The Partnership Pretext:
Statutory Vesting, the Administrative Procedure Act, and the Relocation of Special Education and Civil Rights Enforcement Out of the Department of Education

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Working draft, June 2026 (v0.3)

Abstract

On June 16, 2026, the Department of Education announced that it would move the Office of Special Education and Rehabilitative Services to the Department of Health and Human Services and the Office for Civil Rights to the Department of Justice. The administration called these moves partnerships and framed them as routine internal housekeeping that would change no substantive rights. This Article argues that the relocations are unlawful under the Administrative Procedure Act and that the partnership label is the legal defect, not the cure. Congress did not merely permit these offices to sit inside the Department of Education. It commanded it. The Individuals with Disabilities Education Act requires that the special education office exist within the Department of Education, and the Department of Education Organization Act of 1979 placed the Office for Civil Rights inside the Department by statute. An agency may act only within the authority Congress confers, and the executive holds no freestanding power to relocate statutory functions across cabinet departments without congressional consent. The agreements concede the point on their face: the Department must retain management and leadership of these programs because the law requires it. That concession converts the housekeeping defense into an admission. The relocations are therefore reviewable as action in excess of statutory authority and as arbitrary and capricious action resting on a pretextual rationale, the latter governed by *Department of Commerce v. New York*. The Article further shows that the circumstantial record, the simultaneous bundling of the two moves, the routing of disability functions to the destinations least suited to enforce them, and a published blueprint to convert the disability entitlement into

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a no-strings block grant whose author now sits inside the Department, preserves the evidence of discriminatory purpose under *Village of Arlington Heights* for the disability-discrimination case that ripens the moment a student loses services. State attorneys general have standing to bring the structural claim now.

Keywords: Administrative Procedure Act; ultra vires; 20 U.S.C. §1402; Department of Education Organization Act; Office for Civil Rights; pretext; *Department of Commerce v. New York*; *Village of Arlington Heights*; Section 504; ADA Title II; IDEA.

Contents

I Introduction **4**

II What Was Announced, and How It Was Built. **6**
- A The Two Moves 6
- B The Partnership Device 7
- C The Concession in the Agreements 7
- D The Published Blueprint 8

III The Architecture Congress Built. **8**
- A The Special Education Office Must Exist Within the Department 8
- B The Office for Civil Rights Was Placed in the Department by Congress in 1979 9
- C The Executive Holds No Freestanding Reorganization Authority 9
- D The Executive Cannot Subdelegate These Functions to Other Departments 10

IV The Administrative Procedure Act Claim **11**
- A Action in Excess of Statutory Authority 12
- B Arbitrary and Capricious Action and the Pretext Rule 12
- C The Major-Questions Backstop 14

V The Concession That Forecloses the Housekeeping Defense **14**

VI Intent Preserved: *Arlington Heights* and the Discrimination Case That Ripens on Injury **15**
- A The Bundling and the Routing as Circumstantial Evidence 15
- B The Blueprint and Its Author Inside the Agency 16
- C The Substantive Theory Awaiting an Injured Plaintiff 16

VII Standing and the Plaintiffs **17**

VIII Conclusion **17**

I. Introduction

On June 16, 2026, the Department of Education announced that two of its largest responsibilities would leave the agency. Oversight of programs for students with disabilities would move to the Department of Health and Human Services, and enforcement of student civil rights would move to the Department of Justice.[1] The administration described the moves as partnerships and characterized them as the latest step in a stated effort to, in the Secretary's words, peel back federal bureaucracy by handing programs to agencies said to be better suited to run them.[2] Senior officials, briefing reporters on the condition of anonymity, were vague about how the new arrangements would affect staff, and said that statutory responsibilities would remain at the Department while day-to-day operations would be outsourced.[3]

That framing is doing a great deal of work, and it does not hold. This Article argues that the relocations are unlawful, and that the partnership label the administration chose is not a defense to that conclusion but the clearest evidence of it.

