



## **FP Education Industry Resource Site**

Fisher Phillips' Education Practice has created a dedicated resource site to aid educational institutions in navigating the continually changing landscape surrounding trending employee and student issues.

If you have any questions about these developments or how they may affect your school, please contact your Fisher Phillips attorney, or any attorney on our [Education Team](#). Visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources that address changes under the Trump Administration.

### **When Was the Last Time Your School Had an Employment Checkup?**

[Download our Education Employment Practices Review Checklist](#)

### **What We Are Seeing In 2025**

#### **Immigration Enforcement Could Soon Take Place on Your Campus**

Along with a [batch of immigration-related executive orders](#) signed within hours of the new administration taking office, the Department of Homeland Security (DHS) [announced a plan](#) to significantly broaden the scope of U.S. Immigration and Customs Enforcement (ICE) operations. The new directive authorizes the agency to target sensitive locations – including all types of schools, places of worship, and courthouses – for enforcement activity.

- **ICE Operations in Sensitive Locations**
- **Expect Legal Challenges**

[What Should You Do?](#)

Your school may soon face new challenges navigating ICE activity on campus. Administrators and staff must understand their roles in protecting the school and immigrant students' rights while not interfering with lawful enforcement activities. Action items:

- **Review I-9s for all school employees**
- **Develop clear policies**
- **Prepare for potential DHS raids**
- **Immigration Enforcement FAQs for K-12 Schools in New Trump Era**

**If subject to a DHS raid targeting personnel or students, contact Fisher Phillips' new Rapid Response Team at (877) 483-7781 or DHSRaid@fisherphillips.com.**

- Your designated point person should be your main point of contact with ICE officers – make sure they are on the scene to coordinate your response.
- ICE agents can enter public areas without permission. However, to access non-public areas, ICE agents need to have a valid judicial warrant signed and dated by a judge.
- You can (and should) request and examine the warrant allowing access to non-public areas of your school, during which time ICE officers can wait in “public areas” of your campus where members of the public can access (like main offices). You may want to consider installing signage that states that visitors must check in at main office and/or that certain areas of the campus are for school personnel only. This will limit ICE officer access to those areas.
- If the warrant is valid, your point person should allow them into whatever specific area has been approved for inspection and enforcement activity, but don't interfere with the raid in any other way.
- You should monitor activities but avoid taking any action that could be construed as harboring those who don't have proper documentation.
- Document any seized property or records.
- Manage any public relations fallout that may result.

**Fisher Phillips Rapid Response Tool Kit.** This Tool Kit is specifically designed for the educational setting, complete with a detailed “what to do in the event of a raid” memo and flyer, a know-your-rights card in multiple languages for students and school personnel, and points of contact for who contact in case of emergencies. Contact your FP attorney for more information.

### **“Gender Ideology” Teachings Under Scrutiny**

Meanwhile, a separate “Gender Ideology” Executive Order mandates that the federal government recognize only two biological sexes: male and female, as determined at conception. Along with a list

of other mandates, the order states that “federal funds shall not be used to promote gender ideology.”

What it means to promote “gender ideology” has yet to be seen or defined but one thing is clear – the order will have an impact on more than just federal agencies. K-12 schools that receive federal financial assistance are now expected to comply with the terms of the order or risk losing funding.

### What Should You Do?

- Schools that rely on federal funding will want to re-evaluate their handbooks and policies to consider whether changes are necessary. For example, all federal agencies are directed to replace the term “gender” with “sex” in official documents. Schools should consider similar action to preserve their funding source.
- Coordinate with your FP counsel to determine whether your educational curriculum, protocols, or procedures could place your school at risk.

### **Bathroom and Locker Room Access Policies**

That same order also requires federal agencies to reverse any policies that allowed gender-identity based access to single-sex spaces. For any K-12 schools accepting federal financial assistance, this will encompass bathrooms and locker rooms. Under the order, students and employees should only be allowed to use the bathroom or locker room that corresponds with their biological sex.

Though the executive order proclaims that “sex” is not a synonym for and does not include “gender identity,” this proclamation runs counter to the Supreme Court’s *Bostock* ruling, which clearly holds otherwise (at least for now). But that Supreme Court decision specifically avoided the bathroom issue, saying it did “not purport to address bathrooms, locker rooms, or anything else of the kind.” Which means we’ll be seeing lots of litigation over this issue – and leaving schools in limbo in the meantime.

### What Should You Do?

- Schools accepting federal financial assistance may be between a rock and a hard place on this issue, as following the executive order to the letter could place your school at risk for a gender discrimination claim.
- Issues of restroom and locker room access have previously been hot-button issues, and this is likely to be an area of increased focused moving forward. Make sure you inform your school community about whatever decision you make and your rationale behind it, so the lines of communication are open.
- Review bathroom and locker room policies with your FP counsel to determine if you need to adjust.

