



# Facts in the Flood:

*Education First's analysis of federal education policy under the Trump Administration*

## Strategies for Responding

Prepared by Education First

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# This resource is part of *Facts in the Flood*: Ed First's analysis of federal education policy under the Trump Administration

*The Facts in the Flood series is designed to help education organizations understand the Trump Administration's education policy actions and develop strategies for navigating the new policy environment.*

This deck

## Strategies for Responding

This slide deck provides frameworks to help education organizations respond to federal policy changes.

## Federal Policy Resource Hub

This document provides curated links to helpful resources for understanding the Administration's actions and their potential impacts.

## ESEA Waivers 101

This brief details what states need a waiver to do, which requirements can and cannot be waived and what the waiver request process looks like.

## Federal Education Policy Primer

This slide deck explains the reach and limits of federal authority over education, and how each branch of the federal government impacts education policy.

# Executive Summary

The Trump Administration has issued dozens of **executive orders** impacting various facets of education. Many of these fall on the **edges or outside federal authority**.

Organizations seeking to minimize **legal risk** may end up “**overcomplying**” with non-legal orders. A holistic risk assessment should also include a consideration of “**mission risk**”: the harm to an organization’s mission resulting from overcompliance.

The Trump Administration is asserting an **expansive vision of its authority** over education policy while also paradoxically **reducing the capacity of the federal agencies** that would implement this vision. This tension will make it difficult for federal agencies to implement orders that require administrative action. Organizations may ultimately experience the impacts of federal retreat more than federal expansion.

In response to the Administration’s anti-DEI efforts, many organizations are changing their words but not their actions—an approach we call “**Quiet Continuity**.” This approach has tradeoffs that should be considered relative to the alternatives.

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# **Background: Overview of Recent Administration Actions**

# Background

- This is the first part of a new series from Education First about the implications of the Trump Administration's actions on education policy. Our goal is to help education organizations make sense of these changes and develop a strategy for navigating the changing policy environment. This series builds on our prior [analysis of the 2024 state and federal election results](#).
- As the Administration attempts to enact a far more expansive view of federal—and specifically executive—authority over education, this deck provides frameworks to help organizations understand and respond to the Trump Administration's actions.
- Many of the Administration's actions do not align with current law and have been blocked by federal courts. Regardless, the volume and ambition of its actions present significant challenges to a large swath of mission-driven education organizations.

*Note: This deck is designed to inform organizations' strategy. It does not constitute legal advice. Please consult with a lawyer about any legal action. The federal policy landscape is changing rapidly, so this deck will be updated regularly to keep pace with events.*

# In its first months, the Trump Administration has taken many executive actions related to education policy

Updated 3/25/25. Not comprehensive.

## Expand career pathways

- Reversal of CTE data collection requirements
- Congressional interest in WIOA and short-term Pell changes

## Increase immigration enforcement and deportations

- Laken Riley Act
- Anti-immigration EOs, including EO ending birthright citizenship\*
- ICE raids
- Undocumented residents registry

## Cut federal funding

- Cuts to ED programs, including the Institute of Education Sciences, Regional Education Labs, Comprehensive Centers and teacher pipeline programs\*

## Roll back “DEI” policies

- EOs eliminating DEI programs\*
- EOs blocking transgender recognition
- “Dear Colleague” letter warning against DEI programs

## Expand school choice and “parents’ rights”

- EO prioritizing school choice in discretionary grants
- EO requesting report on “protecting parental rights”

## Weaken or politicize the US Department of Education (ED)

- EO stating intent to close ED
- Sec. McMahon issues “Final Mission” statement
- Reduction in force (RIF) at ED, hiring freeze, etc.



# Risk Considerations in Organizations' Responses



# The Administration has an expansive view of presidential authority. Many of its actions go beyond its current authority.

## Within Authority

*Actions that the Administration has the legal authority to take*

## Edges

*Actions of unclear legality*

Judges are less likely to immediately block these actions, but may do so after they move through the judicial system.