The argument proceeds from a premise that is not contested by anyone who has read the statutes. The placement of these offices inside the Department of Education is not an accident of organizational chart that the executive may redraw at will. It is a command Congress wrote into law. The Individuals with Disabilities Education Act requires that the office responsible for special education exist, and that it exist within the Department of Education.[4] The Office for Civil Rights was placed inside the Department by the Department of Education Organization Act

1. Jonaki Mehta & Cory Turner, *Trump Further Guts Education Dept. by Shifting Oversight of Special Ed, Civil Rights*, NPR (June 16, 2026), https://www.npr.org/2026/06/16/nx-s1-5717030/special-ed-civil-rights-education-department.

2. *Id.*

3. *Id.*

4. 20 U.S.C. §1402(a) ("There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in the Department for administering and carrying out this chapter . . . concerning the education of children with disabilities."). The Office of Special Education and Rehabilitative Services itself is established within the Department by 20 U.S.C. §3417.

of 1979, the same Act that created the Department; Congress, not the executive, decided that civil rights enforcement for students would live alongside the rest of education policy.[5]

From that premise the rest follows. An administrative agency, and the executive that directs it, possesses only the authority Congress confers; it has no inherent power to relocate a function the legislature has assigned.[6] The executive does not currently hold any general statutory authority to reorganize cabinet functions; the time-limited presidential reorganization authority that once allowed such moves lapsed decades ago and has not been renewed.[7] Relocating the special education office and the civil rights office out of the Department therefore requires what the administration has conspicuously not sought: the consent of Congress.

The administration's answer is the partnership structure. The offices will not formally leave; a small contingent of senior staff will remain at the Department to "oversee" the programs, while the operational work migrates to Health and Human Services and Justice.[8] This Article shows that the structure defeats itself. According to the text of the agreements, the Department will continue to provide management and leadership of the special education programs precisely because, in the reporting's own words, the law requires that these responsibilities still be overseen by the Department of Education.[9] That sentence is not housekeeping. It is a concession that the function is statutorily anchored to the Department and cannot be moved. Once the government admits that the law forbids relocating the responsibility, the maneuver of relocating the operation while leaving a nameplate behind is not a lawful workaround. It is the violation, performed in two steps.

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5. 20 U.S.C. §3413(a) ("There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights . . . ."); Department of Education Organization Act of 1979, Pub. L. No. 96-88, §203, 93 Stat. 668, 673.

6. *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986) ("[A]n agency literally has no power to act . . . unless and until Congress confers power upon it.").

7. See 5 U.S.C. ch. 9 (§§901–912); the President's authority to submit reorganization plans under that chapter expired in 1984 and has not been renewed by Congress.

8. Mehta & Turner, *supra* note 1.

9. *Id.*

Part II sets out what was announced and how it was structured. Part III describes the statutory architecture Congress built and the executive's lack of authority to redraw it. Part IV develops the Administrative Procedure Act claim that is ripe today: action in excess of statutory authority under Section 706(2)(C), and arbitrary and capricious action resting on a pretextual rationale under Section 706(2)(A) and *Department of Commerce v. New York*. Part V explains why the government's own concession forecloses the routine-housekeeping defense. Part VI turns to intent, and shows how the circumstantial record preserves the evidence of discriminatory purpose under *Village of Arlington Heights* for the disability-discrimination case that ripens when a student is injured. Part VII addresses standing and identifies the plaintiffs who can bring the structural claim now. Part VIII concludes.

II. What Was Announced, and How It Was Built

A. The Two Moves

The first move sends the Office of Special Education and Rehabilitative Services to Health and Human Services. That office administers the programs that implement the Individuals with Disabilities Education Act, the statute that guarantees students with disabilities a free appropriate public education, and it provides the guidance and oversight that keeps states within the Act's requirements.[10] The second move sends the Office for Civil Rights to the Department of Justice. That office investigates and resolves complaints of discrimination against students on the basis of disability, sex, race, and national origin, and it has been the subject of repeated staff reductions and partial reversals over the preceding year.[11]

The Secretary offered a stated reason for each. For special education, the partnership with Health and Human Services would, she said, align federal services toward strengthening academic outcomes and supporting individuals with disabilities toward independence and

10. *Id.*
11. *Id.*

employment.[12] For civil rights, the partnership with Justice would, she said, ensure stronger and more coordinated civil rights enforcement and robust protections for student privacy.[13] Part IV returns to the distance between those stated reasons and the destinations chosen.

