



Client Alert

## Navigating the Executive Order to Close The Department of Education

On March 20, 2025, President Trump signed an Executive Order entitled “**Improving Education Outcomes by Empowering Parents, States, and Communities**” (“Order”) The Order directs Secretary of Education Linda McMahon to “take all necessary steps to facilitate the closure of the Education Department” (“Department”) to the “the maximum extent appropriate and permitted by law.” It also directs her to ensure that federal Department of Education funds are allocated based on compliance with federal law and Administration policy.

### Questions You May Have

**Q. Has the Department of Education been closed?**

A. No. Closing the Department of Education will require an act of Congress. The Order does not immediately close the Department, and it remains open.

**Q. Is my district still required to administer annual standardized test?**

A. Yes. At the federal level, the testing requirement comes from the Every Student Succeeds Act (ESSA), which is unaffected by the Order at this time. In addition, your state might have standardized testing requirements that are independent from the federal government.

**Q. Is my district still required to assess for eligibility and provide special education and related services?**

A. Yes. Your district still has obligations to students with disabilities and students with Individualized Education Plans (“IEP”s) to comply with the Individuals with Disabilities Education Act (“IDEA”) and relevant state law.

**Q. How will our district’s federal funding be impacted?**



A. It is too soon to tell. However, the Order instructs Secretary McMahon to ensure the “effective and uninterrupted delivery of services, programs, and benefits on which Americans rely.” While the Order does not define “services, programs, and benefits,” Secretary McMahon indicated at her confirmation hearing that the Trump Administration does not intend to defund programs overseen by the Department of Education, but rather ensure efficiency in their administration.

The Order also mentions conditioning federal funding on compliance with laws and policies prohibiting “diversity, equity, and inclusion” programming and “programs promoting gender ideology.” President Trump has issued Executive Orders on these topics, and agencies have released guidance on these topics indicating that they will treat these types of programs as inconsistent with anti-discrimination laws such as Title IX and Title VI. Please note that your state may also have laws regarding these topics with which your district must comply.

## **Q. What are the next steps in Congressional action to close the Department of Education?**

A. While we do not know what steps Secretary McMahon will take, any proposal to close the Department of Education will come before both chambers of Congress. In the Senate, the bill will be subject to the filibuster, which would require 60 votes to pass.

F3 Law will continue to monitor the status of the Department of Education and requirements for funding recipients. Please consult your organization’s legal counsel with specific questions.

[1] National Public Radio, *Linda McMahon has been confirmed as Trump’s secretary of education* (March 3, 2025), available at <https://www.npr.org/2025/03/03/nx-s1-5307078/trump-cabinet-linda-mcmahon-confirmed-education> (“McMahon said repeatedly at her confirmation hearing that she considers the Education Department and education funding to be two different things. The former, she said, can be dismantled without affecting the latter. ‘It is not the president’s goal to defund the programs. It was only to have it operate more efficiently.’”)

## Professionals

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