## Outside of Authority

*Actions that clearly fall outside of presidential authority or violate laws*

If the Administration is sued, judges are likely to quickly block these actions via temporary restraining orders (TROs).

# The legal risk of noncompliance varies significantly, depending on the Administration's specific action

Within Authority

Compliance is required.

Edges

Unclear if compliance is required.

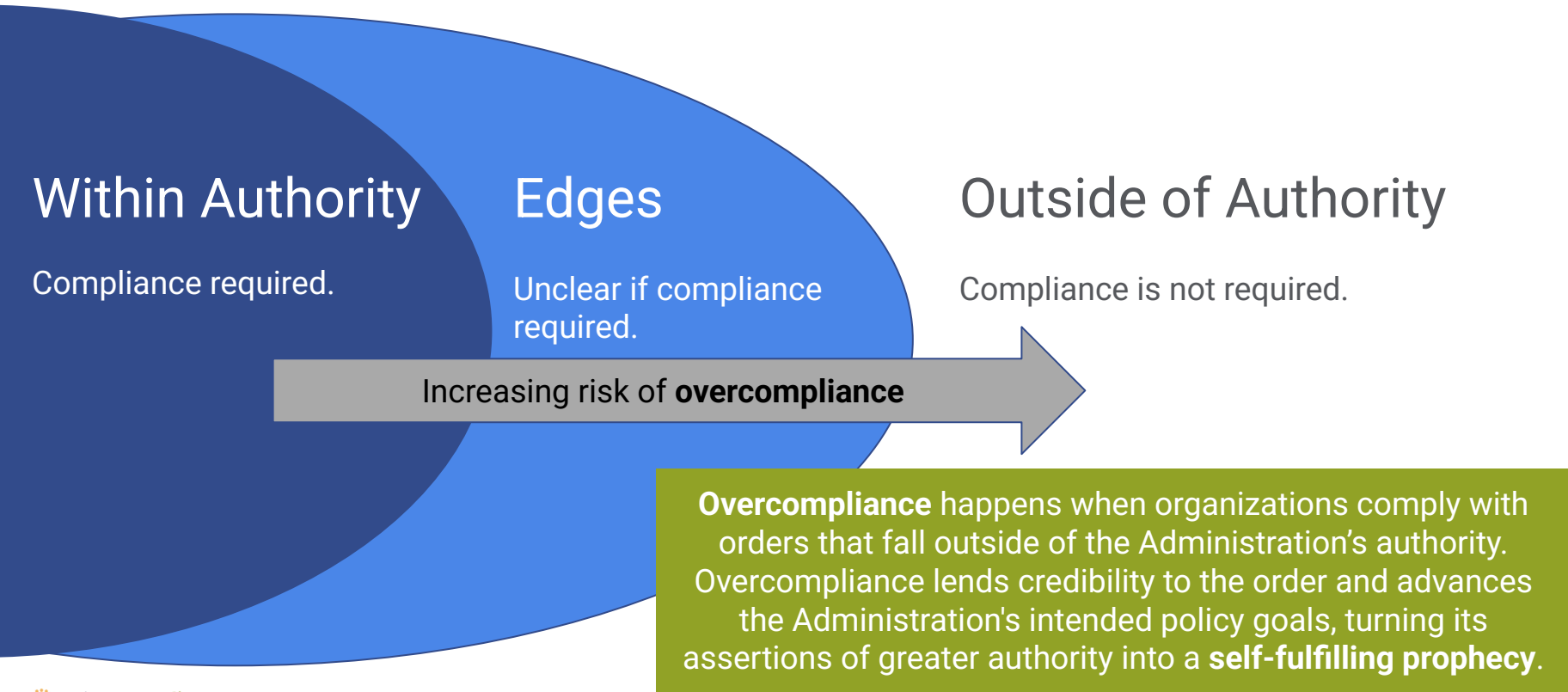
Outside of Authority

Compliance is not required.

