavirus Response and Relief Supplemental Appropriations Act and the American Rescue Plan Act (ARP). Over 40 States were approved for a liquidation extension under ARP programs by the prior administration. The policy change comes in the wake of a heightened review process for disbursements of COVID-19 relief funds, which ED instituted in February.

As justification for the reversal, Secretary of Education Linda McMahon notes that the pandemic has been over for years and that continued use of those emergency funds is “not consistent with the Department’s priorities and thus not a worthwhile exercise of its discretion.” McMahon makes clear that whether a State was previously approved for a late liquidation bears no relevance, and she emphasizes her discretionary authority regarding these requests:

The Department’s initial approval of your extension request does not change anything. The extension approval was issued recently, so any reliance interests developed are minimal. Moreover, an agency may reconsider its prior decision. So you could not rely on the Department adhering to its original decision. That is especially true because the extension was a matter of administrative grace. You were entitled to the full award only if you liquidated all financial obligations within 120 days of the end of the period of performance. You failed to do so. Any reliance on a discretionary extension subject to reconsideration by the agency was unreasonable.

In a follow-up message on Thursday ED announced that it will institute a new approval process for any requests submitted after 5pm ET on March 28th, which will require grantees to include specific information about each project, as well as describe “(1) how a particular project’s extension is necessary to mitigate the effects of COVID on American students’ education, and (2) why the Department should exercise its discretion to grant your request.” Any request submitted before 5pm ET on March 28th will be reviewed under the prior process. During a webinar with States on Thursday, Acting Assistant Secretary Hayley Sanon also noted that ED will track whether a letter of support from the governor or a Member of Congress has been submitted in relation to a request for reimbursement. Letters of support are not required, but they may bolster a State’s request for extension.

In addition, during the Thursday webinar, Sanon told States that they can submit late liquidation requests for projects not previously submitted for extension, as long as costs were timely obligated before September 30, 2024.

ED will be reviewing all requests on a rolling basis and told States that every request submitted under the new process will be reviewed “as quickly as possible.”

Author: KSC

### ED Notice: Eliminate DEI Programs or Lose Federal Funding

The U.S. Department of Education (ED) sent notifications to States this week requiring them to sign a certification, and get certifications signed by their local educational agencies (LEAs), that confirms they will comply with the administration’s interpretation of Title VI of the Civil Rights Act. The notice says that the certifications must be returned within 10 days and that States should also include any LEA compliance issues and proposed enforcement actions. ED states that the certifications must be completed “in order to continue receiving federal financial assistance.”

On February 14th, ED sent a Dear Colleague letter (DCL) to education leaders notifying them that the administration had determined that diversity, equity, and inclusion (DEI) programs violate Title VI of the Civil Rights Act. As justification, the letter referenced the Supreme Court’s decision in *Students for Fair Admission v. Harvard*. The 2023 decision found that affirmative action admissions programs violated the U.S. Constitution. But ED argues that the scope of the decisions is broader and applies to all DEI programs. In a follow-up frequently asked questions (FAQs) document, however, ED softened its approach slightly, noting that some educational and extracurricular programs focusing on a particular race or culture may be allowable, as long as all students are welcome to participate.

Since the release of the DCL and FAQs, the Department has had difficulty defining what programs it believes would be subject to this new interpretation. While ED has terminated grants that it says are programs based on “illegal DEI,” the Department has been subject to multiple legal challenges, including injunctions preventing the termination of grants. Despite the uncertainty, ED is now looking to quickly require certifications of compliance with its analysis of Title VI.

In a press release announcing the certification requirement, Acting Assistant Secretary for Civil Rights Craig Trainor said that federal funds are “a privilege, not a right” and that ED has “seen too many schools flout or outright violate these obligations, including by using DEI programs to discriminate against one group of Americans to favor another based on identity characteristics in clear violation of Title VI.” Although the certification is titled as a “reminder of legal obligations” related to civil rights, the certification asks States and LEAs to certify that they will comply with the interpretation ED lays out in the document.

