U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

Decision

Matter of: U.S. Department of Education—Applicability of the Congressional Review Act to an Interagency Agreement with the U.S. Department of Health and Human Services

File: B-338536

Date: November 5, 2026

DIGEST

In June 2026, the U.S. Department of Education announced an interagency agreement (IAA) with the U.S. Department of Health and Human Services for special education and rehabilitative services. According to the agencies, this partnership aims to reduce bureaucracy, coordinate resources, and support states and schools in improving outcomes for individuals with disabilities.

The Congressional Review Act (CRA) requires that before a rule can take effect, an agency must submit the rule to both the House of Representatives and the Senate, as well as the Comptroller General. CRA adopts the definition of a rule under the Administrative Procedure Act (APA) but excludes certain categories of rules from coverage. We conclude the IAA meets the APA definition of a rule but falls under CRA's exceptions for rules of particular applicability and rules relating to agency management or personnel. Therefore, the IAA is not subject to CRA's submission requirements.

DECISION

In June 2026, the U.S. Department of Education (Education) announced an interagency agreement (IAA) with the U.S. Department of Health and Human Services (HHS) for special education and rehabilitative services.[1] We received a

[1] Education, *U.S. Department of Education Announces Additional Partnerships to Strengthen Coordination for Individuals with Disabilities Programs, Bolster Civil Rights Enforcement* (June 16, 2026), *available at* https://www.ed.gov/about/news/press-release/us-department-of-education-announces-additional-partnerships-strengthen-coordination-individuals-disabilities-

(continued...)

request for a decision as to whether this IAA is a rule for purposes of the Congressional Review Act (CRA).[2] Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request.[3] Accordingly, we reached out to Education on July 15, 2026.[4] Education did not provide a response with its views.[5]

BACKGROUND

Education and HHS oversee programs assisting individuals with disabilities.[6] For example, Education's Office of Special Education and Rehabilitative Services (OSERS) supports parents, individuals, school districts, and states in the areas of

---

programs-bolster-civil-rights (Press Release) (last visited Oct. 26, 2026). *See* Education, *Interagency Agreement Between the U.S. Department of Education and U.S. Department of Health and Human Services Relating to Special Education and Rehabilitative Services* (June 15, 2026), *available at* https://www.ed.gov/media/document/ed-and-hhs-interagency-osers-partnership-updated-61526-114241.pdf (IAA) (last visited Oct. 26, 2026).

[2] Letter from Senator Tammy Baldwin to Acting Comptroller General (June 26, 2026).

[3] GAO, *GAO's Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 2024), *available at* https://www.gao.gov/products/gao-24-107329.

[4] Letter from Managing Associate General Counsel for Appropriations Law, GAO, to Principal Deputy General Counsel, Education (July 15, 2026).

[5] Education initially requested an extension for responding to our letter, which we granted. Email from Senior Attorney, GAO, to Acting General Counsel, Education, *Subject: RE: GAO Development Letter (B-338536)* (July 31, 2026). However, Education did not respond to our follow-up emails.

[6] *See* Education, *Fact Sheet: Department of Education (ED) and Department of Health and Human Services (HHS) Special Education and Rehabilitative Services Partnership*, at 2–4, *available at* https://www.ed.gov/media/document/fact-sheet-department-of-education-and-department-of-health-and-human-services-special-education-and-rehabilitative-services-partnership-114238.pdf (Fact Sheet) (last visited Oct. 26, 2026); HHS, *Programs for People with Disabilities*, *available at* https://www.hhs.gov/programs/social-services/programs-for-people-with-disabilities/index.html (last visited Oct. 26, 2026).

special education and vocational rehabilitation.[7] HHS supports individuals with disabilities through programs such as Head Start, Medicaid, and the Children's Health Insurance Program.[8]

In June 2026, Education announced four IAAs.[9] One was with HHS for special education and rehabilitative services.[10] According to the agencies, this partnership aimed to reduce bureaucratic barriers, strengthen resource coordination and provision, and support states and schools in improving outcomes for individuals with disabilities.[11] The IAA said the agencies committed to using available statutory authorities to promote innovation and improvements.[12]

The IAA also outlined each agency's role.[13] Education would maintain all statutory responsibilities and continue program oversight.[14] More specifically, OSERS committed to managing and leading its programs and activities; coordinating the clearance of policy and grant documents; and making final determinations regarding programs and policies, among other activities.[15]

HHS, coordinating with and directed by OSERS, agreed to support grant administration; enforcement, compliance, and monitoring activities; and annual performance assessments.[16] HHS's tasks also include managing competitions,

---

[7] Education, *Office of Special Education and Rehabilitative Services (OSERS)*, "OSERS Sub-Offices," *available at* https://www.ed.gov/about/ed-offices/osers#osers-sub-offices (last visited Oct. 26, 2026).

