# School Law News This Week



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# The Practice: NSAA Discussion Forum is Hopping – Join in!

The NSAA discussion forum is really taking off! Recent topics include:

- Appraiser for school district billboard?
- Role of advocate in parent meeting
- Redacting advice
- Prescription Meta glasses
- Federal grant terminations and non-continuations

To participate, sign in on the **website**, go to **discussion forum**, select Email Subscription to receive posts in your inbox, and post/respond!



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# → School Law Scoop: Federal Grant Cuts, School Civil Rights Enforcement News, Ongoing Free Exercise Suit

### **EdWeek Describes Supreme Court's Advocate's Work in Special Ed Cases**

EdWeek's Mark Walsh reported on the recent coverage of Latham & Watkins' Roman Martinez in a YouTube mini-documentary by Bloomberg Law. Martinez has assisted (at the SG's office) or represented every student involved in four recent Supreme Court cases: Fry v. Napoleon Community Schools (2017), Endrew F. v. Douglas County School District (2017), Perez v. Sturgis Public Schools (2023), and A.J.T. v. Osseo Area School District in 2025. The EdWeek piece describes Martinez' work on A.J.T., as seen in the documentary, and explains the A.J.T. ruling. The NSAA ED was interviewed and quoted in the piece, noting that since Perez, savvy parent advocates regularly file federal lawsuits in conjunction with IDEA due process complaints. Unfortunately, the adversarial system surrounding special education is deeply entrenched and painful for everyone; and the A.J.T. ruling may encourage even more litigation.

### Media Report Reductions in Education Civil Rights Enforcement at ED and DOJ

Media reports continue to emerge on how reductions at the enforcement arms at DOJ and ED have led to reduced attention to new and existing complaints.

A <u>CNN report published by CBS58</u> notes that although 250 employees of the Department of Education's Office for Civil Rights have been asked back to help process complaint, a spokesperson says the move is "temporary" and that the department will continue to defend the firings in court.

The article says about 24,000 complaints to the civil rights office remain unresolved, compared to 16,500 cases pending at the end of the Biden administration. The current backlog would be even higher, according to a source at OCR, but the number of complaints filed has dropped more than 20 percent. The source attributes the decline to the Trump administration sending a message that it's not prioritizing civil rights.

In March, the administration closed 7 of ED-OCR's 12 regional offices and laid off nearly half of its staff. The office went from more than 550 employees to just over 300. Additional



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terminations came during the government shutdown in October, and multiple sources estimate around 100 employees remained.

Moreover, before this year, there had been four enforcement directors, an important role that would typically handle the more intensive policy cases. Two sources said there is now only one enforcement director for the entire country.

For the employees that remained after the reductions, the typical investigator caseload went from 35 to more than 80 cases per attorney. "Some attorneys say some cases simply languish or are ignored." The office is also dismissing cases at an increasing pace, court documents reveal. About 7,000 cases have been dismissed under the Trump administration – hundreds more than in the same period last year under Biden.

The Hechinger Report, meanwhile, focuses on the small office dedicated to investigating education-related issue in the Department of Justice's Division. Formerly 40 lawyers, now roughly five, the office has historically worked on a few dozen education cases at once, concentrating on issues like sexual harassment, racial discrimination, restraint and seclusion, and English learners. The article describes a 2021 DOJ investigation into a Maryland school district finding 7000+ cases of "unnecessary restraint and seclusion" in a two-and-a-half-year period. A state statute restricting the practice quickly followed.

According to the article, hundreds of career staffers at DOJ, including most of those who worked on education cases, have resigned, while ED's Office for Civil Rights has been reduced through largely through layoffs. The two offices traditionally have worked closely with one another, so the reductions create "a potentially lasting shift in how the nation's top law enforcement agency handles issues that affect public school students, including millions who have disabilities."

In the last 11 months, the agency has sued over and <u>opened investigations</u> into concerns about antisemitism, transgender policies and bias against white people at schools. A former chief of the Educational Opportunities Section said the current staffing levels prevent the section from sustaining prior work levels.