← Increasing **legal risk** of noncompliance

Organizations face a greater risk from noncompliance when the federal government is most clearly operating within its authority. However, many organizations are currently complying with actions outside of federal authority due to an overestimation of the legal risk.

# As a result, we are seeing organizations move to overcompliance, regardless of the legality of the Administration's actions



# Organizations cannot eliminate risk; instead, they face a tradeoff between “Legal Risk” and “Mission Risk”

## Legal Risk

Risk of legal action and its associated consequences (i.e., legal costs, fines, reputational damage) as a result of not complying with federal orders.

## Mission Risk

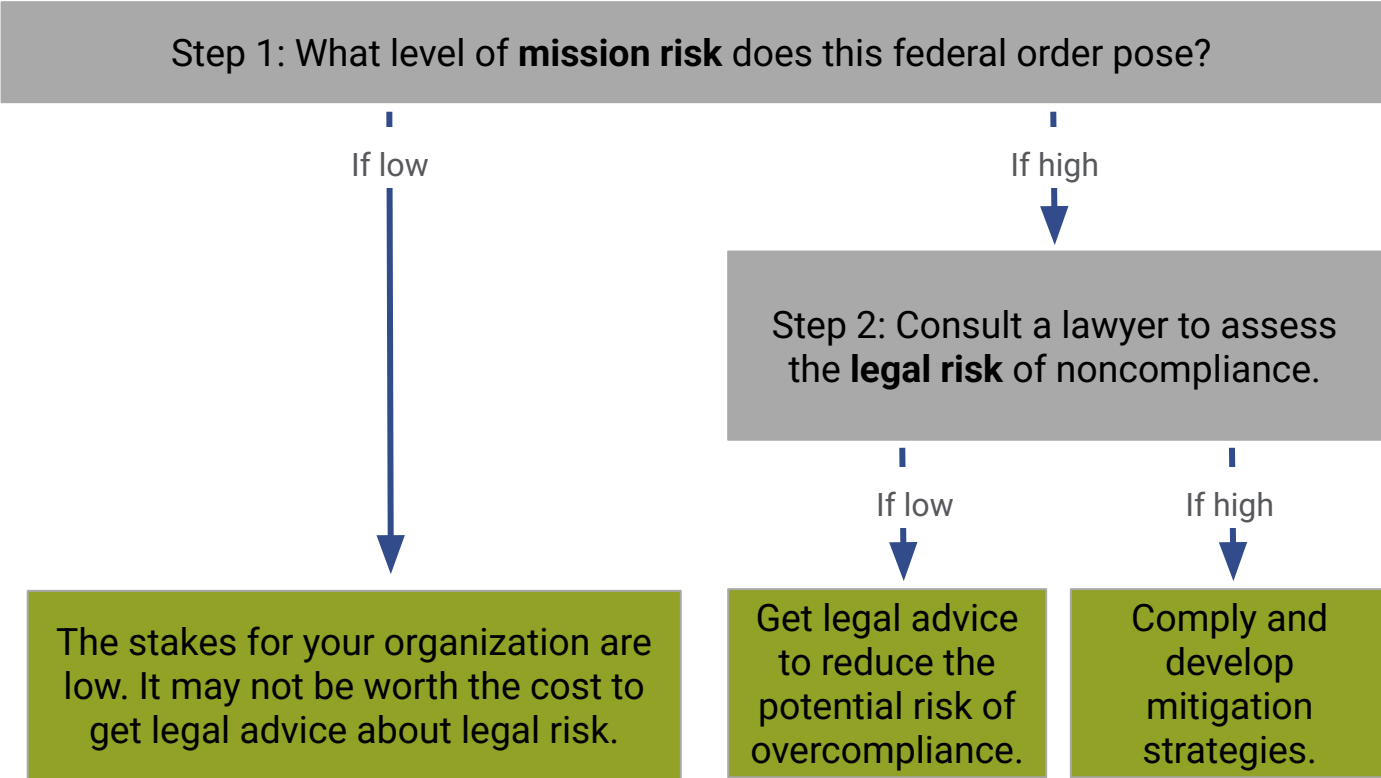
The risk to an organization's mission, values, purpose, etc. by taking actions (or inactions) counter to that mission, such as in response to federal orders.

