COMMITTEE ON
EDUCATION AND WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
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WASHINGTON, DC 20515-6100

July 13, 2026

The Honorable Russell T. Vought
Director
U.S. Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: OMB Proposed Rulemaking [Docket: OMB–2026–0034]

Dear Director Vought:

I write regarding the proposed rulemaking revising the Guidance for Federal Financial Assistance (Uniform Guidance) throughout Title 2 of the Code of Federal Regulations entitled Regulation for Federal Financial Assistance published in the Federal Register on May 29, 2026 (Proposed Rule).[1]

The jurisdiction of the Committee on Education and Workforce (Committee) includes some of the most critical federal programs authorized by Congress, covering the lifespan of individuals, from the cradle to their twilight years, and affecting every facet of their lives in between.[2] The Committee's jurisdiction includes programs under the Departments of Education, Labor, Health and Human Services, Agriculture, and numerous independent agencies and research offices, and it includes issues in the areas of education; job training; workforce; health care; child care; services for families, the young, and the elderly; education and employment for people with disabilities; social services; child nutrition; occupational safety and health; and more. The Proposed Rule poses a critical threat to these programs and every person across this great nation who relies on them.

The Proposed Rule represents a fundamental alteration of what is commonly known as the Uniform Guidance, which governs the administration of federal grants, cooperative agreements, and other forms of federal financial assistance across the federal government.[3] It proposes to

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[1] Regulation for Federal Financial Assistance, 91 Fed. Reg. 32198 (May 29, 2026).
[2] *Jurisdiction*, House Comm. on Educ. and Workforce, https://edworkforce.house.gov/committee/jurisdiction/ (last visited June 29, 2026).
[3] Adam Levin, *Uniform Guidance for Federal Grants: An Overview*, Cong. Rsch. Serv. (Dec. 17, 2025), https://www.everycrsreport.com/reports/IF13138.html.

transform what was previous guidance aimed at providing a government-wide framework for grants management into binding regulation. Doing so would politicize nearly every aspect of grant administration in a sweeping manner in violation of the *Administrative Procedure Act* (APA).[4] This Proposed Rule exceeds the authority of the Executive Branch by attempting to override the appropriation of federal funding by Congress and the conditions Congress placed upon those appropriations, which is a power granted to Congress in the Constitution.[5] It further exceeds Executive Branch authority because it would require agencies to violate statutes in carrying out the proposed changes and asserts supremacy when agency regulations conflict; however, it cannot subvert agency regulations adopted pursuant to statutory mandate. Further, by requiring that agencies engage in sweeping regulatory and grants management changes that would result in "vast economic and political significance,"[6] the Proposed Rule threatens to trigger the major questions doctrine across every federal agency to determine if they have exceeded their statutory authority, which would cause turmoil throughout the federal government, state and local governments, and the courts. The Proposed Rule also threatens to violate First Amendment protections by conditioning funding on specific beliefs, which has been held unconstitutional by the Supreme Court.[7] Despite these infractions, the Proposed Rule attempts to codify the Administration's actions and misrepresentations of the law on the use of grant funds and fails to provide justification based on facts for its propositions.[8]

Federal regulation cannot change federal statutes, legal precedents, or the Constitution. Yet, the Proposed Rule puts forward undefined and shifting grant conditions[9] that inject uncertainty into federal funding, threatening the viability of programs that touch upon every sector of life in America. The Supreme Court has made clear that grant conditions made by the government must be clear, cannot be coercive, and must be generally related to the federal interest in the project or program.[10] The Proposed Rule fails that test. For the reasons included herein, this ill-

