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STUDENT SPOTLIGHT[1]

THE ADMINISTRATIVE STATE UNDER THREAT: HOW *LOPER BRIGHT* ENDANGERS CIVIL RIGHTS AND DISABILITY PROTECTIONS IN EDUCATION

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The U.S. Supreme Court's decision in Loper Bright Enterprises v. Raimondo *(2024) has sweeping implications for administrative law and civil rights enforcement. By overturning the longstanding* Chevron *deference doctrine, the Court shifted interpretive authority from federal agencies to the judiciary, fundamentally altering the balance of power within the administrative state. This transition weakens agency autonomy, undermines the role of subject-matter expertise, and creates legal uncertainty, particularly in the enforcement of key anti-discrimination statutes such as the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and Title II of the Americans with Disabilities Act (ADA). Replacing* Chevron *with the more discretionary* Skidmore *standard invites inconsistent judicial interpretations, fragmenting national protections and delaying enforcement. Ultimately, the decision risks destabilizing civil rights safeguards for vulnerable populations, especially students with disabilities, while raising broader concerns about separation of powers, regulatory effectiveness, and equitable access to education.*

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INTRODUCTION

The U.S. Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overturned the longstanding *Chevron* deference, marks a significant shift in administrative law by effectively reducing federal agencies' interpretive power and transferring it to the courts.[2] While some argue this may lead to more consistent judicial rulings, it also diminishes the authority of experts within agencies, such as the U.S. Department of Education, to enforce civil rights protections, especially for students with disabilities.[3] This change also raises concerns about legal instability, inconsistent enforcement, and decreased accountability within educational and administrative agencies.

This essay examines how the Supreme Court's decision in *Loper Bright* weakens agency autonomy, expands judicial authority, and jeopardizes the enforcement of key anti-discrimination statutes, including the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1482 (2004), Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 (2015), and Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 et seq. It further analyzes how the Court's rejection of *Chevron* deference disrupts the constitutional separation of powers, undermines the regulatory capacity of expert agencies, and threatens longstanding federal protections for students with disabilities and other marginalized populations.

BACKGROUND: *CHEVRON* DEFERENCE

The U.S. Supreme Court established *Chevron* deference in *Chevron U.S.A., Inc. v. Natural Resources Defense Council*, 467 U.S. 837 (1984), and laid the foundation for modern administrative law by formalizing judicial deference to reasonable agency interpretations of ambiguous statutes. The case arose when the Environmental Protection Agency (EPA), under the Reagan Administration, revised its understanding of the term "stationary source" in the Clean Air Act to allow a more flexible, plantwide definition.[4] Under this new interpretation, an entire industrial facility could be treated as a single source of emissions, allowing internal modifications without triggering a new EPA review, provided the plant's total emissions did not increase.[5] The Natural Resources Defense Council (NRDC) challenged this approach, arguing it undermined environmental protections by allowing increased pollution without adequate oversight.[6] Although the D.C. Circuit sided with the NRDC, the Supreme Court reversed the D.C. Circuit's decision.[7] The Court held that when a statute is unclear or vague, and the agency's interpretation is reasonable, courts must defer to the agency's judgment, thereby creating a legal framework to guide judicial review for the next four decades.[8]

To fully understand *Chevron*, however, it is essential to recognize its roots in the broader historical development of the administrative state. The rise of judicial deference was not an anomaly but a response to the growing demands of modern governance. During the New Deal era of the 1930s, Congress created a host of federal agencies tasked with implementing social and economic reforms in areas ranging from labor to securities regulation.[9] These agencies were established to carry out broad legislative mandates with the flexibility and expertise that Congress could not provide in detail. Courts gradually came to accept that the constitutional separation of powers did not prohibit reasonable delegations of interpretive authority to the executive branch.

This shift was not just pragmatic; it also reflected an evolving understanding that agencies had both the institutional competence and political accountability necessary to carry out complex regulatory functions.

By the mid-twentieth century, the Supreme Court began formalizing this recognition in its jurisprudence. First, in *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), the Court acknowledged agency interpretations could be persuasive based on their reasoning and expertise, even if not controlling. This decision signaled a growing judicial willingness to defer, at least in part, to agencies' subject-matter expertise. Then, with the passage of the Administrative Procedure Act (APA), 5 U.S.C. §§ 551-559, 701-706, in 1946, Congress codified a regulatory framework that balanced agency discretion with procedural safeguards and judicial review. While Section 706 of the APA tasked courts with "deciding all relevant questions of law," it did not prescribe how courts should treat agency interpretations.[10] For decades, courts interpreted the APA as consistent with some form of deference, understanding that judicial oversight should not entail second-guessing every regulatory judgment.

Against this backdrop, *Chevron* emerged as a doctrine that unified administrative law around a more structured, pragmatic test.[11] Its two-step framework structured how courts evaluated agency interpretations. First, the court would decide whether the statute in question was clear; if so, it would interpret and apply the law as written. If the statute was ambiguous, however, courts would then move to the second step, asking whether the agency's interpretation was reasonable. If so, the interpretation would be upheld. This doctrine rested on the assumption that Congress, when writing broad or unclear statutes, implicitly delegated interpretive authority to agencies with specialized expertise and political accountability.[12] Agencies, rather than unelected judges, were viewed as better equipped to make policy decisions within their regulatory domains. This framework also reflected judicial restraint, limiting courts from imposing their policy preferences over those of executive agencies acting within their statutory mandates.

