Hot Topics in Federal Education Grants

THE BRUMAN GROUP PLLC

Introductions

Steven Spillan
sspillan@bruman.com

The Bruman Group

- What we cover:
  - EDGAR, UGG, GEPA, etc.
  - Education Programs, including ESEA, IDEA, Perkins, School Nutrition, Head Start, Federal Financial Aid, Higher Ed Act, AEFLA, etc.
- How we can help:
  - General Consulting Services and Support
  - Develop/Review Grants Policies and Procedures
  - Internal Control Testing / Mock Audits
  - Training and Workshops (in person or virtually)
  - Audit Resolution and Defense
  - Administrative Appeals
  - Legislative Services

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Agenda

- Updates from Washington
- Doing More With Less Funding
  - Blending vs. Braiding
  - Coordinating Funding
  - Schoolwide
  - Perkins CTE
- Recent Audit Findings

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Federal Update:

News from Washington

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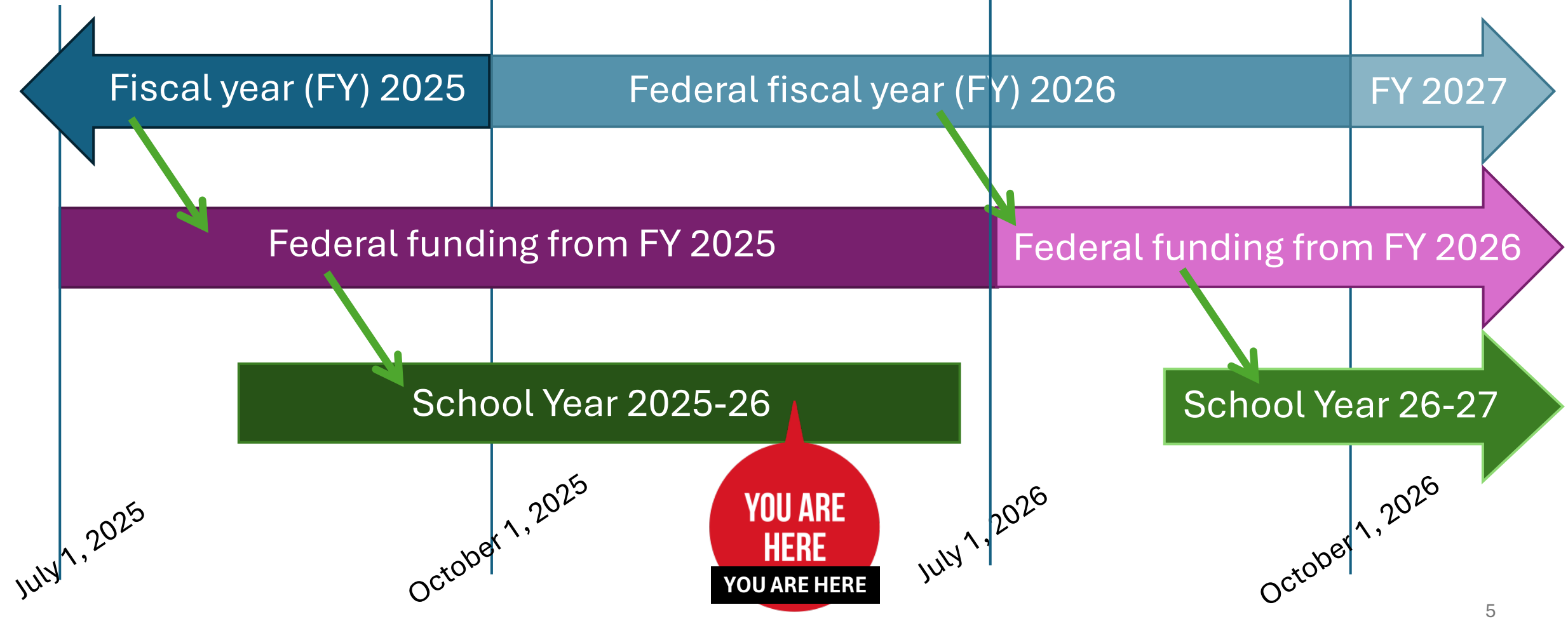
The Appropriations Cycle and Forward Funding



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Funding — Wrapping up FY 2026

- After a 43-day government shutdown, Congress pass a temporary spending measure providing funding through January 30th
  - This bill also contained full-year funding for Agriculture-FDA and 2 other accounts
- Congress passed small “bite-sized” appropriations minibuses for most of the rest of the 12 appropriations accounts
- Finally, Congress released a Labor-HHS-ED and DHS appropriations bill on 1/20 to fund programs through FY 2026
  - Level funds or increases funding for major formula programs
- Late-breaking dissent over ICE funding threatens bill and forces short-term shutdown
- After two-day shutdown, full-year funding for ED passed 2/3

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Program	FY 2025 Final	FY 2026 President's Proposal	FY 2026 Final	Difference FY 2025 to FY 2026
ESEA Title I-A	$18,407	$18,407	$18,426	+$20
ESEA Title I-C, Migrant Education	$376	$0	$376	--
ESEA Title II-A, Supporting Effective Instruction	(not specified), previously $2,190	$0	$2,190	--
ESEA Title III-A, English Language Acquisition	$890	$0	$890	--
Title IV-A, SSAE	$1,380	$0	$1,380	--
ESEA Title IV-B, 21st CCLC	$1,330	$0	$1,330	--
IDEA Part B State Grants	$14,214	$14,891 (as consolidated with other programs)	$14,234	+$20
Perkins State Grants	$1,440	$1,440	$1,440	--
Charter School Grants	$440	$500	$500	+$60

What about those block grants?