B. The Partnership Device

The administration did not describe either move as a transfer. It described both as partnerships, and senior officials told reporters that the Department would retain the statutory responsibilities while outsourcing day-to-day operations.[14] The reporting establishes that this device is not new. In November 2025 the administration announced that it would shift work in elementary and secondary education, postsecondary education, and Indian education to other agencies, including the Department of Labor. All three of those offices had been placed at the Department by Congress when it created the agency in 1979, and the moves were made without congressional consent. In briefing lawmakers, the administration insisted that the statutory responsibilities would remain at the Department, that it was simply outsourcing operations, and that a small group of senior staff would stay behind to oversee the programs.[15] The June 2026 moves follow that template.

C. The Concession in the Agreements

The text of the new agreements, obtained by NPR, contains the sentence on which much of this Article turns. Health and Human Services would perform much of the work of administering the formula grant programs under the Individuals with Disabilities Education Act, while the Department of Education would continue to provide management and leadership, the reporting explains, likely because the law requires that these responsibilities still be overseen by the Department of Education.[16] The government, in other words, has built its own admission into

12. *Id.*
13. *Id.*
14. *Id.*
15. *Id.*
16. *Id.*

the operative documents. It is keeping management and leadership at the Department not as a courtesy but because it understands the statute to forbid moving them. Part V develops the consequences.

D. The Published Blueprint

The moves did not arrive without a paper trail. Project 2025, the policy blueprint developed by the Heritage Foundation, proposed that most funding under the Individuals with Disabilities Education Act be converted into a no-strings formula block grant for students with disabilities and distributed directly to local education agencies through the Administration for Community Living at Health and Human Services.[17] The author of that section now works inside the Department of Education, helping to direct its restructuring.[18] Part VI explains why this lineage matters as evidence of purpose, and why the choice of the Administration for Community Living as the destination is not a neutral administrative detail but the mechanism by which an enforceable individual entitlement would be converted into an unenforceable grant.

III. The Architecture Congress Built

A. The Special Education Office Must Exist Within the Department

The statutory anchor for the first move is express. The Individuals with Disabilities Education Act establishes the federal office responsible for special education and locates it within the Department of Education.[19] This is not a default that the executive may override by reassigning the work. Congress addressed the location of the function directly, and where Congress has specified that a function shall be carried out within a named department, the executive cannot

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17. The Heritage Foundation, *Mandate for Leadership: The Conservative Promise* (2023) (Project 2025) (proposing that most IDEA funding be converted into a no-strings formula block grant distributed through the Administration for Community Living at HHS); see Mehta & Turner, *supra* note 1 (reporting the proposal).

18. Mehta & Turner, *supra* note 1.

19. 20 U.S.C. §1402(a); see also 20 U.S.C. §3417 (establishing the Office of Special Education and Rehabilitative Services within the Department).

relocate the function to a different department by relabeling the move a partnership. The text supplies the rule of decision.

B. The Office for Civil Rights Was Placed in the Department by Congress in 1979

The Office for Civil Rights predates the Department of Education. It is the same enforcement function that operated within the former Department of Health, Education, and Welfare. When Congress created the Department of Education in 1979, it decided where civil rights enforcement for students would sit, and it placed the Office for Civil Rights inside the new Department, headed by an Assistant Secretary for Civil Rights.[20] A former head of the office under two administrations has made the historical point in plain terms: the office existed before the Department, and it was Congress that voted to move it into the agency, so that those enforcing the rights of students would do so among people focused on the school context.[21] The placement was a legislative choice. Undoing it is a legislative act, not an executive one.