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[4] 5 U.S.C. § 706.
[5] U.S. Const. art. I, § 8, cl. 1.
[6] West Virginia v. Env't Prot. Agency, 597 U.S. 697, 716 (2022) (internal citations omitted).
[7] Agency for Int'l Dev. v. Alliance for Open Soc'y Int'l, Inc., 570 U.S. 205 (2013).
[8] Education Counsel, *Overview & FAQs of OMB's Proposed Regulations on Federal Financial Assistance* (June 17, 2026), https://www.nelsonmullins.com/storage/GzTriL7W6SYXeXJiTkVpJFars8hrpKrRMT5Gg3Z5.pdf; *see*, *e.g.*, AFT v. Dep't of Educ., 796 F. Supp. 3d 66, 107 (D. Md. 2025) ("[T]he administration is entitled to its own views . . . . But it is not entitled to misrepresent the law's boundaries . . . . It cannot blur the lines between its viewpoint and existing law."); Martin Luther King, Jr. Cnty. v. Turner, 798 F. Supp. 3d 1224, 1249 (W.D. Wash. 2025) (appeal docketed No. 25-3664, 9th Cir. June 10, 2025) (explaining that U.S. Department of Justice's July 29, 2025, DEI-related guidance "is inconsistent with Supreme Court precedent" and leaves recipients "at the mercy of [the Administration's] interpretation of federal antidiscrimination laws, regardless of how those laws are interpreted by the courts"); Nat'l Educ. Ass'n v. U.S. Dep't of Educ., 779 F. Supp. 3d 149, 199 (D.N.H. 2025) ("Defendants' argument that the [U.S. Department of Education's] 2025 Letter merely interprets Title VI obligations announced in the Students for Fair Admissions case is not persuasive. While the Supreme Court held in Students for Fair Admissions that the use of racial preferencing in admissions failed to satisfy strict scrutiny, the Court did not hold that the Constitution commands color-blindness."); *see also* EEO Leaders, *DOJ's Interpretation of Title VII's Disparate-Impact Prohibition is Legally Flawed and Risks Misleading Employers* (July 1, 2026), https://static1.squarespace.com/static/67f14b136c5a8838cca88ae0/t/6a447620de89f70a7e22455e/1782871585287/EEO+Leaders+Response+to+DOJs+Disparate+Impact+Opinion.pdf.
[9] *Supra* note 1, e.g., proposal at § 200.208.
[10] David Carpenter, *Litigation Over the Trump Administration's Grant Terminations*, Cong. Rsch. Serv. (Mar. 19, 2026), https://www.everycrsreport.com/reports/LSB11407.html; South Dakota v. Dole, 483 U.S. 203 (1987).

conceived Proposed Rule should be wholly withdrawn. Please note this is not an exhaustive list of concerns related to the Proposed Rule.

Section 200.201—Use of grants, cooperative agreements, and contracts.

Proposed changes to section 200.201 would eliminate the use of fixed amount awards and would shift to reimbursing grantees[11] for actual incurred costs,[12] which would dramatically and negatively affect grantees. Fixed amount awards enable grant recipients to predictably plan and manage the use of their grant funding and rely upon the expectation that the funding will remain static. This enables grantees to use the funding for recurring costs while also providing them flexibility to adjust for necessary changes over the life of the grant. In fact, the Proposed Rule does not state whether grantees will be provided a minimum award amount, a maximum award amount, or even a range of funding to spend. Thus, it appears that grantees would be left to spend in accordance with their own plans and then hope to get reimbursed for that spending by the agency each time the grantee submits a justification pursuant to section 200.305. Eliminating fixed amount awards increases a grantees' financial risk, ability to plan, and ability to manage the grant because they can no longer rely on a set award amount. In addition, shifting reimbursement to actual incurred costs would increase administrative and financial reporting burdens—in contradiction to the Office of Management and Budget's (OMB) stated objective to "reduce recipient burden"[13]—that would negatively impact program delivery and research activity. Further, the Proposed Rule is unclear and vague about whether the added administrative and financial reporting burdens would be eligible for reimbursement as actual incurred costs, and if so, whether a justification would be required for that. It this would be eligible, it would potentially create an endless cycle of requests for reimbursement for having done the work of requesting reimbursement.

Section 200.202—Program planning and design.

The Proposed Rule would revise section 200.202 to require that all programs "[a]lign with administration policies and priorities."[14] This significantly diminishes the meaningfulness and realistic usefulness and application of the other requirements that the program be consistent with the purpose of the authorizing statute, utilize performance measures appropriate for the program and the agency, and be evidence-based.[15] Instead, the revision would politicize the planning of every grant program with a finite purpose that aligns only with the terms of the administration *du jour*, and it would necessarily create a pendulum that would cause program or research purposes, efforts, and commitment to swing and shift back and forth with the political whims of each changing administration rather than with the needs of the people, the demands of science and the changing world, and the determinations of Congress. It would effectively prohibit any grant programs on any subject matter that is not an approved policy or priority of that current

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[11] For purposes of this comment, the term grantee(s) includes grantee(s), recipient(s), subgrantee(s), and subrecipient(s), as applicable.
[12] *Supra* note 1, at 32246-32247.
[13] *Supra* note 1, at 32208.
[14] *Supra* note 1, at 32247.
[15] 2 C.F.R. § 200.202(a).

administration regardless of the societal or scientific need or statutory mandate, and it would unilaterally suppress both community improvement and scientific advancement across a huge spectrum of issues, dangerously allowing culture wars to set the federal funding agenda and setting the nation back based on ideological caprice. The provision is particularly absurd and distressing because this Administration is notorious for denying facts supported by science, such as the effectiveness of vaccines[16] and the reality of climate change.[17] The Proposed Rule would make it impossible for the U.S. to study issues the Administration finds dubious, make strides in addressing them, maintain our scientific standing in the world.