- Presidents *frequently* include policy/ reauthorization proposals in budget/spending documents, as in FY 2026 proposal
  - May come back around again!
- Congress traditionally does not include those proposals in appropriations bills because:
  - They add to the number of potential objections that could slow or halt progress of a bill
  - The structure of the appropriations bills only allows for changing policy one year at a time
    - Places conditions on that year's funding
    - Per House and Senate rules, cannot amend underlying statute

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Timing of Funding

- In 2025, OMB withheld funds for unspecified investigations
- FY 2026 legislative text says funds "shall be available for the period July 1, 2026 through June 30, 2027."
  - Does this mean made available to grantees, or available to the federal agency following apportionment by OMB???
- “The Department of Education shall support staffing levels necessary to fulfill its statutory responsibilities including carrying out programs, projects, and activities funded in this title of this Act in a timely manner."

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Funding — On to 2027

- When:
  - Traditionally, President's spending proposal is due to Congress the first week of February
  - Also usually comes after State of the Union
  - State of the Union was Feb. 24
- What:
  - Expect most of the proposals to mirror prior year – key players are still the same
- Where/why/how:
  - Does the proposal address the shift of programs to DOL? If so, how?
  - Rerun of program cancellations/block grants?

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Other Congressional Priorities

- In the last year, Congress has been *re*active rather than *pro*active on most legislation
  - Why? Close margins in House and Senate, lots of time taken up by shutdown and appropriations, lack of clear policy direction/ priorities
- Expect much of the calendar this year to focus on “must pass” or emergency legislation like:
  - Appropriations and debt ceiling bills
  - Health care subsidies
  - War powers discussions
  - Tariffs

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Other Congressional Priorities

- The big proactive legislative push will be on data privacy and AI
  - Section 230 of the Communications Decency Act is subject of debate
    - Says online platforms aren't responsible for third-party content posted by users
  - Increasing concern about data privacy, especially in schools
    - LIFE with AI Act (S. 3063) proposal would expand definition FERPA and reiterate data privacy requirements for schools
  - Concern about Non-Consensual Intimate Imagery (NCII)
    - How do we treat platforms that allow it to be posted? What about platforms or AI systems that facilitate its creation?
  - Concerns about mental health, especially for children
- Expect a coordinated push across multiple committees
- Yes, there is some misalignment with administration priorities/ views

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Administration Activities and Priorities

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EO on “Expanding Educational Freedom and Opportunity for Families”

- Signed January 29, 2025
- Instructs U.S. Depts of Education, Health and Human Services, Interior, and Defense to prioritize school choice programs and drive funding to private schools
- ED directed to prioritize school choice programs in competitive grants
- Requires ED to issue new guidance to States within 60 days about how federal funding allocations to districts and schools may be used to advance this priority
- HHS directed to issue guidance about using federal funds, including the Child Care and Development Block Grant (CCDBG), for childcare at private and religious institutions
- Bound by the scope of existing laws (many restrict use of funds for non-public schools)

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ED's New Final Priorities

- Provides for priorities for competitive grants
- Final Priorities **(Released September 9, 2025):**
  - Promoting Evidence-Based Literacy
  - **Expanding Education Choice**
  - Returning Education to the States
  - Meaningful Learning
- Won't apply to formula grants, but prioritize states that have school choice programs and incentivize others to adopt them

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School Choice Guidance from ED

- Series of guidance documents designed to promote *existing* flexibilities in law/regulations, e.g.:
  - Direct Student Services (March 31, 2025)
  - Unsafe School Choice (May 7, 2025)
  - School Choice and TSI/CSI (June 26, 2025)
  - Equitable Services (August 21, 2025)
  - Ed-Flex (September 17, 2025)
  - Schoolwide Consolidation (January 21, 2026)
  - Title II (February 9, 2026)
- This is not new information! But serve to:
  - (1) follow executive order in promoting school choice,
  - (2) let parents, districts, and schools know these are options under federal law, and
  - (3) pressure States to open up flexibility if there are State law/policy restrictions that prevent them from doing so

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Interagency Agreements and Transition of Programs

- The first two agreements (IAAs)
  - Inter-Agency Agreements filed in a court declaration in June 2025 showed that ED had made agreements to parcel out some portions of program management
    - Had not been public knowledge until the declaration was filed in June
  - Prompted pushback from Democratic lawmakers:
    - “it is not within your authority to move the administration of these programs to any other agency”

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What does the law say?

- Department of Education Organization Act (1979)
  - Outlines the purpose of the education department
  - Equal educational opportunity, supplicant efforts, encourage enrollment, improvement coordination in Federal education programs, etc.
  - Outlines which Departments and staff are required by law, e.g.:
    - There shall be in the Department:
      - An Assistant Secretary for Elementary and Secondary Education; Postsecondary Education; Career, Technical, and Adult Education; Special Education and Rehabilitative Services; and Civil Rights;
      - A Special Assistant for Gender Equity, a Director of the Institute of Education Sciences, an Inspector General, and a General Counsel;
      - An Office of Elementary and Secondary Education, Migrant Education, Postsecondary Education, CTE, OSERS, English Language Acquisition, General Counsel, Inspector General, Indian Education, etc.
  - Sec. 3472: “Except as otherwise provided in this chapter, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate”

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The First IAAs

- **Treasury – Signed April 10, 2025**
  - Detailee agreement "temporary Detail of employees"
  - April 8, 2025 start date
  - 8-10 staff "FSA Expert" with expertise in federal contracting, SFA, DOGE
  - Reasons not specified in agreement but declaration says for purpose of student loan management
- **Labor – Signed May 21, 2025**
  - Joint management agreement for Perkins, AEFLA
  - DOL takes over day to day operations of programs and grantee relations, with ED managing oversight
  - Move to new "GrantSolutions" system
  - Starting with October 2025 funds
  - But! Still technically ED grants

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New November Agreements

- ED announced on 11/18 that it was moving more programs out of the agency following OCTAE model:
  - OESE/Postsecondary institutional programs → Department of Labor (DOL)
  - Indian Education → Interior
  - CCAMPIS, foreign medical accreditation → HHS
  - International foreign language education → State
- "ED will transfer funds as necessary to cover the costs of the activities described in this agreement related to the administration of OCTAE/ESEA programs."
- Agreements signed in September