[8] Fact Sheet, at 2.

[9] Press Release.

[10] Press Release. This decision considers only the IAA between Education and HHS and does not examine the other three announced agreements, which Education executed with the United States Department of Justice. *See id*.

[11] Press Release; *see* IAA, at 1.

[12] IAA, at 1.

[13] *See* IAA, at 2–5.

[14] Fact Sheet, at 4; IAA, at 3–5.

[15] Fact Sheet, at 3; IAA, at 3–5.

[16] Fact Sheet, at 3; IAA, at 2–3.

providing technical assistance, and integrating the agencies' programs under Education's oversight.[17]

These activities are funded using the Economy Act.[18] That law allows agencies to enter into reimbursable agreements for the interagency provision of goods and services if certain conditions are met.[19] The agency requesting services incurs an obligation for the services when the agreement is made, and may transfer funds to the servicing agency for payment in advance or upon request.[20] Reflecting these mechanics, the IAA stated that an interagency form called Form 7600B obligated the funds,[21] and that Education will transfer funds to HHS for carrying out reimbursable activities.[22] The IAA further stated that Education personnel loaned to HHS would largely carry out the relevant activities and programs.[23]

The Congressional Review Act

CRA, enacted in 1996 to strengthen congressional oversight of agency rulemaking, requires federal agencies to submit a report on each new rule to both houses of Congress and to the Comptroller General for review before a rule can take effect.[24] The report must contain a copy of the rule, "a concise general statement relating to the rule," and the rule's proposed effective date.[25] CRA allows Congress to review and disapprove of federal agency rules for a period of 60 days using special

---

[17] Fact Sheet, at 4; *see* IAA, at 1, 3.

[18] Fact Sheet, at 3; IAA, at 2. *See* 31 U.S.C. § 1535.

[19] B-328477, Sept. 26, 2017; 31 U.S.C. § 1535(a).

[20] *Id*.; 31 U.S.C. § 1535(b), (d).

[21] IAA, at 5. Fiscal Service Form 7600B, *United States Government Order Form*, is comparable to a purchase order. HHS, *Doing Business with FOH and Interagency Agreements (IAAs)*, *available at* https://www.hhs.gov/about/agencies/asa/foh/about-foh/doing-business-with-foh-and-interagency-agreements/index.html (last visited Oct. 26, 2026).

[22] IAA, at 5.

[23] *Id*.

[24] 5 U.S.C. § 801(a)(1)(A).

[25] *Id.*

procedures.[26] If a resolution of disapproval is enacted, then the new rule has no force or effect.[27]

CRA adopts the definition of rule under the Administrative Procedure Act (APA), which states that a rule is "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency."[28] However, CRA excludes three categories of rules from coverage: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.[29]

Education did not submit a CRA report to Congress or the Comptroller General regarding the IAA.

DISCUSSION

At issue here is whether the IAA meets CRA's definition of a rule, which adopts APA's definition of a rule with three exceptions. As explained below, we conclude that it does. The next step is to determine whether any CRA exceptions apply. We conclude that the IAA falls within CRA's exceptions for rules of particular applicability and rules relating to agency management or personnel.

The IAA is a Rule Under APA

Applying APA's definition of rule, the IAA meets all of the required elements.

First, the IAA is an agency statement. It is a written agreement between two federal agencies that was prepared on official Education letterhead and signed by senior agency leaders.[30] Moreover, to be an agency statement there must be an

---

[26] *See id.* § 802.

[27] *Id.* § 801(b)(1).

[28] 5 U.S.C. §§ 551(4), 804(3).

[29] *Id.* § 804(3).