The Proposed Rule would also add a new provision to this section that permits agencies to favor certain types of nonprofit organizations over others.[18] Moreover, the example it provides suggests favoring 501(c)(3) organizations over 501(c)(4) organizations. Currently, federal grant opportunities must be publicly posted and open to all eligible applicants.[19] The revision would permit agencies to limit eligible applicants, including, using OMB's own example, prohibiting a social welfare group that advances certain causes from applying for a grant. This change is unnecessary and dangerous and may prevent the most qualified organization or best proposal from being eligible.

In addition, the Proposed Rule would alter this section to create a "domestic-first framework" for research and development (R&D) grants "except where expressly authorized by statute or where a compelling interest exists for the agency's mission, the administration's priorities, and for the United States, as determined by the agency's senior appointee."[20] This provision puts all decision making about whether an "international element" is integral to research in the hands of a political appointee rather than researchers who are experts on the subject. This—combined with the revisions to sections 200.206, 200.220, and 200.303—would create a dangerous chilling effect on collaboration, learning, and cutting-edge work with experts in and from other countries. It would also diminish U.S. standing in leading scientific study and engagement as well as negatively impact the ability of research institutions to attract and retain scientists from other countries. Those that do still engage in international collaborations would have greater administrative and reporting burdens to meet.

Section 200.204—Notices of funding opportunities.

Currently, federal grant opportunities must be publicly posted on Grants.gov, written in plain language, and open to all eligible applicants, including diverse and underserved communities.[21] The Proposed Rule would revise section 200.204 to create an exception "when the agency

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[16] See, e.g., Apoorva Mandavilli & Carl Zimmer, *Trump Wants Proof That Covid Vaccines Work. It's Easy to Find.*, N.Y. Times (Sept. 2, 2025), https://www.nytimes.com/2025/09/02/health/trump-covid-vaccines.html.
[17] Melina Walling & Seth Borenstein, *Trump called climate change a 'con job' at the United Nations. Here are the facts and context*, PBS (Sept. 25, 2025), https://www.pbs.org/newshour/politics/trump-called-climate-change-a-con-job-at-the-united-nations-here-are-the-facts-and-context.
[18] *Supra* note 1, at 32247.
[19] 2 C.F.R. § 200.204.
[20] *Supra* note 1, at 32247.
[21] 2 C.F.R. § 200.204.

determines that publicly announcing an opportunity would pose a risk to national security or is in the national interest of the United States."[22] However, the term "national interest" is not defined and vague, and both "national interest" and "national security" could be construed broadly to suit a political purpose. In fact, every issue in the Committee's jurisdiction could be construed as in the national interest, including education; job training; workforce; health care; child care; services for families, the young, and the elderly; education and employment for people with disabilities; social services; child nutrition; and occupational safety and health, among others. Therefore, this revision would effectively eviscerate any transparency requirement and make public notice optional. That would lead to limited and selective notice with no guardrails, opening the door to corrupt practices, and practically ensuring the chances that the most qualified organizations or best proposals are not aware of the grant or able to apply. This only serves to diminish the effectiveness of the grant. All of these are in contradiction to OMB's stated purpose of the Proposed Rule to "improve transparency."[23]

Section 200.205—Federal agency merit review of proposals.

