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Higher Education Alert

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PRWORA notices vacated: Impacts to higher ed

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With 2025 PRWORA notices vacated, higher ed institutions should review changes made based on those requirements and revert to prior PRWORA frameworks.



What's the impact?

- **The 2025 PRWORA notices have been vacated**, meaning that the PRWORA framework that applied before the July 2025 notice remains in effect, subject to higher court ruling or any other applicable federal or state requirements.
- **Federal agencies may try again but must follow the APA.** The court expressly left the agencies free to pursue new PRWORA rules through notice-and-comment rulemaking.
- **Institutions that changed their practices in response to the now-vacated 2025 notices should review those changes**, especially whether any students were denied access to programs or services because of verification requirements.

On September 21, the US District Court for the District of Rhode Island vacated federal agency notices that significantly expanded the programs subject to immigration-status restrictions

under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The court held that notices issued by the US Departments of Education (ED), Health and Human Services (HHS), Labor (DOL), and Housing and Urban Development (HUD) were akin to legislative rules and must be implemented through the typical rulemaking process, with notice and public comment periods. The court separately held that the US Department of Justice's (DOJ) notice was contrary to law.

For colleges and universities, the decision is particularly significant because ED's July 2025 notice had identified certain adult education and postsecondary programs, including programs funded under the Carl D. Perkins Career and Technical Education Act and other postsecondary programs, as subject to PRWORA's restrictions.

Background

PRWORA generally restricts certain noncitizens from receiving defined "federal public benefits" and "state or local public benefits." The statutory definition of "federal public benefit" includes certain postsecondary education benefits. 8 U.S.C. § 1611(c)(1).

For decades after PRWORA's enactment, federal agencies interpreted the statute as excluding various programs from its reach. ED, for example, had previously interpreted adult education, Perkins V postsecondary career and technical education, and certain other postsecondary learning programs as outside PRWORA's definition of "federal public benefits." The DOJ has also exercised PRWORA's Life/Safety Exemption to identify certain community-level services as exempt from the statute.

In February 2025, Executive Order 14218 directed federal agencies to identify programs providing federal public benefits and align those programs with PRWORA. Beginning in July 2025, the DOJ, HHS, ED, and DOL issued notices adopting significantly broader interpretations of PRWORA. HUD issued its own notice in November 2025.

In its notice, ED concluded that adult education programs, postsecondary career and technical education programs funded under Perkins V, and other programs used to fund postsecondary learning opportunities could constitute federal public benefits subject to PRWORA restrictions. The agencies issued the notices without notice-and-comment rulemaking.

Twenty states and the District of Columbia challenged the notices in federal court. In September 2025, the court preliminarily enjoined enforcement of the notices against the plaintiffs, concluding, among other things, that ED, HHS, and DOL had likely issued legislative rules without following the notice-and-comment requirements of the Administrative Procedure Act (APA).

Understanding the court's decision

THE ED, HHS, DOL, AND HUD NOTICES REQUIRED NOTICE AND COMMENT

The court, relying on the First Circuit's five-factor framework, concluded that the notices issued by these agencies were legislative rules, not merely interpretive guidance. Under the APA, legislative rules generally must undergo notice-and-comment rulemaking.

Among other considerations, the agencies' notices represented major departures from decades of prior agency practice, significantly expanded the programs subject to PRWORA verification, and had substantial practical consequences for program administrators. Because the agencies did not conduct notice-and-comment rulemaking, the notices were procedurally invalid.

The court declined to resolve the plaintiffs' remaining substantive APA, Spending Clause, and declaratory judgment claims against these four agencies. According to the court, allowing the agencies to proceed through the required rulemaking process would preserve the purpose of notice-and-comment and give the agencies an opportunity to address the defects identified by the court.

THE COURT REJECTED DOJ'S CATEGORICAL APPROACH TO THE LIFE/SAFETY EXEMPTION

Separately, the court analyzed the DOJ's notice stating that the attorney general would not exempt any programs under PRWORA's Life/Safety Exemption.

The court held that PRWORA gives the attorney general discretion to identify which programs qualify for the Life/Safety Exemption; it does not give the attorney general discretion to categorically refuse to identify any qualifying programs. The court relied in part on the Supreme Court's decision in *Gundy v. United States*, as well as PRWORA's structure, legislative history, and DOJ's longstanding interpretation of the provision. The court therefore concluded that the DOJ's categorical refusal to apply the exemption exceeded the authority granted by PRWORA.

THE COURT VACATED THE NOTICES

Based on that conclusion, the court declared the PRWORA notices unlawful under the APA and ordered them vacated. It also permanently enjoined the agencies from implementing or enforcing the notices, or the interpretations contained in them, against the plaintiff states by other means. The court simultaneously stated that the injunction does not prevent the agencies from promulgating new PRWORA rules following the notice-and-comment process required by the APA.

What colleges and universities should do now

- / **Review any changes made in response to the 2025 PRWORA notices.** Institutions that implemented new immigration status verification procedures in response to ED's July 2025 notice should determine whether those procedures are still required—particularly for programs whose eligibility or enrollment practices changed because of the 2025 interpretation.
- / **Do not assume that PRWORA no longer applies.** The decision does not invalidate PRWORA or eliminate preexisting obligations. Institutions should continue to comply with requirements that applied before the 2025 notices and should distinguish those requirements from the expanded requirements announced in 2025.
- / **Revisit student-facing policies and procedures.** Institutions that changed admissions, enrollment, financial assistance, program eligibility, or student-support practices based on the vacated notices should consider whether those policies and procedures should be revised.
- / **Consider whether remedial action is appropriate.** If an institution denied a student access to a program or benefit based on an interpretation contained in a now-vacated notice, the institution should consider whether further review or corrective action is warranted.
- / **Continue to monitor agency action and the progress of litigation.** The decision does not prevent federal agencies from pursuing their underlying objectives through new rules. Any new rules, however, will need to go through the APA's notice-and-comment process. Institutions should, therefore, expect continued activity in this area and be prepared to evaluate and, where appropriate, comment on future proposed rules.

Looking ahead

The September 21 decision provides immediate relief from the expanded interpretations adopted in 2025 but does not necessarily end the federal government's efforts to broaden PRWORA's application. The court expressly left the door open for new rulemaking.

For colleges and universities, the practical question is not simply whether the 2025 notices have been vacated, but whether institutional practices adopted in response to those notices remain necessary and how institutions should prepare for potential future rulemaking.

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