[30] An IAA is a "written agreement between agencies for the purpose of establishing the respective responsibilities of each agency in carrying out a project or activity of mutual interest." Education, *Departmental Directive*, OPEPD:1-101, at 6 (Oct. 14, 2008), *available at* https://www.ed.gov/sites/ed/files/policy/gen/leg/foia/acsopepd1101.pdf (*see* definition K., *Interagency Agreement (IAA)*) (last visited Oct. 26, 2026). *See*

(continued...)

announcement by an agency.[31] Education announced the agreement by posting a press release, fact sheet, and the IAA itself on its public website.[32] Therefore, the IAA is an agency statement.[33]

Second, the IAA has future effect. It is prospective in nature, outlining each agency's responsibilities regarding special education and rehabilitative services starting June 15, 2026, its effective date.[34]

Finally, the IAA describes agency organization, procedure, or practice requirements. An agency statement describes agency organization, procedure, or practice requirements when the statement discusses the internal operations of an agency.[35] Here, the IAA discusses internal agency operations. It details the transfer of certain agency functions from Education to HHS,[36] and tasks Education with monitoring

---

B-335115, Sept. 26, 2023 (Department of Defense (DOD) memoranda were agency statements as each was published on agency letterhead and signed by a senior agency leader). *See also Chem Service, Inc. v. Environmental Monitoring Systems Laboratory-Cincinnati*, 12 F. 3d 1256, 1267 (3d Cir. 1993) (memorandum of understanding (MOU) between the Environmental Protection Agency (EPA) and a private organization "would appear to fit within the definition of a rule because EPA has entered into a statement of general applicability and future effect designed to implement" a certain federal law); *Batterton v. Marshall*, 648 F.2d 694, 700 (D.C. Cir. 1980) (observing APA "broadly defines an agency rule to include nearly every statement an agency may make" and the "breadth of this definition cannot be gainsaid"); *Reynolds Metals Co. v. Rumsfeld*, 564 F.2d 663, 669 (4th Cir. 1977) (MOU between two federal agencies was a rule under APA).

[31] B-335714, May 23, 2024.

[32] *See* B-335516, Jan. 24, 2024 (fact sheet posted on Education's website and issued by its press office was an agency statement); B-300912, Feb. 6, 2004 (MOU between the Department of the Interior and Utah was an agency statement).

[33] *See* B-300912, Feb. 6, 2004, at 10 (stating "agency MOUs or other statements applicable to just one or a handful of entities, or just one individual, have been held to be APA rules of either 'general or particular applicability'").

[34] *See* B-335516, Jan. 24, 2024 (Education fact sheet was of future effect as it described actions Education will take as of the effective date); B-316048, Apr. 17, 2008, at 3 (HHS agency's letter that was "prospective in nature" had future effect); IAA, at 2–5, 6, 8.

[35] B-337994, May 12, 2026.

[36] *See* IAA, at 2–5.

internal controls and risk assessments for OSERS programs.[37] The IAA also says Education and HHS were establishing a partnership that "enables administrative reforms to agency policies and programmatic requirements" and "provides process improvements to enhance outcomes for individuals with disabilities," among other objectives.[38] Therefore, the IAA describes agency organization, procedure, or practice requirements.

Having satisfied all the required elements, the IAA meets the APA definition of a rule.

CRA Exceptions

We must next determine whether any of CRA's three exceptions apply. CRA provides for three types of rules that are not subject to its requirements: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.[39]

As discussed below, we conclude the IAA satisfies CRA's first two exceptions. As a result, the IAA is not subject to CRA's submission requirements.

Rule of Particular Applicability

Rules of particular applicability are rules addressed to specific, identified persons or entities and determine actions that person or entity may or may not take, considering facts and circumstances specific to those persons or entities.[40]

The IAA fits this definition. Its title specifically addresses Education and HHS, the two entities that signed it.[41] And its introductory paragraph clarifies the agreement is between OSERS and HHS, which are then mentioned nearly two dozen times each.[42]

---

[37] *Id.* at 4.

[38] *Id*. at 1.

[39] 5 U.S.C. § 804(3).

[40] B-338053, July 29, 2026.

[41] IAA, at 1, 8.

[42] *See id.* at 1–6.

The IAA also determines actions the two agencies may or may not take. This binding compact imposes obligations on the signatory agencies,[43] and lists 19 numbered "services" that HHS committed to carrying out and 17 such "activities" for OSERS.[44] In addition, the IAA stipulates how the agencies can modify or terminate the IAA and resolve disagreements.[45]

Further, the IAA considers facts and circumstances specific to the agencies. It expressly "[r]elat[es]" to special education and rehabilitative services; records the agencies' commitment to using available statutory authorities; and references numerous program components, statutes, and entities.[46] Therefore, the IAA is a rule of particular applicability.

In reaching this conclusion, we are aware the IAA may affect parties other than Education and HHS, such as program beneficiaries. However, we have previously determined that rules of particular applicability are not limited to those actions that exclusively affect the subject of agency action.[47] In those decisions, we noted that the relevant actions were addressed to specific, identified entities and not the downstream entities that might also be affected.[48] As discussed, the IAA concerns

---

[43] *See id*. at 8 (provision stating the signatories "have the competent authority on behalf of their respective agencies to enter into the obligations set forth in this Agreement").