Chevron's influence was not without limits. In *United States v. Mead Corp.*, 533 U.S. 218 (2001), the Court clarified that *Chevron* deference applied only when Congress intended to delegate interpretive authority to agencies, and the agency's interpretation carried the force of law, typically through formal rulemaking or adjudication. This "*Chevron* Step Zero" analysis became a threshold inquiry: not every agency interpretation automatically qualified for deference.[13] The decision in *Mead* revealed that *Chevron* was conditional on procedural formality and congressional intent, rather than being a blanket rule favoring agencies. Still, when *Chevron* did apply, it provided a consistent and pragmatic mechanism for regulatory interpretation in an increasingly complex administrative state.[14]

Furthermore, *Chevron* deference reinforced regulatory consistency by allowing agencies to adapt to evolving challenges across various policy areas. This doctrine empowered agencies to fill statutory gaps and craft responsive policies without frequent judicial interference. It facilitated the development of complex regulations in environmental, financial, and civil rights issues, as well as public health protections. Additionally, *Chevron* helped ensure a more uniform application of federal law across different administrations and jurisdictions by establishing a stable framework for judicial review. Even amid changes in political leadership, the fundamental principle that courts should defer to reasonable agency interpretations of ambiguous statutes helped maintain

continuity in regulatory enforcement.

Critics of *Chevron* deference have long argued that the decision granted excessive power to executive agencies at the expense of the judiciary's role in statutory interpretation. These detractors claimed unelected bureaucrats were effectively making law under the guise of interpretation, undermining democratic accountability, and threatening the separation of powers. Some courts and scholars viewed *Chevron* as encouraging regulatory overreach, allowing agencies to interpret statutes too broadly in the absence of clear congressional mandates.[15] Additionally, opponents contended that *Chevron* incentivized vague lawmaking by Congress, allowing it to rely on agencies to fill in the details rather than crafting precise legislation. These critiques laid the groundwork for mounting judicial skepticism, ultimately culminating in the Supreme Court's decision in *Loper Bright*. While *Chevron* deference had long served as a stabilizing force in administrative law, *Loper Bright* decisively reversed that precedent.

THE *LOPER BRIGHT* DECISION

The Supreme Court's decision in *Loper Bright* marked a seismic shift in administrative law by eliminating *Chevron* deference and returning primary interpretive authority to the judiciary.[16] Writing for the majority, Chief Justice Roberts grounded the decision in both statutory and constitutional arguments, concluding that *Chevron* deference was incompatible with the APA and violated the separation of powers enshrined in the Constitution.[17]

First, the Court relied on Section 706 of the APA, which instructs courts to "decide all relevant questions of law" and "interpret constitutional and statutory provisions."[18] The majority interpreted this language as placing a nondelegable duty on courts to determine the meaning of statutes independently. In the Court's view, *Chevron* improperly required judges to defer to agency interpretations of ambiguous statutes, effectively sidelining judicial reasoning and contradicting the APA's directive. According to the majority, the APA did not contemplate a tiered or contingent form of statutory interpretation but instead imposed a uniform obligation on courts to exercise their independent judgment in every case. *Chevron*'s framework, which instructed judges to adopt a reasonable agency interpretation rather than their own, was seen as an abdication of that duty.

Second, the Court framed *Chevron* deference as raising constitutional concerns under Article III, which vests judicial power solely in the courts.[19] By allowing executive agencies to interpret ambiguous statutes authoritatively, *Chevron* blurred the boundaries between the executive and judicial branches. The majority reasoned that such deference allowed the executive to act with the force of law in the absence of either clear legislative direction or judicial confirmation, thereby undermining the separation of powers. This dynamic, they argued, transformed regulatory interpretation into a quasi-legislative function carried out by unelected bureaucrats, diminishing both judicial independence and public accountability. Rather than serving as a check on executive power, the judiciary under *Chevron* became an automatic rubber stamp for agency policymaking, a position the Court deemed constitutionally untenable.[20]

While the Court acknowledged agencies may still provide valuable insights into statutory meaning, it emphasized such views should be considered only to the extent they are persuasive under the *Skidmore* standard. *Skidmore* deference, derived from the previously mentioned case

Skidmore v. Swift & Co., permitted courts to weigh agency interpretations based on their reasoning, consistency, and subject-matter expertise, but without binding force. In effect, *Loper Bright* reasserted judicial supremacy over legal interpretation and altered the treatment of agency expertise, viewing it as advisory rather than determinative. The decision concluded that

> the Administrative Procedure Act requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency's interpretation of the law simply because a statute is ambiguous; *Chevron* is overruled.[21]

Unlike *Chevron*, which required courts to adopt a reasonable agency interpretation of an ambiguous statute, *Skidmore* deference offers no such obligation. Instead, courts apply a more flexible, discretionary standard in which the weight given to an agency's view depends on the quality of its reasoning, the thoroughness of its consideration, the consistency of its interpretation over time, and the agency's subject-matter expertise. While this may preserve the theoretical possibility of judicial respect for administrative knowledge, in practice, *Skidmore* has proven an uneven and often inadequate substitute.[22]

Courts vary widely in how they apply *Skidmore* deference, often invoking it selectively to justify agreement with an agency while disregarding it entirely when they disagree, regardless of expertise or consistency.[23] Interpretations issued through informal guidance, policy letters, or memos, all standard tools in civil rights enforcement, are particularly vulnerable under *Skidmore* because courts may view them as lacking procedural formality or legal force.[24] This creates significant uncertainty for agencies that depend on such materials to provide timely and flexible regulatory guidance.

