

# **The Federal Update for June 27, 2025**

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Re: Federal Update

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*Due to the July 4th holiday next week, the next issue of the Federal Update will be published on Friday, July 11th.*

## Legislation and Guidance

### Spending for Some Programs Still Unclear as Allocation Date Looms

Funding for federal formula programs is customarily sent out July 1st, but with the Continuing Resolution (CR) that funds the government passed in mid-March, many program allocations have been significantly delayed or are absent altogether, leaving many grantees to wonder how they should plan.

In some cases, the lateness of preliminary and final allocations may simply be due to a lack of staff in both the federal Office of Management and Budget (OMB), which sends numbers and data files to the U.S. Department of Education (ED), and ED itself. However, there remains the possibility that delays could indicate OMB is looking for authority to move or repurpose funds, especially for programs where exact funding amounts were not specified in the CR.

Under the General Education Provisions Act (GEPA), ED is permitted to spend education appropriations over a period of two fiscal years so that the agency can allocate them on an academic year basis. ED has settled on July 1st as the date that falls between the end of the prior school year in the districts and colleges that are closed latest, and the start of the next school year in those that open earliest, but the date itself is not specified in law so it remains possible that allocations will be delayed beyond that date.

In addition, agencies may include new provisions or requirements in the Grant Award Notifications (GANs) for the new fiscal year. Program administrators should carefully review the new GANs side-by-side with prior year documents and alert agency leadership if there are changes to policy or assurances in the document, as new language may conflict with long-standing agency policy or State law and regulations.

The Bruman Group is available to address any questions or concerns that grantees may have about their GANs.

Author: JCM

### ED Backtracks on ESF Liquidation Termination

In a letter to some States Thursday evening, the U.S. Department of Education (ED) changed course on its March 28th, 2025 termination of liquidation extensions under the Education Stabilization Fund (ESF). Noting that the 2nd Circuit Court of Appeals denied ED’s request to lift an injunction which allowed some States who sued to continue accessing funds, ED said it was reopening access to all States.

ED conceded that the fact some States could continue to access ESF funds under the court order while others went through a new application plan had created “fairness and uniformity problems,” arguing that the “original intent of the policy announced on March 28 was to treat all [S]tates consistently.”

As of Thursday, June 26th, all States will be permitted to submit reimbursement or route pay requests for the remaining ESF funds.

ED states that it “will carefully review requests in order to ensure they continue to adhere to governmentwide grant cost principles and that, broadly, expenditures are intended to ‘prepare, prevent, and respond to coronavirus.’” This statement seems to indicate that ED will be re-reviewing the underlying costs for allowability under the original ESF program.

An additional “frequently asked questions” (FAQ) document provided says that States that have already submitted requests and receipts as part of the review process do not need to resubmit. States will also not be permitted to amend their existing liquidation requests, but States that are not parties to the litigation may submit new requests under the process created by ED after March 28th.

For States who are plaintiffs in the ongoing litigation, not much is expected to change while the case proceeds. ED has not indicated that it will appeal the injunction to a higher court, and this new guidance appears to indicate it does not anticipate the injunction being removed.

[The new FAQ document is available here.](https://www.ed.gov/media/document/oese-esf-liquidation-extension-faq-110296.pdf).

Author: JCM

### Reconciliation Bill Faces Byrd Rule Challenges in Senate

As the Senate has continued to draft its version of a budget reconciliation bill, which will modify a number of domestic benefit programs, Senate Democrats and the Senate Parliamentarian have raised concerns that several provisions violate the Byrd Rule. The Senate Byrd Rule requires all provisions in a bill considered under the special reconciliation process to be primarily budgetary in nature. The budget reconciliation process allows the Senate to pass legislation with only a simple majority, avoiding the normal 60-vote threshold required to end debate on a bill before advancing it to a final vote.

