



FACT SHEET

Recommendations for the Department of Education To Take Further Action on AI

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This fact sheet collects the recommendations from Chapter 3: “Department of Education” of the joint report from Governing for Impact (GFI) and the Center for American Progress, “Taking Further Agency Action on AI: How Agencies Can Deploy Existing Statutory Authorities To Regulate Artificial Intelligence.” The chapter notes how the U.S. Department of Education should consider addressing potential artificial intelligence (AI) risks to education using existing statutory authorities in titles VI and IX of the Civil Rights Act, the Americans with Disabilities Act (ADA), and the Higher Education Act (HEA).¹ These statutes can be used to address impermissible discrimination using AI technology and provide various requirements for contractors servicing student loans. The goal of these recommendations is to provoke a generative discussion about the following proposals, rather than outline a definitive executive action agenda. This menu of potential recommendations to address AI demonstrates that there are more options for agencies to explore beyond their current work and that agencies should immediately utilize existing authorities to address AI.

[Read the full report](#)

[Taking Further Agency Action on AI](#)

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[Department of Education](#)

Title VI of the Civil Rights Act of 1964

- **Issue guidance under Title VI explaining that 34 C.F.R. Part 100 applies to discrimination enabled by AI or other generative technology.** Specifically, this guidance would include examples of impermissible discrimination using AI technology, including disproportionate discipline for students of color, students with disabilities, or students for whom English is not their first language.

Title IX of the Civil Rights Act of 1964

- **Issue guidance specifying that, under 34 C.F.R. 106.31(b), using AI or other automated technologies, including generative AI, may violate Title IX if it results in sex discrimination.** This includes discriminatory surveillance of students because of their sex, disparate discipline resulting from that surveillance, or the filtering out of appropriate internet content because of discriminatory or imprecise AI internet monitoring.

Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act

- **Issue guidance explaining the Americans with Disabilities Act’s application to AI’s discriminatory effects in surveillance and discipline**, including specific examples of possible discriminatory effects of programs that detect AI-generated work or cheating. The guidance could also address how some students may benefit from AI-assisted programs, which can constitute an accommodation in certain circumstances.

Higher Education Act

- **Require that contracted servicers using AI-generated chatbots ensure that borrowers are receiving accurate information about their individual loans.** This includes an option to speak with a human within a reasonable amount of time and incorporating any of the relevant minimum risk management practices for rights-impacting purposes developed through the Office of Management and Budget (OMB) M-24-10 memorandum on “Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence.”²

Endnotes

1 Legal Information Institution, “42 U.S.C. § 2000d et seq. Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin,” Title VI, available at <https://www.law.cornell.edu/uscode/text/42/2000d> (last accessed May 2024); Legal Information Institute, “20 U.S.C. § 1681 et seq. - Sex,” Title IX, available at <https://www.law.cornell.edu/uscode/text/20/1681> (last accessed May 2024); U.S. Government Publishing Office, “42 U.S.C. § 126 et seq. Equal Opportunity for Individuals with Disabilities,” available at <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter126&edition=prelim> (last accessed May 2024); Higher Education Act, Public Law 329, 89th Cong., 1st sess. (November 8, 1965), as amended, available at <https://www.govinfo.gov/content/pkg/COMPS-765/pdf/COMPS-765.pdf>.

2 Shalanda D. Young, “M-24-10 Memorandum for the Heads of Executive Departments and Agencies: Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence” (Washington: Office of Management and Budget, 2024), p. 32, available at <https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf>.