The Administration's actions create fear within organizations about their legal obligations, which increases their focus on reducing **legal risk**. This often leads to **overcompliance**.

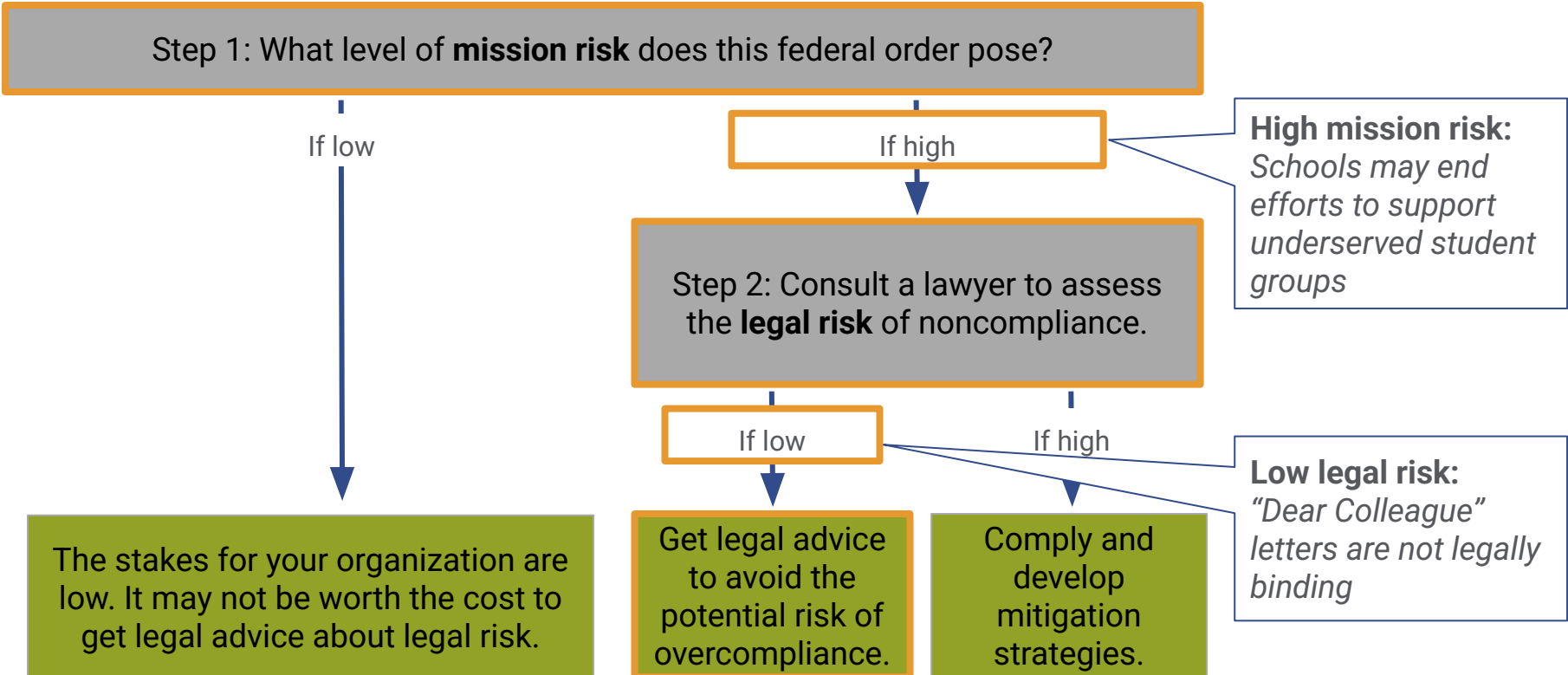
A more holistic assessment of risk should include **mission risk**, the risk to an organization's ability to achieve its mission if it changes its actions.

