

The Trump Effort to Close USDOE



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Presenter



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- The Historical Context
- Project 2025
- Status of the Anticipated Executive Order – The Last Seven Days
- Likely Future Events
 - Short-Term
 - Long-Term
- Recommended Actions

Historical Context

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- Deep roots tracing back to 1867
- Many configurations over last 158 years
- Current form created by Congress in 1979
- Began operations on May 4, 1980
- 1980 and 1996 Republican platforms called for its abolition
- Current statutory authorization found at 20 U.S.C. § 3411, *et seq.*
- Project 2025 released in April 2023



Historical Context

- Linda McMahon confirmed as Secretary on March 3
- “Final Mission” memo issued March 3
 - “The Department of Education’s role in this new era of accountability is to restore the rightful role of state oversight in education and to end the overreach from Washington.”
 - “Postsecondary education should be a path to a well-paying career aligned with workforce needs.”

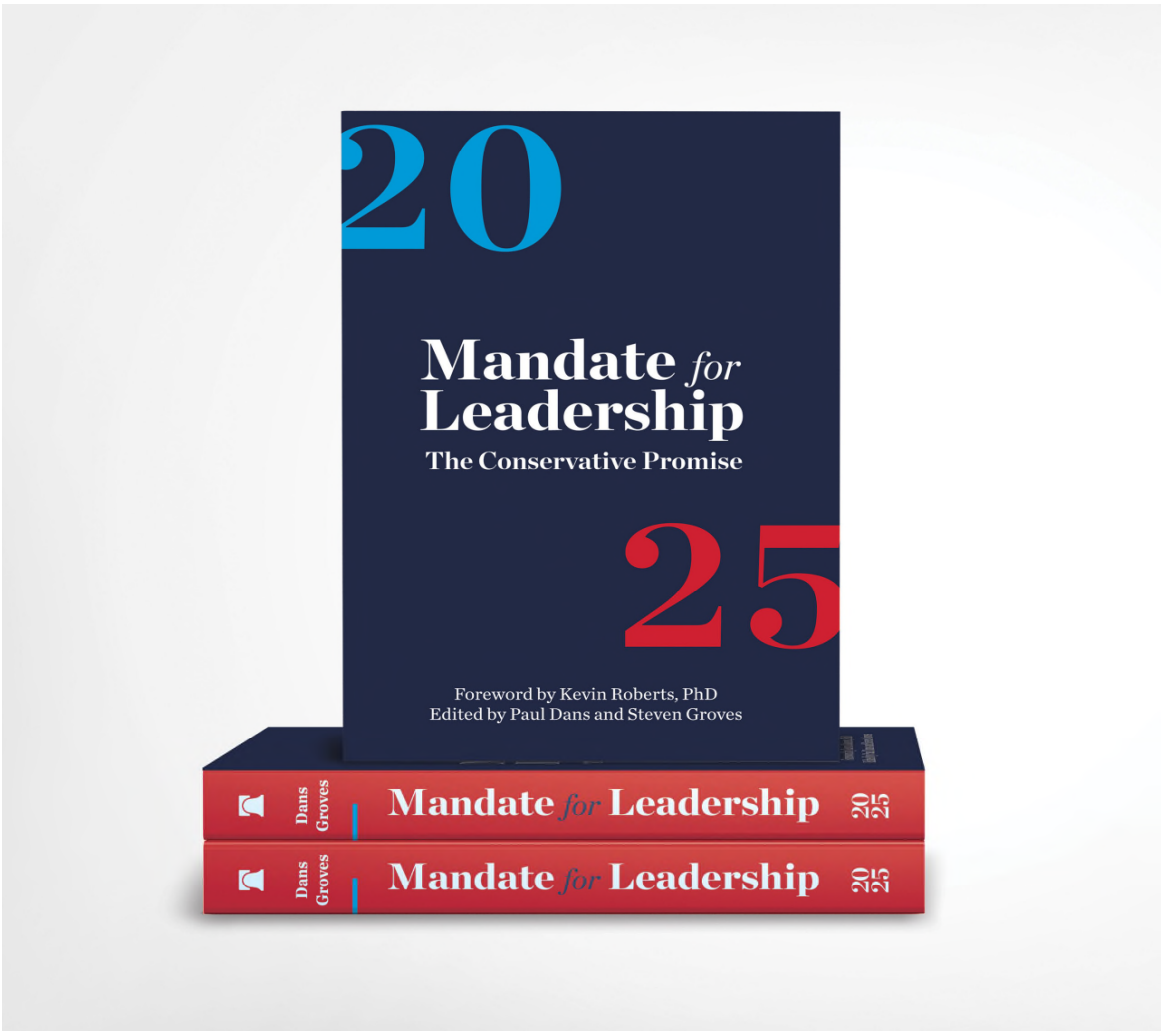


Historical Context

- “Final Mission” memo issued March 3 – Cont’d
 - “The reality of our education system is stark, and the American people have elected President Trump to make significant changes in Washington. Our job is to respect the will of the American people and the President they elected, who has tasked us with accomplishing the elimination of bureaucratic bloat here at the Department of Education—a momentous final mission—quickly and responsibly.”
- Momentous events – March 5-11