Furthermore, *Skidmore* shifted the focus away from institutional competence and toward judicial discretion. Agencies such as the Department of Education, which rely on expertise in education policy, disability law, and civil rights enforcement, are now compelled to persuade judges with general legal training who often lack the understanding of nuanced statutory structures. As a result, even well-reasoned agency interpretations may be discounted or invalidated simply because a court prefers an alternative reading. In the context of rapidly evolving policy areas, such as disability rights and educational equity, this discretionary model undermines consistency, predictability, and the adaptive capacity of the administrative state.

While *Skidmore* deference technically survived *Loper Bright*, its discretionary nature and historical weakness offer little assurance that agency interpretations will retain meaningful influence.[25] As the Department of Education and other federal agencies adjust to this new interpretive regime, they must craft policy not only with technical precision but also with judicial persuasion in mind. This task fundamentally shifts the source of interpretive authority from regulatory expertise to increasingly assertive courts.

ADDRESSING THE CONSERVATIVE CASE FOR ELIMINATING *CHEVRON*

Supporters of the *Loper Bright* decision argue it restores proper constitutional balance by reaffirming the judiciary's duty to "say what the law is," as articulated in *Marbury v. Madison,* 5 U.S. 137 (1803).[26] From this perspective, *Chevron* deference represented a dangerous abdication

of judicial responsibility, allowing executive agencies staffed by unelected bureaucrats to define the scope and meaning of federal law without adequate oversight. Critics often frame *Chevron* as enabling quasi-legislative power within the executive branch, thereby violating Article III of the Constitution and eroding the separation of powers.[27]

Some *Chevron* opponents also contend the decision fostered regulatory unpredictability by allowing agencies to change interpretations from one administration to the next. In their view, this created instability for regulated parties, burdening private actors, such as schools, hospitals, and businesses, with shifting and politically motivated standards.[28] By returning interpretive authority to the courts, these opponents argue, *Loper Bright* ensures a more neutral and consistent application of the law, immune to the oscillations of administrative priorities. Additionally, eliminating deference is said to promote democratic accountability. Rather than permitting executive agencies to fill in statutory gaps, Congress will be forced to legislate more clearly, and courts will need to serve as a backstop against executive overreach.

While these concerns reflect legitimate institutional anxieties, they rest on a series of contestable assumptions about the nature of governance in a complex, modern administrative state. First, the claim that judicial interpretation is inherently more neutral or democratic overlooks the fact that courts themselves lack electoral accountability and often lack the subject-matter expertise required to resolve complex regulatory disputes. Agencies, by contrast, are politically accountable through presidential oversight, congressional appropriations, and public participation in rulemaking.[29] Data, experience, and daily engagement with regulated entities help shape their interpretations. Judicial substitution of agency reasoning with generalized legal interpretation often replaces expert insight with formalistic rigidity or, in some cases, ideological bias.

Second, the idea that courts provide regulatory stability under *Loper Bright* is, at best, speculative. The elimination of *Chevron* created a fragmented legal landscape in which multiple courts reach different conclusions about the meaning of federal statutes, especially in specialized areas such as education, disability law, or civil rights. What was once a national standard established by an expert agency may now break down into circuit-by-circuit differences, confusing stakeholders and providing unequal protection for students depending on their location.[30]

Third, while some suggest *Loper Bright* will prompt Congress to legislate with greater specificity, this expectation is unrealistic given longstanding patterns of legislative inertia and political polarization. Congress has long relied on agencies to interpret broad statutes, especially in areas that require specialized implementation and ongoing adjustments. Without *Chevron*, new challenges will arise unless Congress intervenes. This weakens both regulatory responsiveness and the democratic goal of effective governance for vulnerable populations.

In short, while *Loper Bright* may appeal to those favoring a more formalist and judicially centered vision of constitutional interpretation, it imposes significant costs on the administrative state's ability to carry out complex statutory mandates.[31] Replacing expert agency judgment with judicial discretion under *Loper Bright* risks weakening civil rights protections, slowing enforcement, and creating structural barriers to fairness, undermining the accountability and specialized knowledge that agencies bring to complex regulatory issues. Deference, when properly limited, is not a constitutional danger but a practical way to make statutory interpretation better

aligned with institutional expertise and real-world conditions.

IMPACT ON THE U.S. DEPARTMENT OF EDUCATION

The elimination of *Chevron* deference significantly undermines the Department of Education's (Department) ability to function as a proactive and adaptive regulator. Historically, *Chevron* enabled the Department to issue policy guidance, interpret ambiguous statutory provisions, and clarify complex legal requirements with the confidence that courts would defer to the Department's reasonable interpretations. For example, the Department relied on *Chevron* when issuing guidance letters on student discipline under the IDEA, helping schools implement consistent protections for students with disabilities across the country.