**If organizations focus solely on reducing legal risk, they may unintentionally increase mission risk, and thus their overall risk.** The safest course of action is to consider the tradeoffs between both types of risk.

# Organizations should consider both mission risk and legal risk when deciding how to respond



# We can see this decision making process play out with ED's "Dear Colleague" letter ordering schools to end DEI practices



# The legal risk of noncompliance is potentially further diminished by the Administration's shrinking capacities

## Expanding Reach

The Trump Administration attempts to expand its reach into state/local decisions or asserts legally dubious authorities  
(*larger federal role*)

**Examples:** EO on “Ending Racial Indoctrination in K-12 Schooling”; anti-DEI “Dear Colleague” letter

The Trump Administration cannot effectively expand its reach and shrink its capacities at the same time.

Shrinking capacities reduces the resources – such as staffing – needed to enforce federal authority and policy priorities.

The Administration is now prioritizing shrinking its capacities over expanding its reach. While this may reduce organizations' legal risks (e.g., getting investigated), it may increase their mission risks (e.g., losing funding).

## Shrinking Capacities

The Trump Administration removes previous supports, protections or resources, leaving states/locals on their own  
(*smaller federal role*)

**Examples:** Cutting staffing; pausing or reducing funding; removing websites or guidance documents

**The greater an organization's reliance on the federal government (e.g., for funding or supportive policies), the greater the risk posed by the federal government's shrinking capacities.**

# USED's Office of Civil Rights (OCR) illustrates the tension between expanding reach and shrinking capacities

## Expanding Reach

Building on the Trump Administration's expansive anti-DEI policies, a conservative advocacy organization filed an antidiscrimination complaint with OCR against Chicago Public Schools' Black Student Success Plan.

## Example of potential implications

While antidiscrimination complaints like the one filed against Chicago Public Schools are aligned with the Administration's priorities, it is unclear the extent to which OCR can—or will—act on those public complaints. This potentially reduces the legal risks to organizations.

## Shrinking Capacities

OCR has shifted to “directed investigations,” initiated by the Administration. Since the inauguration, OCR has opened only 20 new investigations—none of them initiated by the public. During the same time last year in the Biden Administration, 250 new investigations were opened.

**Organizations whose missions relied on OCR to investigate and enforce anti-discrimination policies based on race, gender, national origin or disability will face increased mission risk as OCR shifts its priorities and reduces enforcement.**

*Note: This does not constitute legal advice. Please consult with a lawyer for all legal decisions.*





# Responses to Anti-DEI Actions

# Private and public organizations have taken different actions to either join or resist federal anti-DEI efforts

## Federal efforts seeking to dismantle DEI initiatives include:

- Directive to eliminate DEI programs within the federal government and private sector
- “Dear Colleague” letter calling for an end to DEI initiatives in schools and universities that receive federal assistance
- Executive order blocking recognition of transgender individuals
- ED’s Office of Civil Rights freezing investigations related to race and gender discrimination

Organizations are taking different strategies to either **hold firm or dial back** their DEI efforts through **changes to words and/or actions**. Each of these response strategies has specific tradeoffs.

# Organizations' responses to DEI rollbacks fall into categories defined by whether they change words and/or actions

		Words	
		Change <i>Remove DEI Language</i>	No Change <i>Keep DEI Language</i>
Actions	Change <i>Remove DEI Policies &amp; Programs</i>	<p><b>Loud Reversals</b></p> <p>Reverse DEI policies and programs to align with the new Administration and change language to mirror federal language.</p>	<p><b>Hidden Compliance</b></p> <p>Reverse DEI policies substantively without changing language.</p>
	No Change <i>Keep DEI Policies or Programs</i>	<p><b>Quiet Continuity</b></p> <p>Continue DEI policies and programs but change or remove language used to describe it.</p>	<p><b>Vocal Opposition</b></p> <p>Continue DEI policies and programs without changing language and/or publicly indicate opposition to the Administration's policies.</p>