[44] *See id.* at 2–5.

[45] *Id.* at 6–7.

[46] *See id.* at 1–5.

[47] B-337582, Nov. 20, 2025. *See also* B-337960, Apr. 9, 2026; B-337380, Sept. 11, 2025; B-334995, July 6, 2023.

[48] B-337960, Apr. 9, 2026. *See, e.g.*, *id*. (concluding a Commodity Futures Trading Commission letter, if it met the APA definition of a rule, would be a rule of particular applicability notwithstanding its discussion of how determinations regarding a private entity would affect non-U.S. exchanges and brokers facilitating the entity's activities); B-334995, July 6, 2023, at 6 (concluding a revision to the Food and Drug Administration's risk evaluation and mitigation strategy (REMS) for the drug mifepristone would constitute a rule of particular applicability "although the REMS appears to impose duties and obligations on pharmacies, doctors and patients" because only the mifepristone sponsors were subject to it); B-337380, Sept. 11, 2025, at 11 (concluding the same about a decision letter by the U.S. Department of the Interior that "only applies to the Koi Nation, even if downstream effects from the determinations may extend to additional parties, such as state, county, and local governments, as well as other tribes in the surrounding area").

specific entities—Education and HHS—and determines actions they may or may not take, considering specific facts and circumstances. Accordingly, the IAA is a rule of particular applicability notwithstanding its potential downstream effects.

Rule of Agency Management or Personnel

The IAA also satisfies CRA's second exception for rules of agency management or personnel. Rules that fall into this category relate to purely internal agency matters.[49] Rules relating to management, moreover, include those related to controlling, directing, or supervising internal management issues.[50] However, this exception also includes rules relating to the management or personnel of agencies outside of the agency issuing the rule.[51]

The IAA relates to agency management or personnel. It states that Education provides "[m]anagement and leadership of OSERS' programs and activities" while HHS carries out services "in coordination with and at the direction of" Education.[52] HHS performing services at Education's direction falls within the controlling, directing, or supervising of interagency business.[53] And Education's supervisory role is further reflected by how HHS must regularly update Education on all work performed; Education maintains all of its statutory responsibilities and oversees programs; and Education personnel will be assigned temporarily to HHS.[54]

In short, under the IAA, Education directs and HHS performs. Although as noted the IAA may have downstream effects on those outside of Education and HHS—such as program beneficiaries receiving services from HHS, not Education—the IAA

[49] B-338053, July 29, 2026.

[50] B-336512, Aug. 29, 2024.

[51] B-334221, Feb. 9, 2023.

[52] IAA, at 1, 2. *See also* Fact Sheet, at 3–4 (explaining Education will "manage and lead OSERS programs and activities" while HHS will perform activities "[i]n coordination with and at the direction of" OSERS and "[w]ith oversight by" Education).

[53] *See* B-336512, Aug. 29, 2024, at 8 (concluding "the direction of agency communications personnel squarely falls within the conducting or supervising of interagency business"). *See also generally* B-335142, May 1, 2024, at 5 (joint memorandum issued by the Office of Management and Budget and the Department of Labor fell within CRA's second exception in part because it involved "matters that clearly and directly implicate agency management and personnel matters").

[54] IAA, at 5; Fact Sheet, at 4.

provides for Education's direction of HHS and thus relates to agency management or personnel.[55] Therefore, the IAA is a rule of agency management or personnel.

Accordingly, the IAA meets CRA's first and second exceptions. Therefore, it is not subject to CRA's submission requirements.

CONCLUSION

The IAA meets the APA definition of a rule but falls within the first two CRA exceptions: for rules of particular applicability and rules of agency management or personnel. Therefore, the IAA is not subject to CRA's submission requirements.

This decision does not address whether the IAAs comply with appropriations law or other legal requirements. We do not take a position on the policy goals underlying these actions and programs, and this decision is not to be interpreted as taking any such position.



Edda Emmanuelli Perez
General Counsel

[55] *See* B-335115, Sept. 26, 2023, at 4 (DOD memorandum fell within second exception despite addressing travel allowances affecting individuals outside of DOD) (*citing Stewart v. Smith*, 673 F.2d 485, 496–99 (D.C. Cir. 1982) (concluding a Bureau of Prisons rule was akin to a hiring standard and thus a personnel matter, even if the standard had an effect outside the agency).