Without *Chevron*, the Department's interpretive authority is no longer presumed legitimate by courts, which must now independently assess the legality of its positions. This shift heightens the risk that policy guidance or enforcement actions, especially those addressing new or evolving civil rights concerns, will be second-guessed or invalidated. The agency must now defend its interpretations without judicial deference, which requires more detailed legal justification and makes it more vulnerable to lawsuits. This could discourage the Department from issuing strong regulations or acting quickly to address new types of discrimination or exclusion.

Beyond legal uncertainty, the *Loper Bright* decision also creates practical burdens. With courts leading in statutory interpretation, the Department may need to rely more on litigation outcomes than on internal tools, such as guidance letters or negotiated resolutions. This can delay responses to discrimination and diminish the Department's effectiveness in shaping national education standards. In areas where courts disagree, the Department might have to implement different policies regionally, further complicating administration. While other sections will examine the implications for specific statutes and enforcement efforts, this loss of interpretive authority represents a significant restriction on the Department's daily regulatory functions and its ability to ensure equal educational opportunities.

JUDICIAL OVERREACH AND FRAGMENTATION OF CIVIL RIGHTS PROTECTIONS

Loper Bright not only overturned a foundational principle of administrative law but also signaled a broader shift toward judicial activism and centralization of interpretive authority within the courts. The elimination of *Chevron* deference reflects a judicial philosophy that privileges textualism and originalism over deference to agency expertise, a trend already evident in recent, controversial precedents, including *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), addressing reproductive rights and *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022), regulating greenhouse gas emissions from power plants. The decision also represents a significant erosion of *stare decisis*, replacing stable frameworks with discretionary judicial interpretation.[32]

One immediate consequence of this transformation is heightened legal uncertainty. Without *Chevron*, agencies like the Department of Education can no longer rely on their expertise to lend authoritative weight to their interpretations of statutes such as the IDEA, Section 504, and Title IX, 20 U.S.C. §§ 1681-1688. Instead, judges, who lack specialized knowledge of education

policy, disability law, or civil rights enforcement, are authorized to independently interpret complex statutory terms. This opens the door to fragmented judicial rulings across jurisdictions, as lower courts issue diverging interpretations of what constitutes a "reasonable accommodation," "discrimination," or compliance with federal education mandates.[33] This uncertainty is compounded by the Supreme Court's earlier decision in *Alexander v. Sandoval*, 532 U.S. 275 (2001), which limited private enforcement of civil rights regulations and thereby increased reliance on uniform administrative interpretation to ensure consistent national protections.[34]

Judicial fragmentation threatens the national consistency that federal civil rights laws were designed to ensure. Historically, agency interpretations created a uniform regulatory floor that applied equally across all states. In the post-*Loper* landscape, however, school districts, state education agencies, and students may face dramatically different legal standards depending on the judicial circuit in which the suit is filed. A policy deemed lawful in one state could be considered as unlawful in another, not because of a change in statute or the facts, but because of a different judicial interpretation untethered from agency guidance.

The risks of inconsistency are further amplified by shifting executive priorities. As seen during the second Trump administration, reductions in staffing, enforcement, and guidance at the Office for Civil Rights (OCR) led to a temporary but significant retreat from proactive civil rights enforcement. Without *Chevron*, even when future administrations seek to restore or expand protections, their efforts will no longer carry presumptive legal weight. Courts may disregard agency guidance entirely or subject it to heightened scrutiny under the "major questions doctrine," which requires explicit congressional authorization for policies deemed economically or politically significant.[35] Some courts may even revive the nondelegation doctrine to invalidate broad agency rulemaking authority altogether, further constraining the regulatory space available for civil rights enforcement.[36]

Ultimately, removing *Chevron* deference shifted interpretive authority from agencies responsible for protecting vulnerable groups to the courts, many of which are less prepared or less willing to handle systemic discrimination. This creates a regulatory environment characterized by uncertainty, fragmentation, and inequality. Federal protections that were once consistently applied across jurisdictions could now differ significantly, weakening the foundation of equal access to education and civil rights under the law.

THREATS TO CIVIL RIGHTS ENFORCEMENT

One of the more troubling effects of *Loper Bright* is the potential rollback of civil rights protections enforced by the Department of Education's Office for Civil Rights (OCR). The OCR enforces critical anti-discrimination laws, including Title IX, which prohibits sex discrimination in education and provides protections for LGBTQ+ students; Title VI, which bans discrimination based on race and national origin in federally funded programs; and the IDEA, Section 504 of the Rehabilitation Act, and Title II of the ADA, which safeguard students with disabilities. By stripping OCR of *Chevron*-backed interpretive authority, the Supreme Court has made it substantially easier for states, school districts, and ideological challengers to contest Department regulations and guidance in court, placing established protections for marginalized students on increasingly fragile legal ground. This fragility is underscored by proposals advanced by the

current Trump administration to dismantle or substantially curtail the Department of Education, highlighting the risks of relying on administrative enforcement structures that are vulnerable to shifting political priorities.[37]