The article describes one K-12 investigation in a Colorado school district in which DOJ under Biden was investigating a complaint about the district's use of seclusion and restraint as well as allegations of racial discrimination raised in litigation. Four DOJ staffers were assigned to the restraint and seclusion investigation. Justice officials visited the district twice. The second time was during the final week of Biden's presidency. After the administration change, the



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district was provided two staffers' names as contacts on the restraint and seclusion case, and one on the racial harassment case until another Justice staffer returned from leave in the fall. The article quotes a parent frustrated with the slow pace of the investigation.

Douglas County school administrators said in a statement to The Hechinger Report that their "focus is on taking care of each and every one of our students" and that they take all concerns seriously. They have worked with the federal government to set up school visits and interviews during their visits, according to emails from January.

Subsequent emails between district and federal officials describe a phone call over the summer and requests for additional documents. Another DOJ employee was included in the messages.

There are signs that the Justice Department is not abandoning restraint and seclusion work, said Guy Stephens, founder of the national advocacy group Alliance Against Seclusion and Restraint said there are signs that DOJ is still pursuing some R&S work. A <u>webpage about previous cases</u> that was removed after Trump took office has been restored, and in July, the DOJ announced a <u>settlement with a Michigan district</u> over these issues.

The article notes a DOJ investigation into a Vermont school district over allegations of race-based harassment against Black students. Investigators found that the district didn't have a way to handle harassment or discrimination not targeted at a specific person, according to the school board chairman. As part of a settlement agreement signed two weeks before Trump was inaugurated, the district agreed to provide staff training on implicit bias. But a <u>Trump executive order</u> calls for eliminating federal funding for anyone that discusses such a concept in schools. The chairman said that the district had complied with everything the settlement called for, including professional development. The investigation itself, he said, was extremely thorough, and required handing over nearly a thousand pages of documentation. Since then, the district has sent regular reports to the department but has not received any lengthy response or input. He also noted there had been staffing changes in who the district reports to.

Justice officials also decided to end supervision of a 2023 settlement early following a racial harassment investigation in another Vermont district.

# New development in Thomas More Society's Free Exercise suit against Missouri school district



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The <u>Thomas More Society</u>, which is litigating a case against a Missouri school district alleging withholding of information from parents, says the district has capitulated after the society sent a "<u>threat-to-sue letter</u>" on behalf of a parent group. The society accuses the district of "conscripting" students to narrate a video celebrating LGBTQ+ History Month and broadcast the video to the school, "without giving parents advance notice and an opportunity to opt out, directly violating . . . *Mahmoud*, which held that a public school's reading of biased 'LGBTQ+ storybooks' to children without advance notice and opt-out opportunities for religious parents violated the First Amendment."

The school district said its Board of Education had reviewed the letter, will comply with and *Mahmoud*, and "will respond to requests for religious accommodations" from *any* content "by District students and parents promptly upon receipt." KSD also stated it will update the notice it provides parents regarding the "Sora" electronic application.

The Society issued a follow-up letter saying the district was obligated "to provide advance notice and opt-out opportunities from materials it already has reason to know would likely interfere with parents' religious beliefs." It said it would closely monitor the updated notice language produced for the "Sora" app used by the district and threatened further suit "including an emergency injunction and attorney fees, should KSD's actions fall short of the First Amendment. "

## **Labor Secretary Promotes Transfer of ED Programs**

At least one outlet reports that Secretary of Labor Lori Chavez-DeRemer is touting the benefits of moving ED workforce programs into the Labor Department. Secretary Chavez-DeRemer says she is providing technical assistance to Congress, where she once was a member. The Daily Signal also reports that Secretary of Education McMahon is lobbying members of Congress to codify her plan to move certain Education Department functions to other agencies.

### **Administration Cuts Community Schools Grants**

<u>EdWeek reports</u> that late last week, the Education Department abruptly canceled grants for nearly 20 ongoing projects to strengthen instruction and school-based social services in low-income communities. The five-year grants—collectively worth \$168 million—were through



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the Full-Service Community Schools program, which helps schools, colleges, and nonprofits provide food and housing assistance, medical care, and other services in school buildings. According to EdWeek, recipients of the discontinued grants had been expecting two or three more years of funding. But the Trump administration has been screening grants and canceling anything that seems related to advancing diversity, equity, and inclusion. An Education Department spokesperson said the administration is generally repurposing the canceled grants into "high quality programs that better serve special needs students."

