The Bruman Group, PLLC logo, address, and contact information
1120 20th St, NW, Suite 740 Washington, D.C. 20036
Phone: 202.965.3652
Fax: 202.965.8913
bruman@bruman.com
www.bruman.com
Fax: 

# **The Federal Update for January 17, 2025**

From: Michael Brustein, Julia Martin, Steven Spillan, Kelly Christiansen

Re: Federal Update

Date: January 17, 2025

[Legislation and Guidance 1](#_Toc188001075)

[ED Announces GAN Updates to Incorporate New UGG 1](#_Toc188001076)

[House Passes Title IX Bill Restricting Transgender Athletes 2](#_Toc188001077)

[OESE Publishes Updated ESEA Report Card Guidance 2](#_Toc188001078)

[ED Launches New Parent and Family Engagement Guidance 4](#_Toc188001079)

[Department Releases Updated ESEA Title II-A Guidance 5](#_Toc188001080)

[“Dear Colleague” Offers Resources on Special Education Personnel 5](#_Toc188001081)

[ED to Make Technical Updates to EDGAR 6](#_Toc188001082)

## Legislation and Guidance

### ED Announces GAN Updates to Incorporate New UGG

On Tuesday, January 14, we issued a “Special Alert” regarding the U.S. Department of Education’s (ED’s) announcement that effective January 15, 2025, all drawdowns from the G6 System will be subject to the revised Uniform Grant Guidance (UGG), issued last April. The policy change was implemented by updating the terms and conditions included in ED’s Grant Award Notifications (GANs). This announcement came as a surprise to the grants management field. Virtually all States were preparing for the changes (e.g. revisions to mandatory disclosures, equipment, supplies, procurement, indirect costs, unlawful discrimination based on sexual orientation and gender identity, etc.) to take effect on July 1, 2025 for all State-administered programs, consistent with prior guidance and directives from ED.

The Department updated its existing [“Frequently Asked Questions” on UGG implementation](https://www.ed.gov/media/document/faqs-uniform-guidance) on Friday to reflect the GAN update, stating that the policy change was implemented “for the purpose of ensuring that the new flexibilities and due process protections for grantees set out in [the updated UGG] apply to all grantees as of the January 16, 2025” date. The result will be two different sets of rules in place during the same period of performance, which we believe will be a challenge for both auditors and monitors. Accordingly, we again want to bring this policy shift to your attention.

Author: MLB

### House Passes Title IX Bill Restricting Transgender Athletes

The House passed the Protection of Women and Girls in Sports Act this week, which prohibits students whose biological sex was male at birth from participating in women’s athletics programs. Under the legislation, any educational entity receiving federal funds that violates the prohibition would be noncompliant with the law prohibiting sex discrimination in federal education programs – Title IX of the Education Amendments of 1972.

While the bill prohibits the participation of biological males at birth from participating in women’s athletics programs, it does not prohibit those individuals from practicing or training with women’s programs, as long at the women’s program participants are not denied any benefits or opportunities. The legislation also amends Title IX to define “sex” as based on an individual’s “reproductive biology and genetics at birth,” which would limit Title IX protections for transgender students outside of athletics programs as well. The meaning of “sex” in Title IX, which is not currently defined in the statute, has been the cornerstone of opposing views on Title IX applicability in educational programs.

The legislation passed by the House this week aligns with the incoming Trump administration’s views on Title IX. The Biden administration’s regulations on educational programs generally, which defined “sex” more broadly, were struck down by a federal judge last week as unlawful, and the Trump administration is expected to issue its own, more restrictive regulations.

The legislation has now been referred to the Senate, where it will face challenges as Republicans would need several Democrats to support the bill in order for it to pass. Other action may push the issue forward soon, however, as President-elect Trump has said he may issue an executive order prohibiting the participation of transgender athletes in athletics programs that do not align with their biological sex.

Resources:

Bianca Quilantan, “House passes bill restricting transgender athletes from women’s sports,” *Politico*, January 14, 2025.

Author: KSC

### OESE Publishes Updated ESEA Report Card Guidance

The U.S. Department of Education’s (ED’s) Office of Elementary and Secondary Education published updated guidance on report card requirements under the Elementary and Secondary Education Act this week. The guidance was last updated in 2019. ED says that updates to the guidance resulted from stakeholder questions, monitoring visits, and changes to ED data collection. The guidance updates a number of frequently asked questions, as well as adds new ones, with many of the changes being technical to update external resources referenced in the guidance.