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New February Agreements

- 2/23 ED announced moving additional responsibilities:
  - Section 117 → State
    - Section 117 of the Higher Education Act requires foreign gift and contract reporting for certain IHEs
  - Family Engagement and School Support → HHS
    - Project SERV
    - School Safety National Activities
    - Ready to Learn Programming
    - Full-Service Community Schools
    - Promise Neighborhoods
    - Statewide Family Engagement Centers

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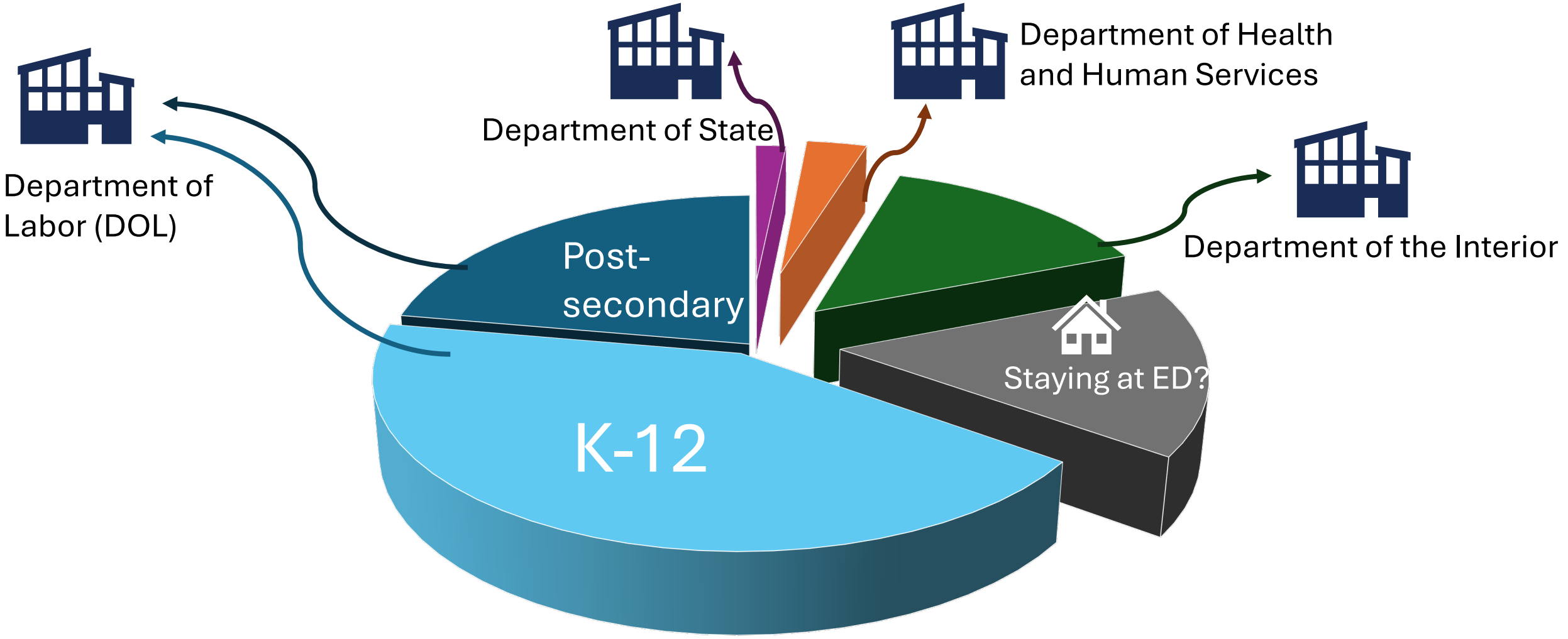

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What does this mean for federal funding?

- Does ***NOT*** mean that federal funds are going away
  - That is a choice for *Congress*
- *Does* mean that guidance, funding will come from new agencies
- Disbursements will follow new processes using manual approval so will likely be slower
- Less support from federal-level agency for States and districts

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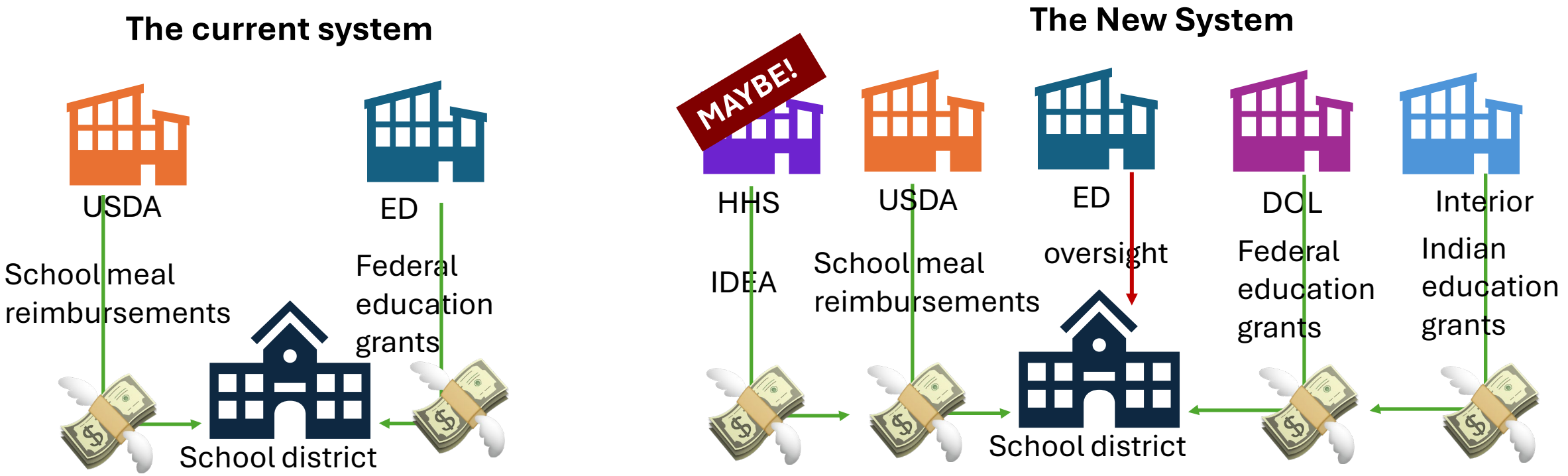
What does this mean for school districts?