# Congress: Secure Rural Schools Act Signed

As reported in <u>EdWeek</u>, the U.S. House has approved the <u>Secure Rural Schools Act of 2025</u>, and the President has signed the bill. This means that rural schools will soon receive federal payments that had lapsed more than a year ago allowing them to replenish reserves, pay back debts, resume delayed projects, and cancel any layoffs that might have been looming. The legislation allocates roughly \$250 million in annual formula funds, as well as two years of back pay. But the payments are only guaranteed through 2026 under the bill. And some rural schools have already closed buildings or laid off staff, in part due to this gap in federal support, as well as enrollment declines and other financial pressures.

# Case Law Update

# **Courts of Appeals**

*Von Busch v. Bd. of Cnty. Commissioners for Geary County*, 2025 WL 3654007 (10<sup>th</sup> Cir. Dec. 17, 2025)

Tenth Circuit Affirms Dismissal of County Official's "Conclusory" Complaint for 1A Retaliation



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Tammy Von Busch sued the Board of County Commissioners of Geary County, Kansas (the "Board") under <u>42 U.S.C. § 1983</u>, alleging the Board discharged her based on her protected speech. The district court dismissed her complaint for failure to allege a First Amendment retaliation claim. The panel affirmed.

The Board hired Ms. Von Busch in 2017 as the Director of the Geary County Health Department. Between 2017 and 2021, she received favorable employment evaluations, describing her work as "good," "commendable," and "exemplary."

In January 2021, Von Busch began to butt heads with a new board member, whom she alleges "refused to allocate necessary funding to the Health Department," "failed to provide adequate support in her position as a County Commissioner during the COVID-19 pandemic," and "regularly acted unprofessionally toward County employees and members of the public, among others." In September 2021, County employees told Ms. Von Busch the Board was planning to close the Health Department.

Ms. Von Busch, in her "private, individual capacity in private social settings," began to express concerns about the Board. She alleges that she "raising issues of public concern regarding the behavior of Giordano" in the Board's "monthly public forum meetings and to the public at large in both public forums and private social settings." At a 2021 Board meeting, Ms. Von Busch "expressed her concerns related to the rumored closing of the Health Department." The board member became "aggressive and combative" and chastised Ms. Von Busch, then sent her harassing emails, made disparaging comments about Ms. Von Busch and the Health Department to the public, and communicated with Ms. Von Busch combatively, according to the complaint.

Based on this retaliatory behavior, Ms. Von Busch expressed questions about the board member's fitness for office "to the public at large in both public settings and private social settings." Ms. Von Busch then received an "undated Notice of Disciplinary and/or Corrective Action" alleging that she had "engaged in 'fighting or creating conflict', rudeness', and 'spreading gossip.""

Shortly thereafter, the Board gave Ms. Von Busch her annual performance evaluation, stating her work lacked "constant, complete communication," "appropriate leadership," and "good judgment in addressing a rumor with [the Board]." The Board then fired Ms. Von Busch.



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Ms. Von Busch sued the Board under 42 U.S.C. § 1983 for First Amendment retaliation. The Board moved to dismiss, arguing the speech leading to her discharge was made pursuant to her official duties and thus not protected by the First Amendment. The district court granted the Board's motion, holding that Ms. Von Busch's speech was made pursuant to her official duties, so she failed to state a claim.

The district court found a "match between the expressions [she] identifies and the tasks she was paid to perform." It noted that Ms. Von Busch alleged she voiced concerns focused on the board member's inadequate support of the Health Department and treatment of community members, and a rumor that the Board intended to close the Health Department."