Project 2025



Selected Project 2025 Provisions

- “Federal education policy should be limited and, ultimately, the federal Department of Education should be eliminated.” (p. 319)
- Office of Postsecondary Education – Programs proposed to be moved to Employment and Training Administration in Department of Labor (p. 327)
- Office of Federal Student Aid
 - FSA and its student loan programs should be spun off to a new government corporation with professional governance and management (p. 327)
 - FSA’s loans would be assigned to the Treasury Department to manage collections and defaults (p. 330)
 - Relationship between Treasury and new government corporation unclear
- Office for Civil Rights – Move to Department of Justice (p. 330)

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Status of the Anticipated Executive Order – The Last Seven Days

Executive Order – The Last Seven Days

- March 5 – Wall Street Journal viewed draft of EO
 - Draft Order directed Secretary McMahon to take all necessary steps to facilitate the closure of the Department of Education and return authority over education to the states and local communities, to the maximum extent allowed by law
- March 6 – Press Secretary Karolina Leavitt dismissed the report as “fake news”
- March 6 – President Trump reaffirmed his commitment to shutting down USDOE

Executive Order – The Last Seven Days

- March 11 – USDOE initiates reduction in force
 - Impacts nearly 50% of the Department’s workforce (4,133 workers to 2,183 workers)
 - Portends “significant reorganization” of divisions
 - Department will continue to deliver on all statutory programs that fall under the agency’s purview, including formula funding, student loans, Pell Grants, funding for special needs students, and competitive grantmaking
- Status of Executive Order?
 - Unknown, but it may no longer matter
 - The direction, based on Project 2025, “The Final Mission,” and public statements, is now clear – the Trump Administration intends to end the Department as we have known it

Likely Future Events

Projected Short-Term Events

- Delays due to:
 - Reduction in force
 - A materially distracted group of remaining employees
- Changing enforcement priorities
 - Elimination of staff means some enforcement actions will cease
 - Other enforcement efforts will be enhanced
 - Potential quasi-enforcement efforts by other federal agencies, e.g., Department of Agriculture pausing \$100 million in grant funding to University of Maine system
- Transfer of programs to other departments – TBD, but see Project 2025

Projected Short-Term Events

- Litigation challenges to various administrative actions are virtually certain
 - Injunction(s) will be sought by plaintiffs
 - Injunction hearings in trial courts are likely within days or weeks
 - Results of hearings will likely be appealed
 - Initially to U.S. Courts of Appeals
 - Ultimately to SCOTUS
- Congressional action is needed to eliminate USDOE
 - Hearings in both chambers
 - House – Likely to pass
 - Senate – Filibuster is likely, but Republicans can change filibuster rules with a simple majority

Projected Long-Term Events

- At end of judicial and legislative action over next year, major changes are highly likely, although nature of changes will remain uncertain for months
- Existing USDOE regulations and guidance will be fundamentally altered if not eliminated
- If Department of Education survives, it is likely to be a shell organization performing only statutorily required functions with minimal staffing
- IHEs' internal policies and practices will require substantial modification to comport with new external rules

Recommended Actions

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- Do not take immediate actions until “sausage factory” outcome is more evident
- Initiate and maintain broad-based communications effort as implications of departmental actions become more clear
 - Board members
 - Campus community
 - Community leaders
 - **Members of Congress**
- Monitor and support, where appropriate, advocacy efforts by ACE, NAICU, APLU, CCCU and other higher ed organizations
- Go to DC to visit both your members of Congress and their key staff members
 - Presidents
 - Politically connected board members

Recommended Actions

- Anticipate and plan for protracted delays in any interaction with USDOE
- Follow unprecedented changes in HE regulatory landscape through staff on campus, governmental affairs professionals, or legal counsel
- Consider campus task force of faculty, staff, and students to evaluate constant changes in the legal environment and to recommend institutional responses, such as:
 - Revisions to institutional policies
 - Changes to institutional practices not subject to policies, and
 - Outreach to governmental agencies with newly assigned higher education-related responsibilities
- Implement formal compliance program to minimize risk of regulatory enforcement actions during a period of enormous uncertainty

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