Proposed changes to section 200.205 would require a senior political appointee or their designee to conduct a "pre-issuance review" of every discretionary grant award[24] proposal "to ensure that Federal award proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest,"[25] and in so doing, must consider whether the proposal "demonstrably advance[s] the President's policy priorities."[26] The Proposed Rule goes on to state that the appointee or their designee must "use their independent judgment when evaluating" proposals and that any peer review evaluations are advisory only.[27] These proposed changes represent extremely significant changes to decades of practice. "Peer review has been widely used since the post-World War II research boom, and relies on panels of experts in their fields judging federal funding decisions on the scientific merit of the grant proposals, rather than any politically-motivated criteria."[28] The Proposed Rule would upend this practice with wide-ranging and harmful implications across all research sectors, including academic and scientific research, affecting what research topics are examined as well as how research proposals are evaluated and chosen. Like program planning and design discussed above, grants would be awarded based on political and ideological avarice. Even worse, research proposals would be chosen with no requirement that the person making the decision has any knowledge in the field whatsoever, including methodology, application, or usefulness. For research and science, requiring political review as the primary review of grant proposals with instructions to ignore

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[22] *Supra* note 1, at 32248.
[23] *Supra* note 1, at 32202.
[24] A discretionary grant award is currently defined as one in which the agency may exercise discretion in awarding the grant, as opposed to, for example, a block grant or formula grant, and this definition is unchanged by the Proposed Rule. 2 C.F.R. § 200.1.
[25] *Supra* note 1, at 32249. Again, "national interest" remains undefined and vague.
[26] *Id.*
[27] *Id.*
[28] Ella Nilsen and Andrew Freedman, *Researchers say this new Trump rule could destroy American science as we know it. They're fighting back*, CNN Climate (June 4, 2026), https://www.cnn.com/2026/06/04/climate/trump-omb-funding-rule-climate-science.

facts, peer review results, and science is a brazen attempt to replace science with politics in evaluating applications.

This section would also prohibit discretionary awards from being used in any way relating to racial preferences, sex as a chosen characteristic, illegal immigration, or "other initiatives that compromise public safety or promote anti-American values."[29] The terms "public safety" and "anti-American" are undefined and vague. Further, the fact that the issues mentioned are characterized in the Proposed Rule as compromising public safety or promoting anti-American values demonstrates that the Proposed Rule is politically motivated and subjects grant awards to the ever-changing political priorities of an administration. More importantly, the Proposed Rule ignores the fact that some programs are specifically designed to lawfully take into account these issues. "If we ignore the social determinants of health and other very scientifically important topics, what will happen is this unequal, uneven distribution of services that could otherwise help all communities, all children, all families. . . . This Proposed Rule basically takes out the ability to really focus on scientific terms, they're not ideological terms."[30] Ignoring the values that help improve the lives of all people across America is imprudent and often counter to congressional intent. Further, researching and addressing certain health conditions requires recognition that those conditions impact certain groups disproportionately. For example, sickle cell disease overwhelmingly impacts non-Hispanic Black or African American individuals.[31] To ignore a reality such as this would be counterproductive to the goals of the research.

This section would further prioritize applicants that adhere to "Gold Standard Science"[32] in an obvious effort to give teeth to EO 14303.[33] However, the term "Gold Standard Science" is not defined in the Proposed Rule and has no measurable scientific application or acceptance. Instead, it ridicules what has long been accepted as meaningful scientific rigor and the importance of independence.[34] "What gold standard science became in practice is a mechanism for political appointees to override scientific judgment and frame ideological interference as methodological rigor. This Proposed Rule puts that mechanism into binding regulation, government wide."[35] In other words, the Proposed Rule would give priority to applicants that disavow widely accepted scientific practices in favor of those that wish to make this President, and future presidents, happy. This is a harmful and irresponsible use of taxpayer dollars and contrary to OMB's stated purpose of increasing accountability.[36]

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[29] *Supra* note 1, at 32249.
[30] *Supra* note 28 (quoting Diane Fishbein).
[31] *Data and Statistics on Sickle Cell Disease*, Ctrs. for Disease Control & Prevention,
(last visited July 9, 2026) https://www.cdc.gov/sickle-cell/data/index.html.
[32] *Supra* note 1, at 32249.
[33] Exec. Order No. 14303, 90 Fed. Reg. 22601 (May 23, 2025).
[34] *See* Jeffrey Mervis, *What does Trump's call for 'gold standard science' really mean?*, Science (May 27, 2025), https://www.science.org/content/article/what-does-trump-s-call-gold-standard-science-really-mean.
[35] Loren DeJonge Schulman and Kate Kohn, *This Proposed Rule Could Change American Science Forever. We Read It So You Don't Have To.*, Federation of American Scientists (June 4, 2026), https://fas.org/publication/this-proposed-rule-could-change-american-science-forever/.
[36] *Supra* note 1, at 32202.