In addition to flagging certain Medicaid-related and other provisions, Senate Democrats released a list this week of potential Byrd Rule violations in the portion of the bill impacting higher education programs. According to the analysis conducted by Democrats on the Senate Budget Committee, provisions that remove financial aid eligibility for non-citizens, reduce income-based repayment programs down to two options, prohibit Public Service Loan Forgiveness participation for students in medical or dental internships or residencies, and expand Pell grants for use in short-term programs at unaccredited and for-profit institutions all violate the Byrd Rule. An additional provision that would create a tax credit for donations to voucher programs was also struck this week. The Senate Parliamentarian – a non-partisan position – holds the final decision authority on Byrd Rule determinations and is continuing to conduct her own review of the legislative text. If any provisions are determined by the Parliamentarian to violate the Byrd Rule, then they must be removed from the bill or modified to come into compliance in order for the budget reconciliation process to apply. Although Senate Majority Leader John Thune (R-SD) can overrule the Senate Parliamentarian, and is facing pressure from some lawmakers to use that authority, he has vowed he will not do so.

The fate of the reconciliation bill remains uncertain as some Republicans have expressed hesitancy over proposed changes to the Medicaid program and as lawmakers seek to make adjustments to portions of the bill that currently do not pass muster under the Byrd Rule. Senate Republican leaders were hoping to open debate on the legislation Friday, but that is likely to be delayed until Saturday or Sunday as negotiations continue. In addition, the Senate legislation is expected to have some significant differences compared to the version passed by the House last month, which will require members of the House to vote on the updated legislation before it can be sent to the President. Speaker of the House Mike Johnson (R-LA) has directed House lawmakers to be prepared to delay their planned July 4th recess that was set to begin on Monday, depending on how the Senate legislation progresses over the coming days. President Trump is pushing to have the bill signed into law before July 4th.

Author: KSC

### House Committee Advances Accreditation, Charter School Legislation

The House Committee on Education and the Workforce advanced three education bills on Wednesday: the Empower Charter School Educators to Lead Act, the Accreditation for College Excellence Act of 2025, and the Accreditation Choice and Innovation Act.

The charter school legislation would allow States receiving grants under the Elementary and Secondary Education Act Charter Schools Program to use funds for certain pre-application costs, including providing pre-planning subgrants up to $100,000 to prospective applicants that are led by educators for costs associated with developing their application. Certain conditions apply, including demonstrated “leadership competencies and success with students” for the involved educators, as well as at least 54 months of school-based experience.

In addition, the Committee advanced two bills that would modify accreditation rules for higher education. The first bill would prohibit accreditors from requiring, encouraging, or coercing institutions of higher education to support or oppose certain political or ideological viewpoints, such as those related to diversity, equity, and inclusion initiatives. In addition, the legislation would require accreditors to allow religious institutions to maintain a code of conduct consistent with their religious mission. The second bill would make broader changes to the accreditation system in response to an Executive Order issued by President Trump earlier this year, including allowing States the authority to designate and oversee accreditors for institutions located within their State, making it easier for institutions to change accreditors, and requiring accreditors to focus more on student outcomes by developing specific achievement standards.

The legislation has been advanced to the full House, but a vote has not yet been scheduled.

Author: KSC

### ED Issues Additional Guidance on School Choice

The U.S. Department of Education (ED) issued a “Dear Colleague” guidance letter yesterday. The letter itself notes that it highlights existing flexibility within Title I of the Elementary and Secondary Education Act (ESEA) and follows letters released on Direct Student Services and Unsafe School Choice. It is designed to provide additional information on ways in which schools and districts can promote school choice or transfers as an option for students.

The letter reiterates the requirements for support and improvement plans under ESEA, noting the option to provide school choice for students in Comprehensive Support and Improvement (CSI) schools as well as what requirements would apply if districts choose to exercise that option. The letter also notes ways in which a State or district may use federal funds to promote school choice, including by notifying parents that it may be an option and providing school choice and transfers to other public schools.

[The letter on school choice is available here](https://www.ed.gov/media/document/dear-colleague-letter-parental-choice-schools-identified-support-and-improvement-june-26-2025-110290.pdf).

Author: JCM

## News

### Court Documents Reveal ED Partnerships with Other Agencies

In a court declaration filed earlier this month, staff at the U.S. Department of Education (ED) shared two documents that revealed agreements with other agencies to help manage ED programs. One agreement, with the U.S. Department of the Treasury, outlines the detail of several employees with expertise in government contracting as well as federal student aid programs. The staff declaration suggests this detail would be focused on student loan management, and with the White House having stated that they would like to move the student loan portfolio to Treasury, this seems like a first step toward exploring the logistics of such a move.