On ensuring reports cards are accessible to parents with limited English proficiency, ED says that State educational agencies (SEAs) and local educational agencies (LEAs) should ensure that parents and families can easily access information about the availability of translation or interpretation services, which may include footnotes in the report card in the primary languages of stakeholders directing them to where they can access translation services.

The guidance also updates references to the reporting category of “students with a parent who is a member of the armed forces on active duty” to “military-connected students” to reflect changes made by the National Defense Authorization Act in 2020, which was also addressed in a Dear Colleague letter last September. Under the changes, military-connected is no longer limited to parents who are active duty, but the guidance says that the reporting category must, at a minimum, capture students with a parent in “active service.” That includes “individuals on active duty, full-time or part-time National Guard duty, and full-time or part-time Reserve status” but not retirees or veterans.

Regarding reporting on the other academic indicator or school quality or student success indicator, ED says that States must report on each indicator overall but that it also recommends reporting on each measure within the indicator, if the indicator does incorporate multiple measures. The guidance also updates information regarding required reporting categories from the biennial Civil Rights Data Collection (CRDC) that must also be included on report cards to align with updates made to the CRDC over the past few years, including reporting on chronic absenteeism. In addition, regarding reporting on educator qualifications, which ED adds new information on, ED recommends States adopt a uniform definition for “teachers who are not teaching in the subject or field for which the teacher is certified or licensed” that aligns with the State’s definition of “out-of-field” teachers that applies to educator equity, as included in its ESEA State plan.

ED also says that States can report the same per-pupil expenditure information on State and local report cards that it reports to the National Center for Education Statistics for the same school year and provides clarification surrounding reporting of postsecondary data. Finally, ED adds a new question telling States that they are required to maintain at least three years of State and local report cards and ensure they are publicly available, in accordance with the Uniform Grant Guidance and the Education Department General Administrative Regulations record retention requirements.

[The updated report card guidance is available here](https://www.ed.gov/media/document/report-card-guidance-2025).

Author: KSC

### ED Launches New Parent and Family Engagement Guidance

Among the guidance documents issued by the U.S. Department of Education (ED) in recent days is a guidance document on parent and family engagement sent to State chiefs late last Friday. The guidance is meant to update and supersede prior guidance published in April of 2004.

The guidance reworks and updates many questions in the prior guidance, and addresses some topics in greater detail, including parent engagement obligations for private schools. It provides clear delineation of the State’s responsibilities under parent engagement, and notes that State administrative funds may also be used for parent engagement.

Where an LEA chooses to withhold more than the one percent minimum of its allocation for parent engagement, the guidance says, the LEA does not have to allocate 90 percent of the full set-aside to schools. Instead, “the LEA may retain for district-wide parental involvement activities the full amount of any Title I, Part A funds reserved for that purpose in excess of the required one percent.”

Additionally, the guidance provides a particularly prescriptive interpretation of what it means to provide written guidance in a language that parents can understand “to the extent practicable.” Where States and districts had long interpreted the phrase “to the extent practicable” to mean where not overly difficult or cost-prohibitive, this interpretation suggests that the “practicability” impacts only the written component. ED says that

“whenever practicable, written translations of printed information must be provided to parents with limited English proficiency in a language they understand. However, if written translations are not practicable, it is practicable to provide information to limited English proficient parents orally in a language that they understand. SEAs and LEAs have flexibility in determining what mix of oral and written translation services may be necessary and reasonable for communicating the required information to parents.”

In other words, the obligation to provide translation to parents is non-negotiable, regardless of the prevalence of a particular language group.

For parents of private school children, the document says that they have the right to participate in LEA-provided parent and family engagement activities, and that activities available must be based on consultation. They could include meetings, conferences, parent education, and parent representation to district-wide private school working groups. The guidance also notes in C-10 that “light refreshments” may be served for parents and families at Title I parent engagement meetings “to facilitate attendance.”

Finally, the guidance details the information that must be part of required notices, parent engagement plans, and school-parent compacts. A table of parent notification requirements, a sample parent engagement policy, and a sample school-parent compact are contained in the document’s appendices.

This guidance is not framed as a draft, but it notes that comments may be submitted to [OESE.Titlei-a@ed.gov](mailto:OESE.Titlei-a@ed.gov). [The guidance is here](https://www.ed.gov/media/document/parent-and-family-engagement-guidance-2025).