The implications of these changes are staggering. They would undermine research and scientific independence, integrity, and methodological rigor, and subjugate peer review expertise, widely recognized priorities and areas of need, and accountability to the taxpayer for no justifiable reason. This kind of political influence would also make any long-term research efforts impossible as subject matter would be forced to change and kowtow to the preferences of each new administration, and even the changing priorities within an administration. The Proposed Rule represents "a threat to scientific research in this country, the livelihoods of thousands of scientists, and the lives of millions of vulnerable people."[37]

Section 200.206—Federal agency review of risk posed by applicants.

Revisions to section 200.206 would add the consideration of memberships and affiliations "with organizations engaged in activities that violate Federal law, undermine public safety or national security, or advocate for the overthrow of the United States Government"[38] as a new factor for agencies to consider when assessing the potential risk posed by grant applicants and permit the denial of an application on the determination of such an association; however, these terms are not defined in the Proposed Rule. The Proposed Rule does, however, insinuate that numerous issues are "anti-American," including racial preferences, sex as a chosen characteristic, and immigration.[39] Additionally, the reference to public safety may be an oblique reference to President Trump's specious and fictitious claim that an initiative at the Federal Aviation Administration that promoted the hiring of disabled individuals caused the mid-air collision between a passenger jet and an army helicopter in January 2025; the initiative was labeled DEIA by the Trump Administration, but it had been in place since 2013, including all of Trump's first term.[40] Reason therefore follows that agencies may determine that an applicant or researcher that belongs to or associates with an organization that is involved in one or more of these issues somehow—including civil rights, disability rights and immigrants' rights groups—is grounds for denial of a grant. However, "[t]he Supreme Court has [] recognized the right of association as an implicit corollary to the freedom of speech."[41] While the Proposed Rule does not attempt to coerce disclosure of association as the Court has well settled that issue,[42] even considering it "[b]ased on publicly available and verifiable information"[43] constitutes a loyalty test or political litmus test that flies in the face of established precedent,[44] particularly when vague, overbroad, and lacking a compelling government interest[45] as is the case here.

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[37] Bethany Brookshire, *The War against 'woke' could end US science as we know it*, The Verge (June 29, 2026), https://www.theverge.com/science/957630/omb-killing-science-budget-grants-research.
[38] *Supra* note 1, at 32250.
[39] *Supra* note 1, at 32249.
[40] Michelle Diament, *Advocates Decry Trump for Blaming Plane Crash on People With Disabilities*, Disability Scoop (Jan. 31, 2025), https://www.disabilityscoop.com/2025/01/31/advocates-decry-trump-for-blaming-plane-crash-on-people-with-disabilities/31279/.
[41] Victoria L. Killion, *Freedom of Speech: An Overview* (R47986), Cong. Rsch. Serv. (updated Sept. 13, 2024), https://www.crs.gov/Reports/R47986?source=search&index=0&searchGUID=64a9c6b5e4414ea9aab43c9aa7c8c6e3.
[42] NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958).
[43] *Supra* note 1, at 32250.
[44] Sweezy v. New Hampshire, 354 U.S. 234 (1957).
[45] Keyishian v. Bd. of Regents of the Univ. of the State of New York, 385 U.S. 589 (1967).

This section would also add "compliance with foreign gift and contract disclosure requirements under section 117 of the Higher Education Act of 1965"[46] (HEA) as a new factor to consider when assessing risk, elevating it to an additional risk-factor for federal grant awards for colleges and universities. This is especially concerning for colleges and universities. In conjunction with sections 200.202 (domestic-first framework) and 200.220 (foreign collaboration limitations), section 200.206 would limit grant opportunities for colleges with international partnerships. Leveraging foreign gift reporting data[47] as a tool to determine whether an entity poses an eligibility and financial integrity risk is specious, lacking in relevance to the purpose of assessing the risk. It would enable the Administration to unfairly restrict colleges' research funding due to their collaborations with global partners regardless of any actual risk posed. It would also create a chilling effect in which international researchers or student activists at American universities are discouraged or boxed out of funding opportunities. For example, it is unclear how the Administration would treat a grant application for a project that may include someone who has been targeted by the government for exercising their First Amendment rights to speak, protest, or teach about international issues.

Section 200.218—Prohibition of using Federal awards to promote or support theories of disparate-impact liability.