C. The Executive Holds No Freestanding Reorganization Authority

The background principle is settled. An agency is a creature of statute and possesses only the powers Congress gives it, and it "may not confer power upon itself."[22] The President's ability to reorganize executive functions has historically depended on time-limited authority that Congress chose to grant and then allowed to lapse; absent such authority, the structure Congress enacts remains in force until Congress changes it.[23] The administration has not claimed any statutory reorganization authority for the June 2026 moves, and none exists. What remains is the ordinary rule: the location of a statutory function is fixed by the statute, and only Congress can move it. Members of Congress have said precisely this in response to the moves. Pending legislation

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20. 20 U.S.C. §3413(a); Department of Education Organization Act of 1979, Pub. L. No. 96-88, §203, 93 Stat. 668, 673.

21. Mehta & Turner, *supra* note 1 (quoting Catherine Lhamon).

22. *La. Pub. Serv. Comm'n*, 476 U.S. at 374–75.

23. See 5 U.S.C. ch. 9 (§§901–912). No general presidential reorganization authority is currently in force.

reaffirms that Section 1402 houses the special education office within the Department and states that the executive branch lacks unilateral authority to alter that statutory arrangement.[24]

The history of reorganization authority confirms the point twice over. From the 1930s through 1984, Congress periodically granted the President a time-limited authority to submit reorganization plans subject to congressional review, and that authority lapsed by its own terms: a provision in a reorganization plan may take effect only if the plan was transmitted to Congress on or before December 31, 1984.[25] No general reorganization authority has been enacted since. And even when that authority was active, it never reached what the administration now claims: the governing limitation provided that a reorganization plan may not have the effect of abolishing or transferring an executive department or all the functions thereof, and may not authorize an agency to exercise a function not expressly authorized by law.[26] The only lawful path Congress ever created for executive reorganization thus both expired and, by its own terms, would have forbidden the relocation of these statutory functions across departments. The deeper rule is the one the Supreme Court has stated directly: however serious the policy goal, "an administrative agency's power to regulate in the public interest must always be grounded in a valid grant of authority from Congress."[27]

D. The Executive Cannot Subdelegate These Functions to Other Departments

Even setting aside the in-Department command and the absence of reorganization authority, a separate principle of administrative law forbids the maneuver. An agency vested with a statutory function may delegate its performance to subordinates within the agency, but it may not hand that function to entities outside the agency absent affirmative evidence that Congress

24. See Protecting Students with Disabilities Act, H.R. 2333, 119th Cong. (2025–2026) (findings) ("Section 1402 of the Individuals with Disabilities Education Act explicitly states that the Office of Special Education Programs shall be housed within the Department of Education . . . . The executive branch does not have the unilateral authority to alter this statutory framework.").

25. 5 U.S.C. §905(b); see Cong. Rsch. Serv., R48763, *Presidential Reorganization Authority* (2025) (tracing the grant and lapse of the authority).

26. 5 U.S.C. §905(a)(1), (4).

27. *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 161 (2000).

authorized it to do so. The leading modern statement is *U.S. Telecom Ass'n v. FCC*, which held that "while federal agency officials may subdelegate their decision-making authority to subordinates absent evidence of contrary congressional intent, they may not subdelegate to outside entities—private or sovereign—absent affirmative evidence of authority to do so," and that "a general delegation of decision-making authority to a federal administrative agency does not, in the ordinary course of things, include the power to subdelegate that authority beyond federal subordinates."[28] The Secretary of Health and Human Services and the Attorney General are not subordinates of the Secretary of Education; they head separate departments answerable to their own statutory mandates. Transferring the administration of the Individuals with Disabilities Education Act and the enforcement of the education civil rights laws to those departments is therefore a subdelegation beyond the Department's own subordinates, which no statute authorizes and which the background rule forbids. This is the administrative-law principle that delegated power may not be further delegated, *delegata potestas non potest delegari*; it is distinct from the constitutional nondelegation doctrine and operates whether or not Congress could itself assign these functions elsewhere.[29]

IV. The Administrative Procedure Act Claim

The relocations are final agency action subject to judicial review. Two provisions of Section 706 control, and each supplies an independent ground to set the action aside.