Author: JCM

### Department Releases Updated ESEA Title II-A Guidance

This month, the U.S. Department of Education (ED) released updated guidance on Title II, Part A of the Elementary and Secondary Education Act (ESEA), Supporting Effective Instruction. The new guidance supersedes ED’s previous guidance from October 2006, when the No Child Left Behind Act was in place.

Title II, Part A of the ESEA provides funds to State educational agencies (SEAs) and local educational agencies (LEAs) to increase the number of effective school leaders, including teachers and principals, and offer minority and low-income students greater access to effective school leaders. The funds are also used to improve the quality and effectiveness of school personnel to increase student achievement.

The updated guidance includes the requirements for both SEA and LEA use of funds and covers the requirements for SEA administration of LEA subgrants and provides many technical updates to align the guidance with the current version of ESEA, including updates to terminology and requirements. Examples of such changes include removing language surrounding required LEA needs assessments, as the 2015 reauthorization of ESEA removed that mandate, as well as updating outdated terms such as “scientifically-based research,” which is now called “evidence-based interventions.” Regarding evidence-based interventions, the new guidance clarifies that SEAs and LEAs are only required to use evidence-based interventions or practices for the allowable activities that explicitly require it in the statute but that it is a good practice for other activities as well.

The new version also expounds upon the supplement, not supplant requirements, and provides examples of required teacher professional development that can and cannot be supported with Title II, Part A funds. Additionally, the guidance provides new language that suggests limits on using funds for travel to professional development conferences outside of the State. LEAs should demonstrate and document that it considered alternatives and that the higher costs for travel to attend the professional development offered outside the State or the country is “more beneficial to the LEA.”

SEAs and LEAs should consider the new guidance when developing or updating their internal policies and procedures.

[The updated guidance is available here.](https://www.ed.gov/media/document/title-ii-part-non-regulatory-guidance-january-2025)

Author: BTW

### “Dear Colleague” Offers Resources on Special Education Personnel

This week the U.S. Department of Education’s Office of Special Education Programs (OSEP) wrote to State and district leaders on tools to recruit special education personnel.

The letter notes that 45% of schools reported vacancies in special education roles, and 78% reported difficulty in hiring special education staff. It then highlights a number of resources – including agency-sponsored technical assistance centers – to help States and districts “build capacity” and improve professional development as well as retention of special education personnel.

Additionally, the letter points to the newly-launched “[Principal Navigator: Special Education Retention](https://lead-idea.org/navigator/retention),” a new resource designed to help districts identify and address barriers to hiring and retaining special education personnel.

[The “Dear Colleague” letter is here](https://sites.ed.gov/idea/idea-files/dear-colleague-letter-on-special-education-personnel-retention-jan-13-2025/).

Author: JCM

### ED to Make Technical Updates to EDGAR

The U.S. Department of Education (ED) will publish a notice in the *Federal Register* on Wednesday that makes technical updates to the Education Department General Administrative Regulations (EDGAR). The updates largely stem from the final Uniform Grant Guidance regulations that were issued in April last year. Most of the updates are to cross references to the UGG in EDGAR and are not substantive in nature. ED has determined that the changes are not required to go through a public comment period under the Administrative Procedure Act since they are technical. The updates will be effective upon formal publication in the *Federal Register* next week. [An unofficial version of the *Federal Register* notice is available here](https://public-inspection.federalregister.gov/2025-01421.pdf?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov).

Author: KSC

*To stay up-to-date on new regulations and guidance from the U.S. Department of Education, register for one of the Bruman Group’s upcoming virtual trainings.  Our winter webinar series will cover a range of grants management issues, including how ED’s mid-year UGG implementation impacts indirect costs, procurement, property management, and more.  To view all upcoming virtual training topics and to register, visit* [*www.bruman.com/training-and-recordings/*](http://www.bruman.com/training-and-recordings/)*.*

***The Federal Update has been prepared to inform The Bruman Group, PLLC’s legislative clients of recent events in federal education legislation and/or administrative law. It is not intended as legal advice, should not serve as the basis for decision-making in specific situations, and does not create an attorney-client relationship between The Bruman Group, PLLC and the reader.***

© The Bruman Group, PLLC 2025

Contributors: Michael Brustein, Julia Martin, Kelly Christiansen, Brandi Tennant Wills

Posted by the California Department of Education, January 2025