The court concluded that Ms. Von Busch's speech, "which focused on the Health Department's funding and a Board member's impact on that funding, is directly related to the job she was 'paid to do." It further found the allegations that Ms. Von Busch spoke in her "private, individual capacity" and in "private social settings" were too conclusory to meet *Garcetti/Pickering*'s first element

On appeal, Ms. Von Busch argues the district court erred in dismissing her complaint for failure to state a claim. The issue on appeal is whether the complaint plausibly alleged sufficient facts to satisfy the first *GarcettilPickering* element—whether Ms. Von Busch's speech was not "pursuant to" her official duties. The panel concluded that it did not.

First, the complaint failed to allege Ms. Von Busch's official duties. It said only that she "was employed by" the Board "as the Director of [the] Health Department for Defendant County." Statements from high-ranking persons that have official significance are more likely to be pursuant to official duties, which, the panel said, underscores the need for Ms. Von Busch to describe her duties to show she made statements outside the scope of those duties.

The complaint also failed to allege either the content or context of Ms. Von Busch's speech, or both. Its general references to "private social settings" were too conclusory. *Id.* "They tell us little about what she specifically said and tell us nothing about where, when, and to whom she made the statements. The references to 'public at large' and 'public settings' suffer from similar deficiencies— what did she say and where and when did she say it?"

The panel also noticed that the complaint refers to the Board's "monthly public forum meetings," but it identifies only one meeting where she expressed concern about closure of her department. Doing so may have been within her responsibilities, and to establish



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otherwise would call for facts about her official duties and the purpose of the Board meetings, which are absent from the complaint, it said.

"The complaint leaves us largely unable to determine what she said and to whom, and where and when she said it," the panel said, holding "Because the complaint lacks a description of Ms. Von Busch's official duties or the necessary content or context of her alleged speech, she has not 'nudged [her] claim[] across the line from conceivable to plausible.""

# Tenth Circuit Affirms SJ for School District on Employee Race Discrimination Claims *Bailey v. Fulton Cnty. Sch. Dist.*, 2025 WL 3642317 (10<sup>th</sup> Cir. Dec. 16, 2025)

In a per curiam ruling, a Tenth Circuit panel affirmed a Georgia district court's order granting summary judgment to Fulton County School District (FCSD) and its superintendent, Michael Looney, on his retaliation claim under 42 U.S.C. §§ 1981 and 1983 and his mixed-motive race-discrimination claim under Title VII. On retaliation, Bailey argued that liability attaches to FCSD even if Superintendent Looney didn't know that Bailey complained of race discrimination, and that Looney's failure to investigate Bailey's race-discrimination complaint—which, unknown to Looney, was revealed in an interview with FCSD's Internal Affairs unit—constituted a materially adverse action. On Bailey's mixed-motive race-discrimination claim, Bailey contends that the district court erroneously found that racial bias didn't "play[] some part" in his demotion. The panel disagreed with Bailey's contentions and affirmed.

Bailey argued that Looney's decision not to investigate Bailey's race-based complaint, which arose during his interview with FCSD's Internal Affairs unit, was retaliatory conduct in violation of § 1981. And, Bailey continued, because Looney had final policymaking authority in FCSD, his decision not to investigate counts as FCSD's official policy, exposing FCSD to liability. Bailey's asserted this prima facie case: (1) his interview with Internal Affairs, which revealed a race-based complaint, was a protected activity; (2) Looney's failure to investigate Bailey's race-based complaint, which Looney didn't know about, was a materially adverse action; and (3) there was a causal connection between the interview and Looney's failure to investigate. Bailey's retaliation claim failed, it found, because it neither stated the elements of a prima facie case nor established FCSD's liability.

The panel also found that Looney's failure to investigate Bailey's complaint was not a materially adverse action. A "materially adverse action" is conduct that "well might have



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dissuaded a reasonable worker from making or supporting a charge of discrimination." Bailey, it said, did not explain how Looney's inaction dissuaded him—or would have dissuaded a reasonable worker—from making a race-discrimination claim and had not established the materially-adverse-action element of his prima facie retaliation claim.

Bailey, the panel determined, had not established a causal connection between his protected activity (the Internal Affairs interview) and the alleged materially adverse action (Looney's failure to investigate) because Looney didn't know that Bailey had made a race-based complaint at the time that he decided not to investigate. Looney could not have had the culpable state of mind to commit race-based retaliation if he didn't know that Bailey made a race-based complaint in the first place.