28. *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 565–68 (D.C. Cir. 2004). The case concerned subdelegation to state commissions and reserved purely ministerial functions such as fact-gathering; it is invoked here by analogy to an interdepartmental transfer of administrative responsibility.

29. See Stephen Migala, *Delegation Inside the Executive Branch*, 24 Nev. L.J. 147 (2024) (grounding the subdelegation rule in the *delegata* maxim, the Restatements of Agency, and nineteenth-century treatises on agency and public-officer law); Matthew C. Stephenson, *When and Why Agencies Must Decide for Themselves: Judge Williams's Restrictive Approach to Administrative Subdelegation*, 38 Yale J. on Reg. 752 (2021).

A. Action in Excess of Statutory Authority

A reviewing court must hold unlawful and set aside agency action found to be in excess of statutory jurisdiction, authority, or limitations.[30] Where Congress has commanded that a function exist within a named department, an executive decision to move the operational performance of that function to a different department exceeds the authority Congress conferred. The Individuals with Disabilities Education Act locates the special education office within the Department of Education; the Department of Education Organization Act locates the Office for Civil Rights there as well.[31] Moving the work of those offices to Health and Human Services and to Justice, without the consent of Congress and without any reorganization authority, is action in excess of statutory authority on its face.

B. Arbitrary and Capricious Action and the Pretext Rule

The second ground reaches the stated reasons. A court must set aside agency action that is arbitrary, capricious, or an abuse of discretion.[32] An agency must offer a reasoned explanation that reflects the actual basis for its decision, and a court need not accept a rationale that is contrived to conceal a different real reason. In *Department of Commerce v. New York*, the Supreme Court set aside the addition of a citizenship question to the census because the sole stated rationale was pretextual, holding that the reasoned-explanation requirement is not satisfied by an explanation that does not match the agency's genuine justification.[33] The same provision independently requires the agency to consider the important aspects of the problem, including the reliance interests that a longstanding arrangement has produced. An agency that changes course "must be cognizant that longstanding policies may have engendered serious reliance

30. 5 U.S.C. §706(2)(C).

31. 20 U.S.C. §§1402(a), 3413(a), 3417.

32. 5 U.S.C. §706(2)(A).

33. *Dep't of Commerce v. New York*, 588 U.S. 752, 785 (2019) (the reasoned-explanation requirement "is meant to ensure that agencies offer genuine justifications for important decisions," and "[a]ccepting contrived reasons would defeat the purpose of the enterprise"; setting the action aside on a "significant mismatch between the decision the [agency] made and the rationale [it] provided").

interests that must be taken into account," and "[i]t would be arbitrary and capricious to ignore such matters."[34] Families, schools, and States have organized decades of planning, compliance, and service delivery around the Department of Education's administration of these programs, and nothing in the announcement reflects any consideration of those interests.

The stated rationales here invite exactly that inquiry. The Secretary justified moving civil rights enforcement to Justice as a measure to ensure stronger and more coordinated enforcement.[35] Yet the destination is a department whose civil rights work in the school context is, in the assessment of a former head of the relocated office, outside its interest and its expertise,[36] and which at the time of the announcement was operating under an acting Attorney General after the removal of its confirmed head.[37] A stated purpose of strengthening enforcement, paired with the choice of a destination described by experienced administrators as lacking both interest and capacity, is the kind of mismatch that *Commerce* treats as evidence that the offered rationale is not the real one.