# We are beginning to see examples of organizations responding, although many responses are intentionally hidden

		Words	
		Change <i>Remove DEI Language</i>	No Change <i>Keep DEI Language</i>
Actions	Change <i>Remove DEI Policies &amp; Programs</i>	<h3>Loud Reversals</h3> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>■ <b>Harvard</b> stopped requiring a diversity, inclusion and belonging statement as part of faculty hiring.</li> <li>■ <b>Northwestern's</b> Kellogg School of Management removed its DEI Pathway from its list of offerings.</li> <li>■ <b>New Hanover County</b> removed DEI from its strategic plan; related policies are likely to be eliminated soon.</li> </ul>	<h3>Hidden Compliance</h3> <p><i>It is difficult to identify examples in this category, since organizations taking this approach are intentionally avoiding any public announcements.</i></p>
	No Change <i>Keep DEI Policies or Programs</i>	<h3>Quiet Continuity</h3> <p><i>In private conversations, many organizations are reporting utilizing this approach—but we are not citing examples since organizations taking this approach are intentionally avoiding any public announcements.</i></p>	<h3>Vocal Opposition</h3> <p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>■ <b>Colorado College</b> created program that welcomes transfer students from states where anti-DEI legislation impacts ability to succeed and graduate.</li> <li>■ <b>Los Angeles USD</b> has not changed its policies around student groups/clubs, i.e., Black Student Union, Gender Sexuality Alliance.</li> </ul>

Sources: [The Chronicle of Higher Education](#) (2025); [PortCityDaily](#) (2025); [Insight Into Diversity](#) (2023); [Los Angeles Times](#) (2025)

# Strategies that involve changing DEI policies carry risks to organizations' missions, and should be considered carefully

Actions

**Change**  
*Remove DEI Policies & Programs*

**Change**  
*Remove DEI Language*

## Loud Reversals

**Pros**

- Minimizes legal risk.
- May curry favor with the Administration, which may provide benefits in some cases.

**Cons**

- Increases mission risk, potentially harming students or the beneficiaries of the original DEI policies.
- May alienate partners or funders who supported the original DEI policies.

**Takeaway**

This is a risky strategy, best for organizations that are highly dependent on the federal government and can withstand potential reputation damage.

**Words**

**No Change**  
*Keep DEI Language*

## Hidden Compliance

**Pros**

- Organizations can reduce legal risk, but be perceived by supporters as continuing to value DEI policies.

**Cons**

- Increases mission risk, potentially harming the beneficiaries of the original DEI policies.
- Appears disingenuous. If supporters discover hidden compliance, they will likely be more upset than if the compliance were not hidden.

**Takeaway**

This approach has few benefits. Organizations are better suited taking another approach.

# Strategies that involve no change to DEI policies pose potential legal risks. Organizations should consult legal experts.

Actions

**No Change**  
*Keep DEI Policies or Programs*

## Words

**Change**  
*Remove DEI Language*

**No Change**  
*Keep DEI Language*

### Quiet Continuity

This approach tends to come in three versions:

- **Replace** words with synonyms (e.g., “serving all students” instead of “advancing equity”).
- **Explain** words like “equity” with full definitions.
- **Remove** references to equity on public-facing documents and websites.

**Pros**

- More likely to avoid unwanted political or legal attention from the Administration.

**Cons**

- Implicitly accepts the premise that “equity” is something partisan and worth hiding.
- Administration has said it will root out “hidden DEI.”

**Takeaway**  
 This is the safest approach for organizations that do not have the resources to withstand any legal challenges but want to hold firm to legal DEI policies.

### Vocal Opposition

**Pros**

- Minimizes mission risk and maintains commitments to students or partners that support DEI.

