



NEPC Fellows Active in Lawsuits Challenging the Dismantling of U.S. DOE



As the Trump administration takes steps to dismantle the federal government's smallest and most poorly funded department, NEPC Fellows have been working on lawsuits that challenge the massive layoffs and cancellations of funding and contracts at the U.S. Department of Education.

Fellow [Michal Kurlaender](#) of the University of California, Davis, is president of the Association for Education Finance and Policy (AEFP), an organization of researchers, many of whom use federal data sets for their studies. Along with the Institute for Higher Education Policy (IHEP), that organization filed [suit](#) last week in federal court in the District of Columbia against U.S. Department of Education Secretary Linda McMahon and the department itself. The complaint alleges that the Trump administration acted illegally when it canceled contracts for education research and laid off 90 percent of the staff of the Institute of Education Sciences (IES). The plaintiffs, represented by Public Citizen Litigation Group, argue that the actions have rendered the 23-year-old IES incapable of fulfilling its statutorily obligated functions of producing and disseminating high-quality education research, statistics, and analyses.

“Many of our members have faced serious challenges to their research and work due to funding and staffing terminations at IES,” Kurlaender [said](#). “We want to do all that we can to protect essential data and research infrastructure. This is fundamental to our mission of promoting research and partnerships that can inform education policy and improve education outcomes.”

Meanwhile, the Education Law Center (ELC) is representing the NAACP in a [lawsuit](#) filed in the federal district court in Maryland in late March against the education department, its secretary, and the U.S. Department of Justice. That lawsuit, which has additional plaintiffs (educators, employees, students, and families) and attorneys, similarly challenges the administration's dismantling of the department, including IES.

The executive director of the ELC, which advocates in the courts for safe, equitable, nondiscriminatory, integrated, and well-funded public schools, is NEPC fellow [Robert Kim](#).

“The Trump Administration's effort to dismantle the Department of Education is not only illegal; it inflicts great harm on students, schools, and communities across the country,” [said Kim](#). He adds:

The Administration's assertion that critical federal funding and support for schools and students will somehow continue as normal even after shuttering the Department reveals a dangerous lack of understanding of the Department's role to provide funding for and implement programs for our most underserved student populations, ensure equal access and opportunity, and enforce civil rights in our nation's schools. We cannot afford to let the Trump Administration throw our public schools into chaos.

Both lawsuits allege that the actions of the Trump administration exceed its legal authority (“ultra vires,” in legal-speak) and that the actions violate the Administrative Procedure Act (APA). The APA prohibits agency actions that are arbitrary and capricious; these complaints allege that the administration has not offered any non-pretextual explanation for dismantling the department.

The ELC lawsuit also includes three other causes of action. It alleges that Secretary McMahon violated the “take care” clause of Article II, Section 3 of the Constitution, requiring that the President (and subordinate executive officers) “take Care that the Laws be faithfully executed.” It also alleges that McMahon violated the appropriations and spending clauses by disregarding or overriding Congress's decisions on appropriations. And it alleges a separation of powers violation arising out of the same facts—the arrogating of Congress's authority.

Madi Biedermann, deputy assistant secretary for communications for the Department of Education, [denied](#) in late March that the administration's actions had violated the law:

As President Trump and Secretary McMahon have made clear, sunseting the Department of Education will be done in partnership with Congress and national and state leaders to ensure all statutorily required programs are managed responsibly and where they best serve students and families. To date, no action has been taken to move federally mandated programs out of the Department of Education. The U.S. Department of Education continues to deliver on all programs that fall under the agency's purview.

In short, while the administration acknowledges that only the Congress can eliminate the department, the lawsuits ask the courts to find that the President cannot take actions that hollow out of the department and make it unable to carry out the duties (programs and ac-

tivities) created and funded by Congress.

NEPC Resources on Legal Issues

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