The special education move presents the same divergence in sharper form. The Secretary justified it as a measure to strengthen academic outcomes for students with disabilities.[38] The destination is a medical agency, and the published blueprint that the move tracks proposes to route the funds through the Administration for Community Living and to convert the entitlement into a no-strings block grant.[39] An education entitlement is not strengthened by relocating it to an agency oriented toward pathology and medication rather than instruction, and an outcome-improvement rationale is difficult to credit alongside a plan to strip the conditions that make the funds enforceable. The gap between the stated reason and the engineered result is the *Commerce* problem.

34. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1913 (2020).

35. Mehta & Turner, *supra* note 1.

36. *Id.* (quoting Catherine Lhamon that Justice has "no interest and no expertise" in the kind of work the Office for Civil Rights does).

37. See, e.g., *Attorney General Pam Bondi Out at DOJ*, NPR (Apr. 2, 2026), https://www.npr.org/2026/04/02/g-s1-115077/trump-bond (reporting the removal of the Attorney General and the designation of the Deputy Attorney General as acting head).

38. Mehta & Turner, *supra* note 1.

39. *Id.*; Project 2025, *supra* note 12.

C. The Major-Questions Backstop

There is a further reason the executive cannot accomplish this restructuring on its own say-so. Reordering which cabinet departments enforce the nation's disability and civil rights guarantees for students is a decision of vast economic and political significance, the kind of decision a court will not presume the executive may make without clear congressional authorization.[40] No such authorization exists; the relevant statutes point the other way, fixing these functions inside the Department of Education.

V. The Concession That Forecloses the Housekeeping Defense

The government's strongest argument is that nothing of substance has changed. The statutory responsibilities, it says, remain at the Department; only the operational work has been outsourced; a reviewing court should treat the moves as internal management decisions committed to executive discretion. The argument fails on the government's own words.

The agreements provide that the Department will retain management and leadership of the special education programs because the law requires that these responsibilities be overseen by the Department of Education.[41] That sentence concedes two things at once. First, it concedes that the law fixes the responsibility at the Department, which is the premise of the excess-of-authority claim. Second, it concedes that the administration knows this, which is why it built a retention clause into the documents. A party that keeps a function at the Department because it understands the statute to compel that result cannot, in the same breath, move the operational performance of that function elsewhere and call the move lawful. The retained nameplate is not evidence of compliance. It is evidence that the administration drafted around a limitation it recognized it could not cross.

40. Cf. *West Virginia v. EPA*, 597 U.S. 697, 723 (2022) (an agency claiming power over a question of "vast economic and political significance" must point to "clear congressional authorization").

41. Mehta & Turner, *supra* note 1.

The routine-housekeeping defense depends on the premise that the function was the executive's to move. The agreements concede the opposite. What is left is a transfer of operations that the government itself has admitted the law does not permit, dressed as a partnership so that the transfer need not pass through Congress. The label does not change the act.

VI. Intent Preserved: *Arlington Heights* and the Discrimination Case That Ripens on Injury

The claims developed above are structural. They do not require proof that the administration intended to harm students with disabilities, and they are ripe now because the injury is the unlawful act itself. A second body of law waits in reserve. When a student loses services because the relocation has degraded the oversight that kept schools within the Act, that student will have a disability-discrimination claim, and the circumstantial record assembled in June 2026 is the evidence of purpose that claim will draw on. This Part explains why the record should be preserved and timestamped now.

A. The Bundling and the Routing as Circumstantial Evidence

Discriminatory purpose is proved, when it must be proved, by circumstantial evidence: the impact of the action, the historical background, the specific sequence of events leading to the decision, departures from the normal procedural course, and the legislative or administrative history.[42] The June 2026 announcement supplies several of these markers in a single document. The disability-specific office and the civil rights office were moved together, in the same release, on the same day. The disability functions were routed to the destinations least suited to enforce them, a medical agency for the education entitlement and a litigation-only department for the complaint office. And the move departs from the ordinary course in which a relocation of statutorily placed functions would proceed through Congress, substituting an interagency partnership for the legislative consent the prior template also bypassed. Read together under

42. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266–68 (1977).