**Cons**

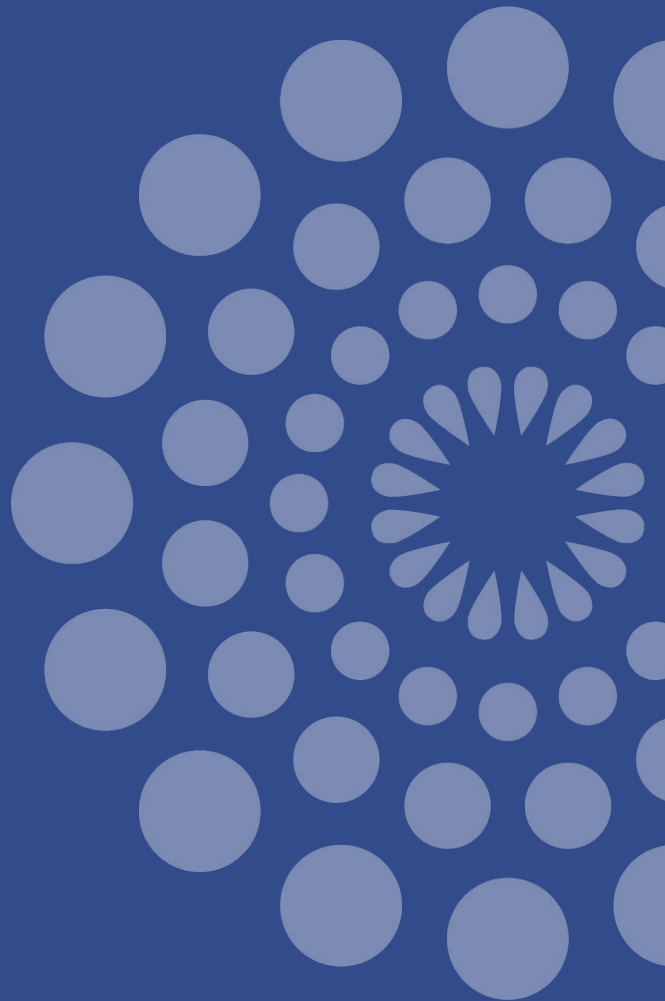
- Faces potential legal challenges or retribution from the Trump Administration.
- Risks potential federal funding cuts.

**Takeaway**  
 Organizations that have more resources and/or tolerance for legal risk can take this approach. Organizations can reduce the legal risk of this strategy by joining coalitions with shared legal representation.



**Thank you!**

[education-first.com](https://www.education-first.com)





# Appendix: References



# References

*Community College Daily*. (2025, February 10). "ED reverts Perkins CTE reporting requirements."

[https://www.ccdaily.com/2025/02/ed-reverts-cte-reporting-requirements/?utm\\_source=Advance+Illinois+Master+List&utm\\_campaign=bf476388c4-EMAIL\\_CAMPAIGN\\_2024\\_9.12\\_.24\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_-bdce993531-167824173&mc\\_cid=bf476388c4&mc\\_eid=9ca82f0fad](https://www.ccdaily.com/2025/02/ed-reverts-cte-reporting-requirements/?utm_source=Advance+Illinois+Master+List&utm_campaign=bf476388c4-EMAIL_CAMPAIGN_2024_9.12_.24_COPY_01&utm_medium=email&utm_term=0_-bdce993531-167824173&mc_cid=bf476388c4&mc_eid=9ca82f0fad)

Education Counsel. (2025, February 20). "Summary and Analysis of Trump Administration Executive Actions Impacting Education."

[https://docs.google.com/document/d/1UJ4Svb3xul-dhnf\\_00Q4KtBFoLxcF2Rg/edit?tab=t.0#heading=h.gjdqxs](https://docs.google.com/document/d/1UJ4Svb3xul-dhnf_00Q4KtBFoLxcF2Rg/edit?tab=t.0#heading=h.gjdqxs)

Flanagan, B. (2025, February 27). "NHCS strategic plan nixes DEI to comply federally, sex ed changes could be next."