These threats are particularly acute for students with disabilities, whose civil rights protections depend heavily on the Department of Education's Office for Civil Rights' compliance-driven enforcement model. Unlike litigation-centered remedies, OCR enforcement emphasizes timely investigations, negotiated resolution agreements, and technical assistance tailored to individualized educational needs, tools essential for addressing issues such as accessibility, reasonable accommodations, and exclusionary practices. *Loper Bright* undermines OCR's ability to rely on its specialized expertise in disability policymaking and law when interpreting and enforcing statutes, such as Section 504 of the Rehabilitation Act and Title II of the ADA. Courts are now free to substitute their own interpretations for those of the agency, increasing the risk that generalist judges lacking familiarity with special education frameworks will narrow the scope of disability protections. This shift delays relief for students whose educational progress depends on prompt intervention. It discourages schools from engaging cooperatively with OCR, fearing that negotiated outcomes will later be invalidated in court. As a result, the weakening of administrative authority disproportionately burdens students with disabilities, for whom civil rights enforcement is most effective when it is preventive, individualized, and administratively accessible rather than adversarial and retrospective.

With courts no longer required to defer to agency interpretations, judges may narrow, reinterpret, or even invalidate core civil rights protections. For instance, longstanding OCR interpretations safeguarding transgender students under Title IX or Section 504 could be overturned by courts that disagree with the agency's view, effectively stripping vulnerable student populations of administrative protections they have relied on for years. The result is a dangerous power shift from specialized federal agencies tasked with civil rights enforcement to judges who may lack subject-matter expertise or be influenced by political and ideological trends.

In a pending legal challenge brought by Texas and 16 other states against the U.S. Department of Health and Human Services (HHS), *Texas v. Kennedy*, No. 5:24-cv-00225 (2024), the plaintiff states are contesting the 2024 HHS final rule updating Section 504 of the Rehabilitation Act. The plaintiffs argue HHS exceeded its statutory authority by including gender dysphoria under the definition of disability and by reinforcing the "integration mandate," which requires services to be provided in the most integrated setting appropriate.[38] Although the states initially sought to challenge Section 504 itself as unconstitutional, they later narrowed their claim to procedural objections against the rule. The outcome of *Texas v. Kennedy* could significantly affect the Department of Education, which, along with HHS, shares responsibility for enforcing Section 504 in educational settings. If the court strikes down parts of the HHS rule, particularly those related to gender identity or community integration, it could severely undermine the Department's ability to issue and enforce similar protections.[39] Such a ruling would also indicate that courts are prepared to examine carefully and, if necessary, overturn agency interpretations of disability rights laws, a likelihood increased post-*Loper Bright*.

As courts gain more power to override agency interpretations, key protections under Title

IX, Title VI, and disability laws could be narrowed or invalidated.[40] Schools, universities, or even state governments may contest Department of Education guidance on sexual harassment policies, affirmative action, and disability accommodations, leading to prolonged litigation and uncertainty.[41] Courts might overturn key Department regulations without *Chevron* deference, leaving educational institutions uncertain about their legal duties. The Department's ability to address emerging civil rights issues will now be limited, as any expansion of civil and disability rights protections could lead to prolonged court battles, delaying enforcement for years.
Furthermore, different courts may interpret Title IX, Title VI, the IDEA, Section 504, and Title II inconsistently, resulting in a patchwork of protections where students in some states receive stronger anti-discrimination safeguards than those in others. Given the Court's narrowing of federal agency authority, future rulings on racial equity, gender identity, and disability rights could further restrict federal civil rights enforcement, leaving marginalized students with fewer legal safeguards.

Litigation also creates a costly and time-consuming burden on families of students with disabilities as they pursue educational equity and proper accommodations.[42] In *A.J.T. v. Osseo Area Schools*, 96 F.4th 1058 (2024), the Eighth Circuit Court of Appeals ruled that a student with disabilities could seek monetary damages under Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act (ADA) if they could prove intentional discrimination. A.J.T., a student with multiple disabilities, alleged the school district failed to provide appropriate accommodations, resulting in harm. The court emphasized that compliance with the IDEA does not automatically fulfill obligations under Section 504 or the ADA, which offer broader anti-discrimination protections. Although the U.S. Supreme Court declined to review the case, allowing the Eighth Circuit's decision to stand, the ruling reinforced that students have independent rights under federal disability laws. However, the requirement to prove discriminatory intent imposes a high legal burden on families, making it more difficult to hold schools accountable. This barrier, combined with the weakening of agency enforcement authority following *Loper Bright*, underscores the need for stronger, more accessible civil rights protections through proactive administrative oversight and more explicit statutory mandates.

Two landmark Supreme Court decisions, *Endrew F. v. Douglas County School District*, 580 U.S. 386 (2017), and *Fry v. Napoleon Community Schools*, 580 U.S. 154 (2017), along with the Eighth Circuit's ruling in *A.J.T. v. Osseo Area Schools*, collectively demonstrate the evolving landscape of disability rights in education and how these protections are weakened after *Loper Bright*. In *Endrew*, the Court clarified that the IDEA requires schools to provide a "free appropriate public education" (FAPE) that allows for more than minimal progress. While the Court did not explicitly invoke *Chevron*, its interpretation closely aligned with the Department of Education's guidance that FAPE must provide a meaningful educational benefit, thereby indicating implicit trust in the agency's expertise. After *Loper Bright*, however, courts may no longer find such guidance persuasive or controlling, increasing the risk that future disputes over Individualized Education Program (IEP) adequacy will be decided without the benefit of agency interpretation, potentially lowering the compliance standard.