On the Title VII mixed-motive race-discrimination claim against FCSD, the panel found that Bailey's allegations were not enough. He alleged that racial bias "played some part" in his demotion by citing one supervisor's pattern of "belittling" him at meetings; other black employees' complaints about that supervisor's treatment of them; the supervisor's

failure to hire or promote black employees; and the reassignment of his responsibilities to white personnel in the department. This wasn't enough, the panel said, to survive summary judgment because Bailey hadn't offered enough evidence to establish a jury issue as to whether race was a motivating factor for Bailey's demotion.

"The main problem with Bailey's race-discrimination claim," the court said, "is that the evidence doesn't suggest that Bell treated Bailey or other black employees worse than she treated non-black employees. This is a classic example of the Vince Lombardi rule: someone who treats everyone badly is not guilty of discriminating against anyone. .... It would be paradoxical to permit a plaintiff to prevail on a claim of discrimination based on indiscriminate conduct."

"Altogether, there's simply not enough circumstantial evidence to establish a jury issue as to whether race was a motivating factor for Bailey's demotion. While Bailey provided evidence that Bell was a difficult supervisor, that evidence doesn't indicate that she acted in a discriminatory manner; she berated her employees indiscriminately. We don't assess whether this approach is advisable—all we can say is that it's not illegal. Because Bailey hasn't provided enough evidence to show that race played a part in his demotion, the district court didn't err in granting summary judgment against Bailey."



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### **District Court Highlights**

# Arkansas District Court Grants SJ to District in ADA Accommodations Case Luckadue v. North Little Rock Sch. Dist., 2025 WL 3628655 (E.D. Arkansas, December 15, 2025)

A child nutrition assistant for the North Little Rock School District filed suit after, she claimed, the district did not renew her contract. The assistant, Luckadue, argued that the District suspended her, changed her shift, and failed to renew her contract because she requested reasonable accommodations for a disability and because she filed charges of discrimination against the District. The District, however, argued that it suspended Luckadue, changed her shift, and decided not to renew her contract because of behavior and disciplinary issues. Luckadue sued for discrimination and retaliation under the ADA and common law constructive discharge. The District moved for summary judgment, which the district court granted without difficulty on each claim as follows.

Failure to renew the contract because Luckadue filed a charge of discrimination: Nothing in the record linked Luckadue's filing of charges of discrimination against the District, and the adverse employment action. Even if Luckadue had presented a prima facie case, the District provided legitimate, non-discriminatory reasons for not renewing her contract. The District has produced Luckadue's attendance and disciplinary records, which show that Luckadue (1) was consistently disrespectful, unprofessional, and insubordinate in the workplace, (2) failed to fulfill her job duties, (3) was regularly tardy for her shifts; and that (4) between July 2021 and April 2023, she was absent from work a total of ninety-seven days. Luckadue failed to show that these reasons are pretext.

Failure to renew the contract because Luckadue requested an accommodation: Luckadue did not show that her request for an accommodation and the non-renewal of contract were related, but admitted that the District's decision to not renew her contract was based on her workplace misconduct and disciplinary history, and presented no evidence showing the District's reasons were pretext.

Suspension in retaliation for requesting an accommodation: Luckadue did not show that the District's decision to suspend her was related to her request for an accommodation. Rather, she testified that she believed she was suspended because the District believed she hit a co-



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worker with a trash can—not because she requested an accommodation. The District also provided evidence showing that the decision to suspend Luckadue was made before she requested accommodations, and for nondiscriminatory reasons (the behavior and tardiness).

Failure to Accommodate Need to Work the Afternoon Shift Due to Vertigo: Luckadue could not establish a prima facie case because she was not a qualified individual with a disability. Maintaining cooperative and respectful working relationships was one of the functions of Luckadue's job, and the record indicated that Luckadue was repeatedly disciplined and hit a co-worker with a trash can. Even if Luckadue had established a prima facie case, the District offered legitimate, non-discriminatory reasons for denying her transfer requests, and she failed to show pretext.