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What to Expect from ED Civil Rights Enforcement

- Two main focus points:
  - Title VI of the Civil Rights Act
    - No discrimination on the basis of race or ethnicity
    - Has been interpreted by current administration to require "race-blind" action and prohibit programs that provide additional funding to programs that support students of a specific race (e.g. no scholarships for a particular ethnic group)
  - Title IX of the Education Amendments of 1972
    - No discrimination on the basis of sex
    - Has been interpreted by current administration to require that all students participate in sports and use bathrooms/locker rooms in alignment with sex at birth

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ED Semi-Annual Regulatory Agenda

- For Spring 2025 (published September 2025)
- "Procedures for Investigations and Enforcement of Title VI Violations" (draft rule expected September 2025)
  - "streamlining the process by which OCR seeks termination of Federal financial assistance to institutions that intentionally violate Federal civil rights laws and refuse to voluntarily come into compliance"
- "Elimination of Disparate Impact Theory" (draft rule expected August 2025)
  - "align Department regulations with Supreme Court precedent that requires Title VI violations to rest upon intentional discrimination."
- "Family Educational Rights and Privacy Act" (draft rule expected January 2026)
  - "clarifying the definition of education record" and amending the provisions governing disclosure of personally identifiable information to third parties

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Other Changes to FERPA Policies?

- In March 2025, ED announced it was investigating states for violations of FERPA
- Subsequent guidance raises several issues:
  - Argues that any records or discussion related to gender identity are part of a student's "educational record" and must be disclosed to parents, States can't prohibit disclosure
  - Concerns about withholding disciplinary outcomes from other students involved based on FERPA
  - Annual notification of rights
  - Access for military recruiters

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Other Changes to FERPA Policies?

- March 2025 letter to State chiefs:
  - "[S]chools often create "Gender Plans" for students and assert that these plans are not "education records" under FERPA, and therefore inaccessible to the parent, provided the plan is kept in a separate file and not as part of the student's "official student record." While FERPA does not provide an affirmative obligation for school officials to inform parents about any information, even if that information is contained in a student's education records, FERPA does require that a school provide a parent with an opportunity to inspect and review education records of their child, upon request."
  - "FERPA does not distinguish between a student's "official student record" or "cumulative file." Rather, all information, with certain statutory exceptions, that is directly related to a student and maintained by an educational agency or institution, is part of the student's "education records" to which parents have a right to inspect and review."

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Other Changes to FERPA Policies?

- March 2025 letter to State chiefs:
  - “To the extent that the education record in question directly relates to both students and the information cannot be segregated and redacted without destroying its meaning, the parents of both students have the right to inspect and review that information. While the disciplinary sanction imposed on Student A may not be shared with the parents of Student B, unless the sanction directly relates to both students, FERPA does not preclude school officials from communicating to Student B’s parents, for example, that responsive action is being taken with respect to a threat assessment or potential disciplinary action.”
  - Cites campus emergencies guidance

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Other Changes to FERPA Policies?

- March 2025 letter to State chiefs:
  - “Many LEAs are not properly notifying parents and eligible students of their rights under FERPA. A school is not required to notify parents individually but rather is required to provide the notice by any means that are reasonably likely to inform parents of their rights. These means could include publication in the school activities calendar, newsletter, student handbook, or displayed prominently on the school’s website. See 34 CFR § 99.7.”
  - “The information schools are required to provide to military recruiters include student names, addresses, electronic mailing addresses, and telephone listings. See Section 8528 of the ESEA, as amended, 20 U.S.C. § 7908 and 10 U.S.C. § 503(c).”

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“New” lobbying guidance

- 9/29/2025: DCL on prohibition on use of federal funds for lobbying:
- “Although grantees may belong to professional or trade organizations, including national associations that support students and institutions participating in federal grant programs, the use of federal grant dollars to engage in or subsidize lobbying remains strictly prohibited.”

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Statutory Basis

- Section 1352 of Title 31 of the United States Code:
- Prohibits recipients of federal grants, loans, or cooperative agreements from using federally appropriated funds to pay any person for influencing or attempting to influence:
  - Any officer or employee of an agency,
  - A Member of Congress, or
  - Congressional staff
- in connection with the awarding, extension, continuation, renewal, amendment, or modification of a federal grant.
- This prohibition applies to both direct lobbying by the recipient and indirect support through payments to third parties

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Regulatory Prohibition

- 2 C.F.R. § 200.450 prohibits the use of grant funds for “lobbying activities,” including…
- influencing activities associated with obtaining grants or attempting to influence, either directly or indirectly, an employee or officer of the executive branch of the Federal Government to give consideration or to act regarding a Federal award or a regulatory matter
- Prohibiting any costs associated with attempting to influence federal or state legislation, establishing, administering, contributing to any organization to influence the outcomes of elections in the United States, or engaging in legislative liaison activities

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Membership Organizations

- 2 C.F.R. § 200.454(a) allows the use of federal funds for membership in business, technical, and professional organizations,
- Does not extend to organizations whose primary purpose is lobbying (see § 200.454(e))
- Does not allow payment of dues to any organization that fails to segregate lobbying from non-lobbying costs
- DCL: “It is the responsibility of the grantee to ensure that any membership fee funds are not used for lobbying, even when the membership organization’s primary purpose is not lobbying.”

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What does this mean for you?