In *Fry*, the Court held students may pursue claims under Section 504 and the ADA without exhausting IDEA procedures, so long as the core issue is not related to special education services. This decision reaffirmed that civil rights protections exist independently of IDEA, a principle that

has long been emphasized in agency guidance. Similarly, the Court's reasoning reflected a shared understanding with the Department's interpretation of overlapping statutory rights. With *Loper Bright* removing *Chevron* deference, future courts may be more inclined to narrowly interpret the scope of Section 504 or the ADA, especially if they ignore agency commentary meant to clarify the boundaries of exhaustion and access-based claims.

While *Endrew*, *Fry*, and *A.J.T.* each affirmed students' rights within overlapping legal frameworks, they also highlight the critical role agency interpretation played in shaping how those rights were understood and applied. The removal of *Chevron* deference under *Loper Bright* now prompts courts to decide these complex issues without relying on agency expertise, resulting in inconsistent interpretations and weaker protections. As judicial review replaces administrative judgment, students with disabilities become more vulnerable to unequal treatment and legal uncertainty when accessing their educational rights.

PROPOSED SOLUTIONS

The Department of Education can preserve civil rights enforcement in a post-*Loper Bright* era by embedding durable protections during supportive presidential administrations and building strong external partnerships. One critical strategy is to adopt a multi-pronged, forward-looking approach that compensates for the loss of *Chevron* deference while reinforcing the durability of federal protections, especially for students with disabilities.

A key component of this strategy involves congressional action. Congress must pass clearer, more detailed legislation that explicitly grants the Department rulemaking authority and clarifies key terms in disability and civil rights laws, including "discrimination," "reasonable accommodation," and "free, appropriate public education."[43] Congress should also consider adopting statutory language that explicitly instructs courts to give weight to agency interpretations under specified conditions. Additionally, funding protections could be enacted to limit executive discretion and prevent unsupportive presidential administrations from undermining enforcement mechanisms.

Simultaneously, the Department must build a long-term regulatory infrastructure that can endure political transitions. During supportive administrations, the Department should promulgate strong, well-reasoned regulations and guidance grounded in robust administrative records and public input. These documents, even if no longer binding under *Chevron*, can still influence judicial interpretation under the *Skidmore* standard. Although *Skidmore* offers no guarantee of deference, courts may still be persuaded by interpretations that demonstrate careful legal analysis, factual grounding, and consistent application over time.

Because *Skidmore* deference depends entirely on judicial discretion, the Department must strategically frame its guidance to meet the factors courts tend to value: thoroughness, consistency, and technical expertise. This includes issuing interpretations in more formal formats (e.g., notice-and-comment rulemaking, detailed preambles, comprehensive policy statements) that mirror judicial preferences for structure and transparency. While this approach cannot replicate the presumptive legitimacy *Chevron* once provided, it can help build a persuasive administrative

record courts are more likely to respect.

To further bolster enforcement, the Department should utilize durable legal tools such as legally binding settlement agreements, court-approved consent decrees, compliance reviews, and resolution agreements. These mechanisms help secure civil rights protections beyond a single administration and are more difficult to dismantle. They also enhance transparency and accountability by providing regulated entities with concrete expectations and measurable outcomes. Improving technical assistance and negotiated agreements with schools can also promote compliance, even in the absence of *Chevron*-backed authority.

Another crucial pillar is the expansion of partnerships with state education agencies, disability rights organizations, regional advocacy groups, and legal aid clinics. These alliances can help monitor compliance, amplify enforcement through litigation or amicus advocacy, and mobilize communities to defend civil rights protections where federal leadership may be inconsistent. Such collaboration also helps distribute enforcement pressure more evenly across jurisdictions and raises public awareness about legal obligations under federal education law.

Although *Skidmore* lacks binding force, it remains the last remaining pathway through which agency interpretations influence judicial reasoning. The Department must not treat *Skidmore* as a reliable enforcement tool; rather, it is one component of a broader strategy to preserve agency relevance. By combining persuasive guidance, structural legal tools, political alliances, and legislative reform, the Department can continue to play a central role in protecting educational equity, even in a legal environment that no longer presumptively values its expertise.

CONCLUSION

The Supreme Court's decision in *Loper Bright* represents a profound reconfiguration of the modern administrative state, with far-reaching implications for both the constitutional balance of powers and the practical enforcement of civil rights. By overruling *Chevron* deference, the Court repudiated a forty-year framework that promoted judicial restraint, honored congressional delegations to expert agencies, and supported regulatory consistency across jurisdictions. Instead, the Court implemented a system that concentrated interpretive authority within the judiciary, regardless of whether generalist judges had the institutional expertise necessary to resolve complex regulatory questions.