Arlington Heights, these are not neutral administrative choices. They are the sequence-of-events and departure-from-procedure evidence the doctrine instructs courts to weigh.

B. The Blueprint and Its Author Inside the Agency

The strongest single item is the lineage. A published plan proposed converting the disability entitlement into a no-strings block grant administered through the Administration for Community Living, and the author of that plan now sits inside the Department directing the restructuring that implements it.[43] Administrative history of that kind, a documented antecedent design executed by its own designer from within the agency, is precisely what *Arlington Heights* contemplates when it directs courts to the events leading up to the challenged decision.[44] It also cuts directly against the housekeeping defense: a move that implements a years-old blueprint to dismantle an entitlement is not the routine internal management the government claims.

C. The Substantive Theory Awaiting an Injured Plaintiff

The discrimination claim itself does not require animus. Section 504 of the Rehabilitation Act reaches thoughtlessness and indifference toward persons with disabilities, not only deliberate exclusion, and it prohibits methods of administration that defeat or substantially impair the objectives of a program for the protected class.[45] A federal decision that predictably removes the oversight keeping schools within the Act, taken with knowledge of that consequence, is a candidate method-of-administration theory. The piece that does not yet exist is the injured student: the named child who can show a concrete loss of services traceable to the relocation. The harm is foreseeable, and the mechanism is identified in the blueprint itself, but the claim ripens on injury. Until then, the value of the record is evidentiary. It fixes the purpose evidence

43. Mehta & Turner, *supra* note 1; Project 2025, *supra* note 12.

44. *Arlington Heights*, 429 U.S. at 267.

45. *Alexander v. Choate*, 469 U.S. 287, 295–97 (1985) (discrimination against persons with disabilities is “most often the product, not of invidious animus, but rather of thoughtlessness and indifference”); see 29 U.S.C. §794; 28 C.F.R. §35.130(b)(3) (prohibiting methods of administration that have “the purpose or effect of defeating or substantially impairing accomplishment of the objectives” of the program with respect to persons with disabilities).

in time, before the aggregate statistics that follow such changes can obscure where the harm was concentrated.

VII. Standing and the Plaintiffs

The structural claim does not wait for an injured student. The States administer the programs at issue and receive the federal funds whose conditions the relocation would alter; they have a concrete, particularized interest in the lawful operation of the offices that oversee those funds, and they are entitled to special solicitude in the standing analysis.[46] A coalition of state attorneys general is the natural plaintiff for the excess-of-authority and arbitrary-and-capricious claims, and the injury for those claims is present now: it is the unlawful relocation itself, together with the uncertainty it imposes on the States that must administer the programs through offices Congress placed in a department the executive is attempting to bypass.

Disability rights organizations with members who are students with disabilities may also have associational standing to challenge the relocations, and individual families will have standing on the discrimination claim once the loss of services materializes. The point for present purposes is narrow. There is a plaintiff who can file today, on a claim that is ripe today, without waiting for a child to be harmed.

VIII. Conclusion

The administration has described the relocation of special education and civil rights enforcement out of the Department of Education as a partnership and as routine housekeeping. It is neither. Congress placed these offices inside the Department by statute, the executive holds no authority to move them, and the agreements concede as much by retaining management and leadership at the Department because the law requires it. That concession converts the housekeeping defense into an admission and makes the relocations reviewable as action in excess of statutory authority

46. *Massachusetts v. EPA*, 549 U.S. 497, 518–20 (2007) (States are entitled to "special solicitude" in the standing analysis).

and as arbitrary and capricious action resting on a pretextual rationale. The stated purposes of stronger enforcement and better outcomes do not survive contact with the destinations chosen, a litigation department without interest or capacity for the work and a medical agency teed up to convert an education entitlement into an unenforceable grant. The structural claim is ripe, and the States can bring it now. The discrimination claim waits on an injured student, but the evidence of purpose, the bundling, the routing, and a blueprint executed by its own author from inside the agency, should be fixed in the record today. The label the administration chose is not a defense. It is the proof.