- Grantee responsibilities include:
- Ensuring no federal grant dollars are used directly or indirectly to pay for lobbying efforts;
- A presumption that membership fee amounts tied to a percentage of a federal grant are unallowable;
- Maintaining adequate documentation to demonstrate compliance to ensure that membership fees are not used on lobbying and are reasonable and necessary; and
- Avoiding payment of dues to organizations that cannot or do not report the proportion of their activities that are dedicated to lobbying.

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Consequences?

- “Failure to comply with these provisions may result in disallowed costs, audit findings, program reviews, and additional oversight or enforcement actions by the Department up to the termination of your grant. Additionally, violations may lead to civil penalties, including fines and the potential suspension or debarment of grantees or individuals.”

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Waivers

- ED is encouraging states to apply for waivers from provisions of the Every Student Succeeds Act, the nation's primary federal law governing K-12 funding and school accountability.

- Seven States Submitted Waiver Requests

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Alabama

- Requests: https://files.constantcontact.com/ecd88bf2801/611e8175-1c88-4cd8-a8fe-09a6dcd453bd.pdf
  - Require every student to take both ACT ad ACT WorkKeys
  - Consolidate Title II-A, III-A, IV-A and IV-B for state activities
- Status: In process

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Idaho

- Requests: https://www.sde.idaho.gov/federal-flexibility-draft-recommendations-for-public-comment/
  - Replace 3rd grade reading test with reading screener looking for progress
  - Allow high school students to select assessment from state-approved tests
- Status: In process

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Indiana

- Requests: https://drive.google.com/file/d/1ajZHlHhhJQzGVNlz1GdM8Nx3hd2uTm5V/view
  - Use school improvement funds directly on students, not just schools
  - New accountability system
  - Consolidation of admin and state-level funds for statewide priorities
  - Allow district-level consolidation
- Status: In process

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Iowa — Approved Jan. 7, 2026

- Can consolidate portions of Title II-A, III-A, IV-A, IV-B in quasi-block grant
- Can grant higher LEA carryover of Title I-A more than once every 3 years (only for FY 2024)
- Spending limitations in Title IV-A waived for FY 2025

- Full letter: https://www.ed.gov/media/document/secretary-mcmahon-letter-iowa-department-of-education-esea-waiver-january-7-2026-112953.pdf

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Kansas

- Requested ability to pause identification of schools in need of improvement while state transitions to new accountability system
- Ed claims the State can already do this without a waiver
- Kansas expected to withdraw request

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Louisiana

- Request: https://doe.louisiana.gov/docs/default-source/newsroom/louisiana-consolidated-allocation-plan-proposal.pdf?sfvrsn=5635c588_1
  - Consolidate admin and State-level setasides from Titles I-A, I-C, I-D, II-A, III-A, IV-A, IV-B, V
- Status: In process

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Oklahoma

- Request: https://oklahoma.gov/education/public_comment_peer_review_waiver.html
  - Waiver of peer review process for state assessments
- Status: on hold since State Superintendent stepped down in fall 2025

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Doing More with Less

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Braiding vs. Blending

- Coordination vs. Consolidation
  - Braiding: coordinated financial assistance, so each individual award maintains its program identity.
  - Blending: financial assistance is merged into one award and each individual award loses its program identify.

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Braiding Funds

- “A State and a subgrantee shall, to the extent possible, coordinate each of its projects with other activities that are in the same geographic area served by the project and that serve similar purposes and target groups.” 34 CFR 76.580

- Braiding: “Financial assistance from several sources is coordinated… to support a single initiative or strategy, while each individual award maintains its award specific identity.”
  - No statutory authority necessary
  - Good project management
  - Best practice

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Braiding

Benefits

- No statutory authority required
- Allows you to leverage funding from multiple sources to complete projects / programs that could otherwise not occur

Challenges

- Each funding stream maintains its identity including eligibility criteria and scope of authorized activities
- Clearly document allocability
- Supplement not supplant requirements!!

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Braiding ESEA Funds

- Consolidated Local Plan Sec. 1111
  - Title I-A plans coordinated with other ESSA programs AND:
    - IDEA Rehabilitation Act 1973, Perkins, WIOA, Head Start, Adult Education, McKinney-Vento, (and others)
  - Sec. 1112, 8305
    - Cross program coordination
    - Flexibility
    - Enhance integration of programs

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Allocability and Proportional Benefit

- More than one program may assist a single activity.
- Can use funds under more than one program to support different parts of the same project if it meets the following conditions:
  - The costs comply with the requirements of each program with respect to the part of the project assisted with funds under that program; and
  - The accounting system can identify the costs paid for under each program.
- 34 CFR 76.760

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Braiding Process

1. Create a project plan
2. Develop budget
3. Monitor outcomes and accountability

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ESEA and Perkins

- CTE is an allowable use of Title I Funds, so braiding is encourages

- But what is CTE?

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Perkins 101

- Strengthening Career and Technical Education for the 21st Century (Perkins V)
  - No program regulations
  - Very little federal guidance
  - 12-month period of performance
    - No carryover at local level
  - 5% cap on local admin
  - Secondary allocation by formula, similar to ESEA
    - $15,000 minimum allocation
    - Consortia funding (mutually beneficial)
- Less than $2billion appropriated annually

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Purpose (Sec. 2 of Perkins)

To develop more fully the academic knowledge and technical and employability skills of secondary education students and postsecondary education students who elect to enroll in career and technical education programs and programs of study, by—

- Building on the efforts of States and localities to develop challenging academic and technical standards and to assist students in meeting such standards, including preparation for high skill, high wage, or in-demand occupations in current or emerging professions;
- Promoting the development of services and activities that integrate rigorous and challenging academic and career and technical instruction, and that link secondary education and postsecondary education for participating career and technical education students;
- Increasing State and local flexibility in providing services and activities designed to develop, implement, and improve career and technical education;
- Conducting and disseminating national research and disseminating information on best practices that improve career and technical education programs and programs of study, services, and activities;

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Purpose (cont.)