<https://portcitydaily.com/latest-news/2025/02/27/nhcs-strategic-plan-nixes-dei-to-comply-federally-sex-ed-changes-could-be-next/>

Gretzinger, E., Hicks, M., Dutton, C., and Smith, J. (February 21, 2025). "Tracking Higher Ed's Dismantling of DEI." *The Chronicle of Higher Education*.

<https://www.chronicle.com/article/tracking-higher-eds-dismantling-of-dei>

*Insight Into Diversity*. (October 31, 2023). "Colorado College Opens Its Doors to Students from Anti-DEI States."

<https://www.insightintodiversity.com/colorado-college-opens-its-doors-to-students-from-anti-dei-states/#:~:text=In%20response%20to%20anti%20DEI,to%20transfer%20from%20impacted%20institutions>

Kaleem, J. and Blume, H. (February 25, 2025). "How California schools, colleges are responding to Trump's DEI crackdown."

<https://www.latimes.com/california/story/2025-02-25/california-schools-colleges-respond-trumps-dei-crackdown>

Klein, A. (2025, February 11). "Trump Admin. Suddenly Cancels Dozens of Education Department Contracts." *Education Week*.

<https://www.edweek.org/policy-politics/trump-admin-suddenly-cancels-dozens-of-education-department-contracts/2025/02>

# References

Koumpilova, M. (2025, February 21). "Parents Defending Education challenges Chicago district's Black Student Success Plan as discriminatory." <https://www.chalkbeat.org/chicago/2025/02/21/cps-black-student-success-plan-challenged-parents-defending-education/>

Minnesota Council of Nonprofits. (2025, February 24). "Executive Orders affecting nonprofits." <https://minnesotanonprofits.org/executive-orders-affecting-nonprofits>

National Council of Nonprofits. (2025, February 26). "Executive Orders Affecting Charitable Nonprofits." <https://www.councilofnonprofits.org/files/media/documents/2025/chart-executive-orders.pdf>

Smith Richards, J. and Cohen, J.S. (2025, February 13). "'We've Been Essentially Muzzled': Department of Education Halts Thousands of Civil Rights Investigations Under Trump." <https://www.propublica.org/article/department-of-education-civil-rights-office-investigations>

Smith Richards, J. and Cohen, J.S. (2025, February 20). "Education Department 'Lifting the Pause' on Some Civil Rights Probes, but Not for Race or Gender Cases." <https://www.propublica.org/article/department-of-education-civil-rights-office-investigations>

*The Associated Press*. (2025, February 26). "Trump administration creates registry for immigrants who are in the U.S. illegally." <https://www.nbcnews.com/news/latino/trump-administration-registry-immigrants-illegal-undocumented-rcna193818>

Turner, C. and Mehta, J. (2025, February 13). "At McMahon's confirmation hearing, it was the Education Department on trial." <https://www.npr.org/2025/02/13/nx-s1-5258255/trump-cabinet-picks-linda-mcmahon-confirmation-hearing>

U.S. Department of Education. (2025, February 13). "U.S. Department of Education Cancels Additional \$350 Million in Woke Spending." <https://www.ed.gov/about/news/press-release/us-department-of-education-cancels-additional-350-million-woke-spending>

U.S. Department of Education. (2025, February 17). "U.S. Department of Education Cuts Over \$600 Million in Divisive Teacher Training Grants." <https://www.ed.gov/about/news/press-release/us-department-of-education-cuts-over-600-million-divisive-teacher-training-grants>

# References

U.S. Department of Education. (2025, February 19). "U.S. Department of Education Cancels Divisive and Wasteful Grants under the Comprehensive Centers Program."

<https://www.ed.gov/about/news/press-release/us-department-of-education-cancels-divisive-and-wasteful-grants-under-comprehensive-centers-program>

U.S. Department of Education Office for Civil Rights. (2025, February 14). "Title VI of the Civil Rights Act in Light of Students for Fair Admissions v. Harvard." <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>

Whitehouse.gov (n.d.) <https://www.whitehouse.gov/>