

To the office of U.S. Senator Tim Kaine

Re: S 5046 (119th Congress), A bill to prohibit the transfer of certain offices and functions of the Department of Education to other Federal agencies, and for other purposes. • Latest action (2026-08-04): Placed on Senate Legislative Calendar under General Orders. Calendar No. 541.
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Education Agency Stability and Congressional Oversight Act of 2025

The measure, as described from the official record: To prevent the President from transferring the Department of Education's core functions to other federal agencies without congressional approval, thereby preserving the agency's current structure and mission.

THE PROPOSAL

Section 1. Short Title. This Act may be cited as the 'Education Agency Stability and Congressional Oversight Act of 2025'.

Section 2. Purpose. The purpose of this Act is to ensure that any reorganization of the Department of Education that transfers its core functions to another federal agency is subject to prior congressional approval, thereby preserving the separation of powers and giving the people's representatives a voice in major structural changes to federal education policy.

Section 3. Definition. 'Core function' means any program, office, or activity of the Department of Education that is authorized by a statute enacted by Congress, including but not limited to: student financial assistance, civil rights enforcement in education, data collection, and grants to State and local educational agencies.

Section 4. Requirement for Congressional Approval. (a) The President may not direct the transfer of any core function of the Department of Education to another federal agency unless Congress first enacts a joint resolution authorizing such transfer. (b) Any transfer attempted without such prior authorization shall be void ab initio and shall have no force or effect. (c) This section does not apply to transfers that are explicitly authorized by a statute enacted after the date of this Act.

Section 5. Scope. This Act applies only to transfers that would move a core function outside the Department of Education. It does not prohibit internal reorganizations within the Department or changes required by law.

Section 6. Enforcement. Any person aggrieved by a transfer made in violation of this Act may bring a civil action in the United States District Court for the District of Columbia to enjoin the transfer and seek declaratory relief. The court shall expedite any such action.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	No additional appropriations required; limited to existing Congressional Budget Office and Government Accountability Office resources for oversight.
Funding Amount	Not applicable; no new spending authorized.
Sunset Years	5 years
Oversight Body	Government Accountability Office, in consultation with the House Committee on Education and the Workforce and the Senate Committee on Health, Education, Labor, and Pensions.
Enforcement Mechanism	Private right of action in federal district court for aggrieved parties (e.g., State educational agencies, affected employees, or nonprofit organizations).
Effective Date	Upon enactment.

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 18 (Necessary and Proper Clause: Congress may make laws to carry into execution its powers, including structuring the executive branch).
- Article II, Section 3 (Take Care Clause: President must execute laws faithfully, but Congress may limit how those laws are executed as long as it does not usurp core executive functions).
- Tenth Amendment (Powers not delegated to the United States are reserved to the States; this Act only applies to the limited federal role in education, which is derived from the Spending Clause and other enumerated powers).

Concerns with the measure as written:

- The bill as introduced may unconstitutionally restrict the President's Article II authority to execute the laws and reorganize the executive branch unless Congress explicitly retains control over agency structure.
 - If the Department of Education exercises powers beyond Congress's enumerated powers (e.g., under Article I, Section 8, Clause 1 or the Spending Clause), the entire bill could be challenged as an overreach of federal authority.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities: preserves the Department of Education's role in administering federal education programs and protecting civil rights, and ensures that Congress—not the Executive alone—decides major structural changes. Honors Republican priorities: respects the Tenth Amendment by limiting federal overreach to only those functions explicitly authorized by Congress, and prevents executive overreach by requiring a clear legislative check on reorganization. Both parties value stability and predictability in education policy.

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