- Providing technical assistance that—
  - Promotes leadership, initial preparation, and professional development at the State and local levels; and
  - Improves the quality of career and technical education teachers, faculty, administrators, and counselors;
- Supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries;
- Providing individuals with opportunities throughout their lifetimes to develop, in conjunction with other education and training programs, the knowledge and skills needed to keep the United States competitive; and
- Increasing the employment opportunities for populations who are chronically unemployed or underemployed, including individuals with disabilities, individuals from economically disadvantaged families, out-of-workforce individuals, youth who are in, or have aged out of, the foster care system, and homeless individuals.

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Perkins Use of Funds — Sec. 135

- Each local recipient that receives Perkins funds “shall use such funds to develop, coordinate, implement, or improve [CTE] programs to meet the needs identified in the comprehensive local needs assessment [CLNA].”
- If it doesn’t tie back to the CLNA, it will be impossible to argue it is necessary under Perkins…therefore its unallowable

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Size, Scope, and Quality

- Sec. 135(b) of Perkins requires local recipients to "support [CTE] programs that are of sufficient size, scope, and quality to be effective."
- Defined in the State Plan

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Use of Funds — Sec. 135(b)

- 6 uses of Funds
  - Career exploration
  - Professional development
  - Skills attainment
  - Academic skills
  - Increase student achievement
  - Evaluation

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Supplanting (Sec. 211(a))

- Perkins V funds shall supplement, and shall not supplant, non-federal funds expended to carry out CTE activities.
- 2 Presumptions of Supplanting
  - Rebuttable if the LEA can demonstrate it had no other option (decrease in non-federal funding)

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Equitable Services (Sec. 217)

- Personnel: Perkins funds for in-service and preservice CTE professional development programs for CTE teachers, administrators, and other personnel shall,
  - to the extent practicable,
  - upon written request…
- Permit the participation in such programs of CTE secondary school teachers, administrators, and other personnel in nonprofit private schools offering career and technical secondary education programs located in the geographical area served by such eligible agency or eligible recipient.

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Equitable Services (cont.)

- Except as prohibited by State or local law, an eligible recipient ***may***, *upon written request*, use Perkins funds to provide for the "meaningful participation," in CTE programs and activities, of secondary school students attending **nonprofit** private schools in areas served by the eligible recipient.
- An eligible recipient shall consult, *upon written request*, in a timely and meaningful manner with representatives of nonprofit private schools in areas served by the eligible recipient regarding the meaningful participation, in CTE programs and activities, of secondary school students attending nonprofit private schools.

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Blending Funding

- Blending: "…financial assistance is combined [emphasis added] under a single set of reporting and other requirements, and resources contributed from each individual funding stream lose their original award-specific identity."

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Blending

Benefits

- Less federal accountability
- Focus on outcomes
- More flexible allowable uses of funds
- Simplifies accounting

Challenges

- Required statutory authority
- Waivers available?
- Requires upfront accounting adjustments
- Belief in a loss of “ownership”

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Blending ESEA Funds

- Consolidated Admin
  - Consolidate ESEA administrative funds at SEA or LEA level
  - Additional allowable uses of funds
- Schoolwide Consolidation’
  - Federal, state, and local funding options

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ESEA Consolidated Admin (Sec. 8203)

- Applies only to Admin Funding
  - No federal definition
  - Cap on %
  - Statute
  - Necessary & Reasonable Amount
- Combines all ESSA programs
  - NOT McKinney-Vento, Perkins, IDEA, Head Start, Agriculture

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Allowable Uses

- Admin of any contributing program

- Do not have to specify which funds went to administering which program

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Schoolwide Consolidation (Sec. 1114)

- A schoolwide program school may consolidate funds from Federal, State, and local sources to implement the school's comprehensive plan to upgrade its entire educational program.
  - Pre-requisite: 40% poverty (unless waived)
- School-level flexibility!
- Consolidation of funds in schoolwide programs applies only to programs at the school building level in accordance with a school's schoolwide plan.

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Schoolwide Plan Requirements Sec. 1114(a) and (b)

- Each schoolwide plan must:
  - Identify the specific programs being consolidated, and the amount each program contributes to the consolidation [Sec. 1114(b)(2)(A)(iii)]; and
  - Maintain records that demonstrate that the schoolwide program addresses the intent and purposes of each of the Federal programs whose funds are being consolidated to support the schoolwide program. [Sec. 1114(a)(3)(C)]
- The SW plan provides information to auditors and monitors about which programs are included if there is a consolidation.
  - Auditors will hold the school accountable in accordance with whether:
    - The plan's activities meet the intent and purposes of the consolidated federal programs;
    - The school is implementing the activities detailed in the plan.

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Levels of Schoolwide Consolidation

- Full Consolidation - consolidates federal and state or local funds
  - Most amount of flexibility
  - Loss of federal identity but state/local rules still apply
  - UGG and EDGAR do not apply
- Federal Funds Only – consolidated ESEA and other eligible programs
  - Moderate amount of flexibility
  - UGG and EDGAR applies
- No consolidation - standard schoolwide school
  - Least amount of flexibility
  - UGG and EDGAR applies

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Flexibility Depending on Level of Consolidation

- Full Consolidation
  - Federal funds lose their identity
  - Consolidated funds may be spent on **educational and operational needs**
  - Not required to be spent in accordance with specific program requirements or cross-cutting federal requirements (UGG and EDGAR)
- Federal Consolidation Only
  - Funds lose program-specific identity but not federal identity
  - Consolidated federal funds must be used to address the specific **"educational needs"** of the school identified in needs assessment and comprehensive plan
  - UGG and EDGAR still applies

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What federal programs can be consolidated?