This doctrinal shift will profoundly implicate education and civil rights enforcement in essential sectors. Agencies like the Department of Education have historically spearheaded the implementation of critical federal mandates, such as IDEA, Section 504, and Title IX. *Chevron* deference previously empowered these agencies to respond swiftly and decisively to emerging challenges, ensuring the fundamental promise of equal protection under the law translated into tangible action. *Chevron's* removal risks fragmented legal interpretation across jurisdictions, undermining administrative expertise, and eroding the federal commitment to achieving true educational equity and access for marginalized students.

Although the Court preserved *Skidmore* deference, this alternative is no substitute for *Chevron*. *Skidmore*'s discretionary, nonbinding nature means agency interpretations, no matter

how expert or consistent, may be disregarded if courts find them unpersuasive or prefer their reading and interpretation of a statute. Judicial discretion now determines whether agency reasoning will carry any weight, undermining the uniform application of civil rights protections and leaving regulated entities to navigate a fragmented legal landscape.[44] Moreover, as the judiciary increasingly invokes the "major questions doctrine", even highly persuasive agency interpretations may be invalidated on grounds of perceived political or economic significance, further narrowing the regulatory space available for federal civil rights enforcement.[45]

Loper Bright thus reflects more than a change in interpretive methodology. It signals a deeper retreat from the administrative and constitutional frameworks that have supported civil rights enforcement since the mid-twentieth century. In this new era, preserving the core mission of equal access to education will require a reimagined legal infrastructure, one that relies on legislative clarity, strategic rulemaking, collaborative enforcement, and thoughtful advocacy within and beyond the courts. While *Chevron* may no longer guide the judiciary, the constitutional imperative to protect against discrimination remains. The challenge ahead is to ensure this imperative continues to find expression in law, practice, and policy, even in the face of judicial skepticism.

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[1] The Journal of Paralegal Education and Practice highlights student excellence by featuring articles written by current or recently graduated paralegal students. Unlike the articles written by professionals, which must address matters related to paralegal education or the paralegal profession, Student Spotlights may be on any topic. That is the only difference between the Student Spotlights and the professionals: students are held to the same standards as the professionals are in every other category.

[2] Margaret Berger et al., *Supreme Court's Loper Bright decision impact – FAQs*, MERCER (Sept. 16, 2024), https://www.mercer.com/en-us/insights/law-and-policy/supreme-court-s-loper-bright-decision-impact-faqs/.

[3] Leonardo Cuello, *Loper Bright Decision Will Collapse on Itself, Policy Evidence is More Important than Ever Before in Driving Progress*, GEORGETOWN UNIV. MCCOURT SCH. OF PUBLIC POL'Y, CTR. FOR CHILD. AND FAMS. (July 31, 2024), https://ccf.georgetown.edu/2024/07/31/loper-bright-decision-will-collapse-on-itself-policy-evidence-is-more-important-than-ever-before-in-driving-progress/.

[4] Chevron U.S.A. Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 840 (1984).

[5] *Id.* at 840.

[6] *Id.* at 839.

[7] *Id.* at 840-1.

[8] Kent Barnett & Christopher J. Walker, *"Chevron" in Circuit Courts*, 116 MICH. L. REV. 1, 2 (2017) (discussing the importance of *Chevron* deference and how frequently it is cited).

[9] Roni A. Elias, *The Legis. Hist. of the Admin. Proc. Act*, 27 FORDHAM ENV'T. L. REV. 207-14 (2016)(discussing the rise of the administrative state and the development of the A.P.A.).

[10] 5 U.S.C. § 706 (2018).

[11] Barnett & Walker, *supra* note 7, at 11 (explaining the two-step process for judicial review under *Chevron*).

[12] *Id.* at 12 (discussing *Chevron's* "domain").

[13] United States v. Mead Corp., 533 U.S. 218, 227-39 (2001).

[14] Barnett & Walker, supra note 7, at 72 (empirical data demonstrates *Chevron* deference had a meaningful, stabilizing impact in circuit courts, with agencies faring well).

[15] Michael Herz, *Chevron is Dead; Long Live Chevron*, 115 COLUM. L. REV. 1867, 1882-3 (2015) (interpretive authority is not deciding for Congress but rather in their place when making normative, prescriptive policy-based decisions that support the intent of the law).

[16] Amy Howe, *Supreme Court strikes down Chevron, curtailing power of fed. agencies*, SCOTUS BLOG (June 28, 2024), https://www.scotusblog.com/2024/06/supreme-court-strikes-down-chevron-curtailing-power-of-federal-agencies/.

[17] *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385-97 (2024).

[18] 5 U.S.C. § 706 (2018).