## DEI Activities Under Fire

As if there was not enough uncertainty caused by the Gender Ideology order alone, President Trump also issued a far-reaching executive order targeting diversity, equity, and inclusion (DEI) initiatives. This new DEI order affects *all* K-12 schools, not just those receiving federal financial assistance.

The order directs federal agencies to “combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.” While the order does not clarify what constitutes “illegal DEI” programs, the order does define prohibited conduct as:

- Illegal discrimination and preferences; and
- Workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

Notably, existing federal law already prohibits these same actions, so any **legal** DEI programs that your school is already operating should continue to remain above board – though they may be subject to more scrutiny.

The order also contains a directive to the Secretary of Education to issue guidance to all “state and local educational agencies that receive Federal funds” on steps required to comply with the 2023 Students for Fair Admissions case. Though this provision only targets agencies, we suspect the guidance eventually issued by the Department of Education will include individual schools that receive federal financial assistance as well.

### What Should You Do?

- You will want to prepare and carefully review any forms of DEI initiatives, scholarships, preference policies, or programming currently in place to see what, if anything, needs to be changed.
- For more information on steps to take, check out the guidance we issued after a federal appeals decision redefined boundaries for DEI programs.

## What Will 2025 Bring?

Our Education thought leaders have pulled together their top predictions for 2025.

### Big Changes to the U.S. Department of Education (DOE)

A second Trump term is sure to bring sweeping education policy changes impacting both higher education and private and independent K-12 schools. While the president-elect has promised to shut down the DOE, he will probably be unable to get the Congressional approval required to do so. However, the new administration will likely scale back the agency’s power and responsibilities in

other ways, leading to more state autonomy over education for K-12 schools and potentially causing disruptions to student aid and student loan programs for colleges and universities.

## **Federal Push for Parental Rights and School Choice for Private and Independent Schools**

We will also see the incoming administration push for more parental empowerment in K-12 education, a movement that has swept across red states in recent years. This will include giving parents broader rights to control their children's education (and making public funds available to families who choose to send their kids to private schools. While voters rejected school choice initiatives on several state ballots in November, President Trump said that his nominee to lead the DOE, Linda McMahon, will fight tirelessly to expand universal school choice at the federal level for all states.

## **More Support for Religious Schools**

The first Trump administration was hugely supportive of religious liberty and religious exemptions, and we expect the same from the second term. For religious schools, we anticipate will see the next four years bring some combination of broader support for schools enforcing their religious tenets and broader interpretations of religious school exemptions like the ecclesiastical exemption, the religious exemption under Title III of the Americans with Disabilities Act, and the ministerial exemption.

## **Court-Blocked Title IX Rule Will Not Be Revived, But States Could Take Protective Measures**

A federal court just blocked the Biden administration's sweeping Title IX rule – effectively wiping the entire rule off the books for all schools nationwide. We predict the 2024 rule, which included protections for LGBTQ+ students, will not be revised under Trump administration. While there's never been federal protection for private school transgender students (other than at those schools subject to Title IX), be aware of any applicable state laws and anticipate that some states will respond to the expected Title IX cuts through proactive legislative changes.

## **Continued Challenges Involving Artificial Intelligence**

Artificial intelligence creates dual challenges for education leaders who must determine appropriate use of generative AI among their students as well as their administrators and faculty. We expect increased litigation and other issues in this area in 2025, much like this court decision that backed the school in an AI cheating case, or this cautionary tale about education officials who released a document riddled with false citations because GenAI had been used to create it. Visit our [\*\*AI Hub\*\*](#)

## **Digital Deception in Schools**

In today's digital landscape, the rise of deepfakes has made video content increasingly unreliable, posing serious risks for private schools. These hyper-realistic, AI-generated manipulations can spread misinformation, damage reputations, and create legal challenges. As digital deception grows more sophisticated, schools must stay vigilant, proactively safeguarding their communities and ensuring compliance with evolving regulations.

## **Cybersecurity Once Again Takes Center Stage**

We also expect more data privacy challenges, similar to the [PowerSchool cyberattack](#) that impacted thousands of schools and over 50 million students.

We will continue to monitor developments impacting higher education institutions and K-12 schools. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.

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**About Us:** Our lawyers have been representing educational institutions of all types for over 25 years. We represent academic institutions throughout the U.S. and Mexico, including religious and secular independent, private, and charter schools and institutions of higher education. Our team handles legal and regulatory issues involving employees, students, and boards at all levels, from training and advice to administrative charges, litigation, and appeals. As leaders in the education industry, our lawyers provide unequalled client service and efficient, practical solutions tailored to achieve the best possible results at every step. We partner with our education clients to identify and manage risk, meet compliance obligations, and address issues proactively. [How We Can Help.](#)

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