The second agreement is an interagency agreement with the U.S. Department of Labor (DOL) to jointly manage several programs, including the Perkins Career and Technical Education (CTE) program and the Adult Education and Family Literacy Act funding. The agreement indicates that the purpose of joint management is to “facilitate the integration” of workforce training programs run by both ED and DOL’s Employment and Training Administration (ETA), as well as to reduce reporting requirements for States. Under this agreement, DOL would undertake the day-to-day management of programs, including allocating and sending out funds to States and other grantees, providing technical assistance, collecting data, and monitoring funding drawdowns. Meanwhile, ED’s staff at the Office of Career, Technical, and Adult Education (OCTAE) would primarily be responsible for monitoring the activities of DOL oversight, calculating allocations, and conducting audits. Moving workforce training programs to DOL was another element in putative plans to eliminate ED.

While the second agreement was executed in May, States and grantees were never notified that program funds may be coming from a different agency as soon as July 1st. ED has indicated these agreements are on hold while an injunction in the litigation surrounding the agency’s reduction in force is in place.

Democratic lawmakers have been highly critical of the agreements, calling them attempts to move the programs wholesale and arguing that they are contrary to law. “Perkins CTE and adult education are education programs whose purpose is to expand educational opportunities to youth and adults,” they wrote in a letter to ED. “Any attempt to move these programs to Labor would fundamentally alter the purposes of those programs and risk turning them into short-term job training programs, no different than those that are funded under WIOA. Most importantly, it would upend decades of work that took place at the [S]tate and local level to embed CTE programs into secondary and postsecondary offerings and improve the quality of CTE and adult education.” The letter also argues that involving two federal agencies in program management is likely to increase administrative burden, not reduce it. Under the statutory authority cited in the agreement, ED and DOL have 60 days from the date of signature to report to Congress on the agreement as well as its purposes and goals.

[The Congressional letter is here](https://www.appropriations.senate.gov/imo/media/doc/250618_letter_to_ed_on_cte_transfer_attempt.pdf).

Author: JCM

## Reports

### GAO Report: Administration Violated Impoundment Law

The Government Accountability Office (GAO), an independent government agency that provides reports for Congress, recently released a second report on the Trump administration’s withholding of federal funds. The GAO report again included a decision that the administration withheld funds in violation of the Impoundment Control Act of 1974 (ICA). A report earlier this year stated that the U.S. Department of Labor violated the act when it withheld funds for the creation of electric vehicle charging stations.

This GAO report concerns the Institute of Museum and Library Sciences (IMLS), which is a part of the National Foundation of the Arts and the Humanities. On March 14th, 2025, President Trump issued Executive Order 14238, which effectively eliminated IMLS. The order said that IMLS “shall reduce the performance of [its] statutory functions and associated personnel to the minimum presence and function required by law.” However, Congress has already appropriated funds for IMLS to use to carry out its responsibilities. Once Congress has appropriated funds, agencies must spend those funds according to those directives. There are only a few circumstances when the President can “impound,” or cancel, funds that Congress has already appropriated, and Congress must be notified and provide approval in those situations.

After the executive order, IMLS Acting Director Keith Sonderling began complying by terminating most of the grants IMLS awarded and eliminating most of its workforce. The GAO found that IMLS had decreased its annual spending activities by about 81%, which indicates the agency effectively stopped using funds for its mission. This is a violation of the ICA, GAO reported, since IMLS was withholding funding and did not qualify for any exemptions under the Act. The report states that, “[w]hile there is no numeric threshold for an ICA violation, the obligation of roughly 19% does not suggest a reasonable attempt by the agency to carry out the purposes of the appropriation.”

The report is now being reviewed by Congress. Senator Patty Murray (D-WA), Vice-Chair of the Senate Appropriations Committee, responded to GAO’s findings, saying that the President “may not like the fact that Congress has, on a bipartisan basis, invested in helping kids learn at their local library — but that does not change the fact that he himself signed these investments into law, and they need to start flowing immediately.”

The GAO is expected to continue releasing similar reports, as it is currently conducting 39 investigations into violations of the ICA by the administration.

[The full GAO report can be viewed here.](https://www.gao.gov/products/b-337375#_ftn10)

Author: BTW

***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.***

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