Constructive Discharge: Even if Luckadue exhausted this claim, there is no evidence that the District committed acts so that Luckadue would quit her job. The record showed that the District made numerous efforts to retain Luckadue by putting her on performance improvement plans, issuing her warnings, moving her to a different shift, and suspending her, rather than firing her. All of the evidence points to the fact that Luckadue voluntarily resigned.

### **Cases Filed**

Parents Sue School District After Children Exposed to Pornographic Imagery *Jessy R. v. Watertown City Sch. Dist.*, No. 5:25-cv-01715-FJS-MJK (N.D. New York Dec. 8, 2025)

In a <u>complaint</u> filed in a New York district court, parents allege that a school district violated their right to direct the religious and moral upbringing of their children by exposing the children to pornographic imagery on an artist's website. They claim that officials and employees of Watertown City School District, "under the guise of an art lesson, intentionally exposed approximately 100 seventh-grade students, including Plaintiffs' children, to pornographic and sexually explicit imagery over a two-week period in September 2025, without providing any advance notice to parents or



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offering an opportunity to opt out." The parents claim that the school district officials' conduct "demonstrates an overt disregard for parental rights, transparency, and religious liberty."

They assert that a seventh-grade Art teacher "deliberately assigned students to visit an unvetted website containing numerous sexually explicit images, acknowledged in front of students that the images were 'inappropriate,' instructed students to 'ignore them and be mature,' and then required students to complete a graded assignment analyzing this pornographic content over multiple class periods spanning approximately two weeks."

They allege that the district violated the parent's constitutional right to direct the religious and moral upbringing of their children.

# m Federal Watch: FCC OIG Says E-Rate Needs More Fraud Protection; ED Notes DOJ Opinion on Race Conscious Higher Ed Grant Programs

# ED's Student Policy Privacy Office Offers Webinar on Hidden Processes Collecting Student Data

The Student Privacy Policy Office (SPPO), through its Privacy Technical Assistance Center (PTAC), will host a webinar for school officials January 28, 2026, 2-3 p.m. ET. Student Privacy Spooky Stories.

What's haunting your data systems? A forgotten app quietly collecting student information? A misconfigured platform exposing Personally Identifiable Information (PII) without anyone noticing? Or a vendor relationship where the shadows hide more than they reveal? Join the Privacy Technical Assistance Center (PTAC) as we explore real-world "ghost stories" from the field, incidents where small oversights led to big scares, and more importantly, what you can do to prevent your own system from becoming the next tale whispered around the campfire. You'll leave with concrete steps, smart policies, and practical safeguards to keep your data environment clear of unwelcome spirits. The only thing more unsettling than these stories...is not being prepared for them.



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Registration is available here: <u>Student Privacy Spooky Stories</u>, <u>January 28, 2026, 2-3 p.m. ET.</u>

# FCC OIG Reports Instances of Waste, Fraud, Abuse in Emergency Connectivity Fund Program

FCC's Office of Inspector General released the report linked below on the integrity of the Emergency Connectivity Fund after conducting "98 site visits to ECF-funded schools and libraries across the nation to determine whether the schools: 1. Used ECF-funded devices for remote learning; 2. Adequately supported the need for the number of devices sought and funded; and 3. Maintained asset and service inventories, as required by the Program. "

The review "identified several issues negatively impacting the integrity of the Program, to include indicia of fraud, waste, and abuse. As a result of this proactive initiative, FCC OIG issued: Four referrals to the Department of Justice for consideration of prosecution for potential civil and criminal violations, to include false claims, false statements, wire fraud, and conspiracy; and, 30 referrals to FCC and FCC's ECF administrator, the Universal Service Administrative Company (USAC), for further review of approximately \$4 million in ECF expenditures, and consideration of potential administrative and award-level remedies to include recovery."

FCC OIG referred its findings to its Office of Audits "to consider a risk-based evaluation of the Program to more fully examine the issues flagged and to identify potential improper payments across all Program participants. In addition, we will continue to assess these matters for suspension, debarment, and Administrative False Claims Act enforcement."

The report includes photographs of unused equipment, notes questionable procedures and potential overbilling and fraudulent documentations, and recommends further oversight on all FCC reimbursement programs.