[19] *Loper Bright Enters.*, 603 U.S. at 385.
[20] *Id.* at 414.
[21] *Id.* at 369.
[22] Richard W. Murphy, *A "New" Counter-Marbury: Reconciling Skidmore Deference and Agency Interpretive Freedom*, 56 ADMIN. L. REV. 1, 12-16 (2004) ("Chevron Relaxes the Judicial Grip by Changing the Judicial Question").
[23] Barnett & Walker, *supra* note 7, at 72 (empirical data demonstrates *Chevron* deference had a meaningful, stabilizing impact in circuit courts, comparative to *Skidmore*).
[24] Herz, *supra* note 14, at 1886-87 (*Skidmore* could be argued to be *Chevron* step one, but falls short, without step two, of requiring courts to accept an agency's views or recommendations outright).
[25] *Id*. at 1888 (If, under *Chevron*, the Court gives deference to an agency, under *Skidmore*, it simply gives weight and nothing more).
[26] Antonin Scalia, *Judicial Deference to Admin. Interpretations of Law*, 1989 DUKE L.J. 511, 513 (1989) (Former Supreme Court Justice Scalia argues *Chevron* deference hinders the judiciary's ability to interpret the law as held in *Marbury v Madison*).
[27] Gregory A. Elinson and Jonathan S. Gould, *The Politics of Deference*, 75 VAND. L. REV. 475, 478 (2022) (exploring the political shift of conservatives away from supporting *Chevron* deference to opposing it).
[28] Daniel E. Walters, *Four Futures of Chevron Deference*, 31 GEO. MASON L. REV. 635, 642-45 (2023) (examining the political landscape and administrations leading to the downfall of *Chevron* deference, from the Reagan era to Trump).
[29] Elinson & Gould, *supra* note 26, at 484-85 (agencies are not apolitical and are influenced by several democratic factors; their influence and policy-making power are directly impacted by which party holds the political majority).
[30] Cass R. Sunstein, *The Consequences of Loper Bright* (July 1, 2024) (manuscript at 14-5), Harvard Public Law Working Paper No. 24-29, available at SSRN: https://ssrn.com/abstract=4881501.
[31] *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 449 (2024) (Kagan, J., dissenting).
[32] *Id.* at 451.
[33] Cuello, *supra* note 2.
[34] Tammi Walker, *No Department, No Enforcement: Title IX After the Collapse of the Dep't. of Educ.*, 59 U.C. DAVIS L. REV. ONLINE 69, 77-78 (2025), https://lawreview.law.ucdavis.edu/sites/g/files/dgvnsk15026/files/2025-09/59-online-walker.pdf.
[35] *West Virginia v. EPA*, 597 U.S. 697, 721–24 (2022) (holding that agencies must point to "clear congressional authorization" when asserting power over matters of "vast economic and political significance").
[36] *Gundy v. United States*, 588 U.S. 128, 160–61 (2019) (Gorsuch, J., dissenting) (arguing for reinvigoration of the nondelegation doctrine and stricter limits on congressional delegations to agencies).
[37] Exec. Order No. 14151, 90 Fed. Reg. 8339 *Ending Radical and Wasteful Government DEI Programs and Preferencing* (Jan. 20, 2025) (this executive order seeks to terminate federal "diversity, equity, inclusion, and accessibility" programs, which impacts the OCR and other related agency activities).
[38] *Texas v. Kennedy*, No. 5:24-cv-00225 (N.D. Tex. filed Sept. 26, 2024).
[39] Kara Arundel, *Michigan Accuses OCR of 'legal gymnastics' in Section 504 proceeding*, K-12 DIVE (Sept. 4, 2024), https://www.k12dive.com/news/Section-504-investigation-schools-michigan-OCR-civil-rights/725978/.
[40] Press Release, Carroll ISD, Statement from Carroll ISD Board of Trustees regarding OCR Complaints (Aug. 5, 2024) https://resources.finalsite.net/images/v1722897077/southlakecarrolledu/stkalikhninewz1jlnlu/Aug5BoardStatementonOCR.pdf.
[41] Paige Duggins-Clay, *Severe Implications of the Loper Bright Decision for Educ. and Civ. Rts. – 2024 U.S. Supreme Court Recap*, INTERCULTURAL DEVELOPMENT RSCH. ASSOCIATION (Aug. 2024), https://www.idra.org/resource-center/severe-implications-of-the-loper-bright-decision-for-education-and-civil-rights-2024-u-s-supreme-court-recap.
[42] Christina Pazzanese & Jody Freeman, *'Chevron Deference' faces existential test*, HARV. GAZETTE (Jan. 16, 2024), https://news.harvard.edu/gazette/story/2024/01/chevron-deference-faces-existential-test/.
[43] Deborah A. Shivas, *Stanford's Deborah Shivas on SCOTUS' Loper Decision overturning Chevron and the Impact on Env't Law,* STANFORD LAW SCHOOL: SLS/LEGAL AGGREGATE (June 28, 2024), https://law.stanford.edu/2024/06/28/stanfords-deborah-sivas-on-scotus-loper-decision-overturning-chevrons-40-

years-of-precedent-and-its-impact-on-environmental-law/.

[44] Bethany Davis Noll, *Agency Powers Chipped Away by a Relentless SCOTUS*, NYU SCHOOL OF LAW: STATE ENERGY & ENV'T IMPACT CTR. (July 18, 2024), https://stateimpactcenter.org/insights/agency-powers-chipped-away-by-a-relentless-scotus.

[45] *West Virginia v. EPA*, *supra* note 34, at 721–24 (holding that agencies must point to "clear congressional authorization" before asserting regulatory authority over questions of *vast economic and political significance*).

KEYWORDS: CHEVRON DOCTRINE, ADMINISTRATIVE STATE, ADMINISTRATIVE LAW, EDUCATION, CIVIL RIGHTS, DISABILITY, ADA