- U.S. Department of Education Programs
  - Formula Grants: Can consolidate funds from nearly every noncompetitive, formula grant
    - Title I, Part A; Migrant Education Program (Title I, Part C); Preparing, Training and Recruiting Effective Teachers and Principals (Title II, Part A); English Language Acquisition (Title III, Part A); Perkins; and IDEA
  - Discretionary Grants: Can consolidate funds from discretionary grants
    - 21stCCLC & Adult Education
    - Must still carry out activities described in the application under which the funds were awarded
- **To qualify for flexibility the programs must be named in schoolwide plan!**

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Formula Grants

- Not required to meet school-level statutory or regulatory requirements
- Need to address intents and purposes of combined programs AND ensure that the needs of the intended beneficiaries of these programs are addressed
- Must still meet accountability provisions of ESEA, including:
  - Potential identification for school improvement; and
  - Required accountability provisions.
- Must also meet program-linked requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, and various programmatic fiscal requirements

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IDEA — Special Restrictions

- IDEA Programmatic Responsibilities
  - IDEA funds may be consolidated but all programmatic protections must apply, including the provision of FAPE.
  - In other words, IDEA services must be provided, but not necessary to track IDEA dollar to IDEA service.
- IDEA Restrictions on Consolidation
  - Amount of funds cannot exceed the number of students with disabilities multiplied by per-disabled-child amount of Part B funds received by LEA.
  - What about the non-consolidated funds?
    - Any non-consolidated funds can be spent to ensure that programmatic requirements are met and all children with disabilities are served.
    - But must track those separately.

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Equitable Services — Special Restrictions

- Consultation must include:
  - "Whether to consolidate [emphasis added] and use [Title IA funds]… in coordination with eligible funds for services to private school children under… [other] ESSA programs…" Sec. 1117(1)(L)
- Does that mean equitable services set-asides may be consolidated?
  - ED says **no** – funds can only be braided or coordinated with Title VIII equitable services activities (which is encouraged).
    - ESSA Non Regulatory Guidance Fiscal and Equitable Service (Question O-7)
    - https://www2.ed.gov/policy/elsec/leg/essa/essaguidance160477.pdf

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Migrant and Indian Education — Special Restrictions

- **Migrant Education Sec. 1306(b)(4)**
  - Must consult with parents of migratory children or organizations representing those parents, or both; and
  - Must first meet the unique educational needs of migratory children that result from the effects of their migratory lifestyle and those other needs that are necessary to permit those students to participate effectively in school, and must document that these needs have been met.
- **Indian Education Sec. 7115(c)**
  - Permitted only if the parent committee under section 7114(c)(4) approves the inclusion of those funds.

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Eligibility for Consolidation and SNS

- To meet the supplement not supplant requirement as it relates to a schoolwide program,
  - Each school operating a schoolwide program MUST receive all the State and local funds it would otherwise need to operate in the absence of Federal funds [Section 1114(a)(2)(B)], including State and local funds necessary to provide for routine operating expenses such as building maintenance and repairs, landscaping and custodial services.
  - ***Therefore, there must be sufficient State and local funds in that consolidated pool to cover non-educational activities (or operational expenses)!***

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Accounting Requirements

- The school is not required to maintain separate fiscal accounting records by program that identify the specific activities supported by those particular funds in order to demonstrate that the activities are allowable under the program. [Section 1114(a)(3)(C)]
    - Generally, the entity accounts for all expenditures under the schoolwide plan as expenditures from the consolidated pool.

- *Note:* State accounting guidelines generally require that a school be able to identify expenditures by functional categories like salaries, travel, and supplies, etc.
        - However, a school would not be required to track how much it spends on salaries, for example, back to a specific program included in the consolidated schoolwide pool.
        - May attribute expenditures to particular fund sources without regard to whether they actually support the particular fund source.

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Accounting Requirements (cont.)

- Schools must still demonstrate that consolidated funds have been expended on allowable activities in support of the schoolwide plan.
- May use any reasonable method, but there are at least three options approved by ED.
  - LEA-level (group school accounts together)
    1. Proportionate Share Accounting (with consolidated accounting code)
  - School-level
    2. Distribution of Expenditures Based on Revenues
    3. Sequence Charging of Schoolwide Expenditures

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Accounting Methods - Example

Chart A

Programs Contributing Funds to the Consolidated Schoolwide Pool						
	Federal Funds					
School Building	Title I - A Disadvantaged	Title II-A Improving Teacher Quality	Title IV-A Safe and Drug Free Schools	IDEA- B	State and Local Funds	Total for Each Building
A	$182,535	$25,000	$10,685	$94,462	$2,048,115	$2,360,797
B	115,455	25,000	20,071	27,709	1,380,884	1,569,119
C	181,780	25,000	23,686	69,272	1,940,161	2,239,899
D	141,900	110,437	22,351	93,202	1,999,902	2,367,792
E	229,460	110,437	27,546	61,715	1,936,291	2,365,449
F	169,860	110,437	23,796	54,158	1,525,307	1,883,558
Total Funds LEA Distributes to Individual Schools	1,020,990	406,311	128,135	400,518	10,830,660	12,786,614
Percent of Total	8%	3%	1%	3%	85%	100%

The first line of the table reads: School A contributes $182,535 in Title I-A funds, $25,000 in Title II-A funds, $10,685 in Title IV-A funds, $94,462 in IDEA-B funds, and $2,048,115 in State and local funds to the consolidated schoolwide pool within the LEA.

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Basic Operational Expenses — Allowability

- Basic operational expenses includes maintenance and repairs, landscaping, and custodial services
- Again, depends on level of consolidation
  - Full Consolidation – Allowable, because it is impossible to attribute specific activities to consolidated federal funds
  - Federal Only – Unallowable, because consolidated funds must be used to address educational needs identified in needs assessment and articulated in plan

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Time and Effort Flexibility

- Full Consolidation:
  - Payment from the single consolidated schoolwide pool is sufficient to demonstrate that an employee works only on activities of the schoolwide program, and no other documentation is required.