## <u>Lessons Learned From a Review of FCC's Emergency Connectivity Fund</u>

*Communications Dailey* summarizes the report <u>here</u> (paywall; subscription/free trial required).



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# **Education Secretary Announces Department is Evaluating MSI Programs in light of OLC Opinion**

U.S. Secretary of Education Linda McMahon release a <u>statement</u> of agreement regarding the Department of Justice's Office of Legal Counsel's (OLC) Opinion on the Constitutionality of racial quotas and preferences in the Department of Education's Minority Serving Institution Programs. The opinion, issued December 2, 2025, "analyzed the constitutionality of the Department's MSI programs and advised whether or not the unconstitutional provisions were severable from the broader authorizing statutes." It determined that "with a handful of exceptions, the race-based portions of the Department of Education programs are unconstitutional and inseverable from their surrounding statutory schemes."

This follows a determination in July by the U.S. Solicitor General Hispanic-Serving Institutions (HSI) programs "violate the equal-protection component of the Fifth Amendment's Due Process Clause," and that the Department of Justice would not defend them in litigation brought against the Department by Students for Fair Admissions and the State of Tennessee. The Department of Education asked OLC to assess whether higher education programs that determine institutional eligibility for benefits based on race are unconstitutional in light of Students for Fair Admissions v. Harvard.

In September, the Department announced that it would reprogram discretionary appropriations from MSI programs to other programs that do not present constitutional concerns. The Department did disburse approximately \$132 million in mandatory funding that could not be reprogrammed. As the Department winds down "these unconstitutional programs," the statement said, it does not intend to claw back from grantees previously obligated funds from prior fiscal years.

The Department noted that it is currently evaluating the full impact of the OLC opinion on affected programs and will provide more information at a later date.

**Events & Opportunities – Details on the Programs and Events Page** 

Program announced! NSAA 2026 Spring Virtual Conference - Registration Coming Soon!



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## Tuesday, March 3

## **Accommodating Individual Rights of Staff and Students**

- Symbols, Speech, and Schools: Advising Districts on Free Expression Rights
- 2. Balancing Employee Accommodations and Student Rights in Public Schools

## Wednesday, March 4

## **Immigration and Culture Wars**

- 1. Advising Through the Culture Wars: Legal Guidance for Districts on Sensitive and Evolving Issues
- 2. Immigration Enforcement and Public Schools

### Wednesday, March 25

## Students with Disabilities, Title IX and Staff Management Issues

- 1. Staff Concerns and Students with Disabilities: How to Advise Districts Facing Multiple Legal Issues
- 2. Overlapping Obligations: Advising Districts on Title IX Matters Involving Students with Disabilities

# Thursday, March 26

# **Building Safe, Ethical, and Effective AI Practices in Education and Law**

- 1. From Click-Wrap to Classroom Practice: Legal Guidance on Emerging Al Tools in Schools
- 2. Working Smarter with AI: Ethics and Practical Guidance for School Attorneys

# Monthly Lunch & Learn Webinars - Included with NSAA Membership

Wednesday, Jan. 14, 1:00 p.m. Eastern

Building a Defensible Record: Advising School Officials on Effective Staff Evaluations

Presenter: Jacqueline M. Litra, Partner, F3 Law, Los Angeles, CA



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Register **here** to participate.

Tuesday, Feb. 17, 2026, 12:00 p.m. Eastern

Spotlight on Federal Funding: Navigating Compliance, Flexibilities, and Challenges

Presenters: Josie Eskow Skinner and Jill Siegelbaum, Sligo Law Group

Register here to participate.

### Resource Center

Don't forget to check out the presentation materials from the October Annual Conference. After logging in, members may access the presentation materials in the <u>NSAA Resource</u> <u>Library</u>.

Presentations addressed: Federal Directives and School Policy, Student Free Speech Rights, Religious Freedom and SCOTUS, Investigations: Best Practices, ADA & Employee Mental Health, Students Who Present a Danger, Parents' Bill of Rights, Litigation Trends in IDEA/504 Cases, Title IX Update, and Ethics Tips from a Toddler Parent.



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