The certification also includes a list of consequences for noncompliance with the certification, including the termination of federal funding, the initiation of litigation for breach of contract, and liability under the False Claims Act.

[The press release announcing the requirement can be viewed here](https://www.ed.gov/about/news/press-release/ed-requires-k-12-school-districts-certify-compliance-title-vi-and-students-v-harvard-condition-of-receiving-federal-financial-assistance) and [the certification is available here.](https://www.ed.gov/media/document/reminder-of-legal-obligations-undertaken-exchange-receiving-federal-financial-assistance-and-request-certification-under-title-vi-and-sffa-v-harvard-april-3)

Author: BTW

### OESE Reminds Grantees of Title I Flexibility

The U.S. Department of Education’s (ED’s) Office of Elementary and Secondary Education (OESE) sent a letter to Chief State School Officers on March 31st reminding grantees of flexibilities under Title I that allow for expanded parental choice opportunities.

Acting Assistant Secretary of Elementary and Secondary Education Hayley Sanon’s letter discusses two funding streams that States, local educational agencies (LEAs), and schools can use to improve parents’ academic choices for their children. It encourages States to take advantage of the optional Direct Student Services set-aside under section 1003A of the Elementary and Secondary Education Act (ESEA) and describes how Title I-A formula funds can be used to increase parental choice. (Currently only one State sets aside funds under Section 1003A).

The letter provides an overview of what each section could finance; the role of the State, LEAs, and schools; and the requirements for implementing services under each section. The letter provides examples of permissible activities under Section 1003A that allow for grantees to involve parents in making academic decisions that are best for their child, such as funding career and technical education, advanced coursework (such as Advanced Placement or dual enrollment), tutoring services, and transportation from an identified comprehensive support and improvement school to another public school in the LEA. Similarly, the letter notes that LEAs and schools have flexibility to provide parents with a choice of activities funded by Title I-A for their child under schoolwide or targeted assistance programs, as long as those activities meet other requirements of Title I-A, such as being included in a schoolwide plan or needs assessment.

Sanon also invites questions to the OESE Title I-A email address and promises a future frequently asked questions document on this same topic.

[The letter is available here.](https://www.ed.gov/media/document/oese-letter-state-chiefs-title-1-part-guidance-march-31-2025-109686.pdf)

Author: BAH

## News

### ED and DOJ Announce New Title IX Investigations Unit

The U.S. Departments of Education (ED) and Justice (DOJ) announced on Friday that they have established a Title IX special investigations team (SIT) which will be responsible for reviewing all Title IX complaints received by ED. From ED, the unit will consist of Office for Civil Rights (OCR) attorneys and investigators, Office of General Counsel attorneys, Student Privacy and Protection Office case workers, and a Federal Student Aid enforcement investigator, as well as Civil Rights Division attorneys from DOJ.

In its press release, ED says that the new team will “streamline Title IX investigations” and notes an increasing number of Title IX complaints submitted to ED. In addition, ED says that the new team will allow for a “rapid resolution investigation process” for Title IX complaints and ensure that all Title IX investigations are “fully prepared for ultimate DOJ enforcement,” indicating that ED may refer all Title IX investigations to DOJ for enforcement. (Generally, Title IX investigations would only be referred by ED to DOJ if a recipient refuses to enter into a resolution agreement with OCR).

Secretary of Education Linda McMahon stated in the ED press release that “[t]raditionally, our Office for Civil Rights (OCR) takes months, even years, to complete Title IX investigations. OCR under this Administration has moved faster than it ever has, and the Title IX SIT will ensure even more rapid and consistent investigations.”

Resources:

U.S. Department of Education Press Release, “U.S Department of Education and U.S. Department of Justice Announce Title IX Special Investigations Team,” April 4, 2025.

Author: KSC

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