

Unpacking Indoctrination and School Choice EOs: How Are K-12 Schools Affected?

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Takeaways

- President Trump issued two EOs on 1/29/25 directing federal agencies to develop recommendations to reduce or eliminate funding for programs that promote “discriminatory equity ideology” and to end federal funding that directly or indirectly supports “illegal and discriminatory treatment and indoctrination” based on gender ideology.
- These EOs also promote “patriotic education” through a variety of mechanisms and encourage spending on school choice programs that allocate public funds to increase private, faith-based and public charter school options.
- Schools can expect increased monitoring of their curricula, certification procedures, training and services, on the one hand, and privacy- and harassment-based challenges to the “Ending Indoctrination Strategy,” on the other.

Related links

- [Ending Radical Indoctrination in K-12 Schooling](#)
- [Expanding Educational Freedom and Opportunity for Families](#)

Article

On Jan. 29, 2025, President Donald Trump signed the “Ending Radical Indoctrination in K-12 Schooling” executive order (EO) and the “Expanding Educational Freedom and Opportunity for Families” EO, directing federal agencies to develop recommendations to end “radical indoctrination” in schools and to expand school choice. Each EO has broad implications for K-12 schools, including public schools, charter schools, and faith-based schools, receiving federal funding and grants. Schools should evaluate their policies and programs for potential risks under the EOs.

“Ending Radical Indoctrination” EO

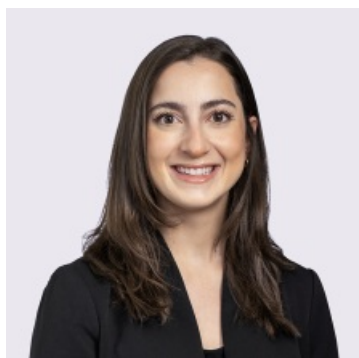
The stated purpose of this EO is to “ensure that recipients of Federal funds providing K-12 education comply with all applicable laws prohibiting discrimination in various contexts and protecting parental rights.” It calls on the secretaries of Education, Defense, and Health and Human Services to recommend an “Ending Indoctrination Strategy” to eliminate federal funding for programs that promote “anti-American, subversive, harmful and false ideologies,” including resources based on “*gender ideology*” and “*discriminatory equity ideology*.” The EO further reestablishes President Trump’s Nov. 2, 2020, EO, which “promote[s] patriotic education ...,” and the related 1776 Commission.

The EO includes the following definitions:

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“Discriminatory equity ideology” – “an ideology that treats individuals as members of preferred or disfavored groups ... and minimizes agency, merit, and capability in favor of immoral generalizations,” including that members of one protected group are inherently biased or culpable for past events.

“Gender ideology” – defined by the “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” EO as replacing “the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true.”

“Social transition” – adopting a different gender identity than the person’s sex assigned at birth, including through mental health treatment, modified names or pronouns, preferred intimate spaces instead of those of the sex assigned at birth, and participation in school athletics designated for persons of the opposite birth sex.

The EO could lead to increased monitoring of school services and curricula that address issues of race, national origin, and gender, including the topics of bias, racial and gender equity, and treatment of these issues with respect to American history.

The EO instructs the secretaries to create a process to prevent or rescind federal funds from K-12 schools that “support or subsidize” these ideologies, including by deliberately concealing a minor’s social transition from their parents, using preferred pronouns or a name not corresponding to a student’s birth sex, and referring to a child as non-binary.

The EO also carries consequences for individuals who facilitate “social transitioning,” tasking the U.S. attorney general and state attorneys general to collaborate with local district attorneys to “file appropriate actions against K-12 teachers and school officials” who “unlawfully facilitat[e] the social transition of a minor student.”

What Schools Should Expect

- Schools can expect increased monitoring of their curricula, certification procedures, training, and services.
- Schools that provide services and counseling for gender non-conforming students should review their policies on:
 - Parent notification
 - Restroom and locker room access
 - Gender transitions and pronouns
 - School sports
 - Identity-based clubs and extracurricular activities
- Schools are likely to see privacy-based and harassment-based challenges to the “Ending Indoctrination Strategy.”
- Many state and local statutes include gender identity as a protected class or require that individuals be able to use the designated “intimate space” that comports with their gender identity. We anticipate litigation regarding whether the EO and Title VII of the Civil Rights Act (as interpreted by the Trump Administration) preempts those laws. Employers should anticipate more requests for religious accommodations and retaliation or whistleblower claims emanating from such

requests and complaints.

- Some schools may experience significant pushback from school community members with respect to the mandates.

“Expanding Educational Freedom” EO

This EO calls for the expansion of school choice “to support parents in choosing and directing the upbringing and education of their children.” It encourages the use of discretionary grant programs to fund and support families seeking to send their children to private, faith-based, and public charter schools. The secretary of Health and Human Services is to issue guidance on how states can use block grants to support families choosing to send children to alternative school programs. Similarly, the secretaries of Defense and Department of the Interior are to review mechanisms under which military-connected families or families using Bureau of Indian Education schools can use federal funds to attend non-public schools.

We expect the expansion of school choice mechanisms, including vouchers, tax-credit scholarships, and education savings accounts.

We continue to analyze the implications of the EOs for schools and employers. Please reach out to your attorney at Jackson Lewis with questions and for assistance in assessing potential risks and solutions.

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