- All others (no consolidation of Federal with state/local funds)
  - Single cost objective: Not required to maintain records reflecting the distribution of the employee's salary and wages.
  - Multiple activities or cost objectives: Must maintain time and effort distribution records in accordance with 200.430(g)(1)(vii)

2024 Compliance Supplement: Part 4 Department of Education - https://www.whitehouse.gov/wp-content/uploads/2024/05/Part-4-Department-of-Education-ED.pdf

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Procurement Flexibility

- Full consolidation:
  - Again, because federal funds lose their federal identity in a consolidated pool, federal procurement requirements do not apply if using consolidated funds.
  - Must follow state rules.
- Federal only:
  - EDGAR rules still apply because no loss of federal identity

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Inventory Management Flexibility

- Full Consolidation:
  - School is generally expected to follow state rules rather than federal rules for property purchased with consolidated funds.
  - Must still keep records identifying property as schoolwide property and documentation that the equipment was purchased with consolidated funds.

- Federal only: EDGAR inventory management rules would still apply.

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Reporting with SW Consolidation

- Reporting and fiscal requirements still apply.
  - Use a proportional Basis (or “any other reasonable method”) to calculate:
    - Carryover
    - Amount of unused non-federal funding
    - Maintenance of Effort (MOE)
    - Comparability
    - Reporting expenditures back to ED
    - State Per Pupil Expenditure (SPPE)

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The SW Consolidation Process

- Who makes the decision to consolidate?
  - School decision (State must remove barriers)
- Starting points?
  - Recommended to coordinate guidance and process with auditors, accountants in addition to state/local representatives
- School and State responsibilities should be clearly outlined
  - For example, how and what accounting adjustments needed? Reporting changes, monitoring changes, etc.
- Policies and procedures updates
- Training

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Resources

- AGA Intergovernmental Partnership Collaboration Series: Blended and Braided Funding: A Guide for Policy Makers and Practitioners by AGA (Dec 2014) https://www.agacgfm.org/AGA/Intergovernmental/documents/BlendedandBraidedFunding.pdf
- GAO Report (Feb 2014) – Implementation Approaches Used to Enhance Collaboration in Interagency Groups https://www.gao.gov/assets/gao-14-220.pdf
- Non-Regulatory Guidance: "Title I Fiscal Issues," February 2008 (replacing May 2006) https://oese.ed.gov/files/2020/07/fiscalguid.pdf
- Non-Regulatory Informational Document: "ESEA Title I Schoolwide Guidance," Sept 2016 https://www2.ed.gov/policy/elsec/leg/essa/essaswpguidance9192016.pdf

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Investigations

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Hulbert Public Schools

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Hulbert Public Schools

- Two former finance officials for the District embezzled federal program funds (Treasurer and encumbrance clerk)
  - Encumbrance clerk was recently sentenced to twelve months in prison & ordered to pay $178,758.19 in restitution
  - Treasurer was sentenced in ‘24 to 12 months & had to pay $372,808.09
- They had issued excess payroll payments to their personal bank accounts

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Hulbert Public Schools

- Hulbert's '20 audit finding:

Condition: During our estimate of needs and final audit work, we observed that the bank balances were not properly reconciled to the accounting records each month, and the "Summary of Financial Activities" (ADPC report) had cash/investments balances incorrectly assigned to prior fiscal years. Because of this, approximately $16,270 of unidentified adjustments were made to the financial statements in order to reconcile, and incorrect OCAS financial information was submitted to the State Department of Education. We also noted several instances where the treasurer coded incoming revenue items to the incorrect revenue source code.

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Hulbert Public Schools

- Hulbert's '20 audit finding:

Cause/Effect: The District did not have procedures in place to adequately review and reconcile revenues and expenditures. Failure to reconcile the bank statements to the accounting records in a timely manner increases the risk of error, fraud, and inaccurate financial information, which will not be detected in a timely manner. This also increases the risk of financial information not being coded to the proper OCAS code, therefore misreporting financial information to the Oklahoma State Department of Education. While preparing the District's estimate of needs and while reviewing the District's financial statements, we noted several OCAS discrepancies. These included errors in the codes used and in the amounts reported via OCAS. The fund balances reported did not match the amounts on the estimate of needs or in the financial statements. In addition, unidentified adjustments were made to the financial statements in order to reconcile to the bank balances.

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Hulbert Public Schools

- Aaaand….Hulbert's '21 audit finding:

FINDING 2021-1 – Misappropriation of Assets

Condition: From information provided by the District, interviews performed, and software accounting reports obtained, it appears that the treasurer, Leslie Mack, and the encumbrance clerk, Becky Morehead, may have committed fraud by misappropriation of assets. This potential embezzlement of District funds appears to have been accomplished by issuing additional payroll payments in excess of their approved employment contract. These extra payments were occasionally made by check, but in most cases paid by direct deposit into their personal bank accounts on record. Further, there appears to have been two additional District employees, Charles York and Luke Morehead, who may have benefited from this payroll scheme. Leslie Mack was the District's payroll clerk and was in charge of all payroll accounting functions.

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Mississippi Superintendents Plead Guilty to Embezzlement

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MS Superintendents: Embezzlement

- Two MS superintendents & a St. Louis teacher pled guilty to conspiracy to commit embezzlement
  - Entered into reciprocal consulting contracts for services at an inflated rate of payment & for services not actually provided
  - Many invoices were identical with only the names changed
  - Facing up to five years in prison

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Boone County Schools

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Boone County Schools

- Maintenance supervisor sentenced to 2 years, 9 months in prison & ordered to pay $3.4M for fraud scheme
  - Custodial/janitorial supplies were ordered from the company of a co-conspirator who overbilled
  - Fraudulent invoices were submitted to the Board of education
  - Checks were mailed = mail fraud

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Madera County Charter School

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Madera County Charter School

- Former school executive charged with embezzlement
  - Allegedly used funds on improper personal expenses
  - Concealed the misused funds by mislabeling the expenses in school accounting records and misrepresenting the expenses when asked
  - An audit conducted for the Madera County Superintendent found a range of misuse of funds, including:
    - New Ford F-150 Raptor pickup trucks for the executive's sons
    - Relationship coach with whom the executive had a personal relationship was paid $12K using school funds

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