Section 200.218 of the Proposed Rule would require federal agencies to "eliminate the use of disparate-impact liability in all contexts relevant to Federal awards" including "ensuring, unless expressly required by law, that Federal awards are not used in support of disparate-impact studies, disparate-impact litigation, or other related activities."[48] On its face, this is an extraordinary proposition: a rule that prohibits putative grantees from engaging in activities that advance or even adhere to anti-discrimination law. Certainly, the Administration has some discretion regarding how to distribute discretionary funds based on a determination of how to get the most bang for the buck, but effectively pointing to something the law requires and prohibiting the expenditure of federal funds in service of it is another thing entirely—that is beyond the authority of the Executive Branch, which has a legal duty to implement the laws that Congress makes.

In 1991, Congress amended Title VII of the *Civil Rights Act of 1964* (Title VII), codifying disparate impact liability and laying out a burden-shifting framework for determining when liability would attach.[49] Under this framework, the plaintiff has the burden of proving that a

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[46] *Supra* note 1, at 32250.
[47] 20 U.S.C. § 1011f requires institutions receiving federal financial assistance to disclose any gifts received from, and contracts with, foreign sources valued at $250,000 or more per year.
[48] *Supra* note 1, at 32252. Disparate impact liability was first recognized by the Supreme Court over 50 years ago in *Griggs v. Duke Power Co*., when the Court held that the defendant power company used job criteria that disproportionately eliminated black applicants but were not significantly related to job performance. Griggs v. Duke Power Co., 401 U.S. 424 (1971). It was codified by Congress in 1991 as part of the *Civil Rights Act of 1991* and is applied to other areas of the law as well. Disparate Impact analysis can be used as proof of discrimination under other laws including the *Age Discrimination in Employment Act*, the *Equal Credit Opportunity Act*, and the *Fair Housing Act*. April J. Anderson, *What is Disparate Impact Discrimination*?, Cong. Rsch. Serv. (Apr. 28, 2026), https://crs.gov/Reports/IF13057.
[49] Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1074 (1991).

facially neutral policy has a disproportionate and adverse effect on a protected class of individuals. The burden then shifts to the employer to demonstrate that the challenged practice is job-related and consistent with business necessity. If the employer can meet that standard, the burden shifts back to the plaintiff to show that an alternative employment practice that serves the employer's legitimate needs but has a less discriminatory impact exists but the employer refuses to adopt it.[50] This burden shifting framework bears little resemblance to the description of disparate impact liability in the Proposed Rule, which defines disparate impact liability as occurring when "a facially neutral policy or practice . . . gives rise to an automatic or near-insurmountable presumption of the existence of unlawful discrimination on the basis of federally protected characteristics."[51] Although section 200.300 of the Proposed Rule may attempt to prevent grant-funded projects from considering race or other protected characteristics or investigating, analyzing, or documenting that a particular facially neutral policy or practice has a "disparate impact" on individuals based on their race, color, gender, national origin, or other protected characteristic, this section only references instances of disparate impact as a basis of *liability*. Consequently, it is unclear what is being referred to when the rule references disparate impact liability. Furthermore, no regulatory body or executive order can supersede a statute, so any entity subject to this Proposed Rule may still be either liable under Title VII or engaged in civil rights work related to employment and cannot avoid disparate impact as a basis for liability.

Nonetheless, the Proposed Rule would prohibit "disparate impact studies" despite the fact that a study regarding the potential disparate impact of a policy might well be completely unrelated to disparate impact liability.[52] This would inevitably lead to grantees avoiding conducting any evaluation of whether facially neutral policies have a disproportionate impact on certain populations that share a protected characteristic such as race, sex, disability, or other characteristic. If this is the intended outcome, then the language of the Proposed Rule should be more clear about whether it is only concerned with liability related to disparate impact or if it intends to eliminate all inquiries and activities related to disparate impact. Furthermore, if the goal of the rule is to eliminate inquiries into whether certain policies or practices have a disparate impact on discrete populations (e.g., race), it is a goal that directly conflicts with the public interest. Such a rule would prohibit grant recipients from examining issues such as racial disparities in maternal health and infant mortality—preventing government funding from being used to understand why Black women are three times as likely to die during pregnancy and childbirth and their infants are over twice as likely to die before reaching their first birthday than those born to white women[53]—or racial disparities in school discipline—preventing government funding from being used to understand why Black students experience higher rates of suspension, expulsion, and school-based arrests than their peers or how to address and prevent that problem.[54]

[50] Anderson, *supra* note 48.
[51] *Supra* note 1, at 32252.
[52] *Supra* note 1, at 32252.
[53] Latoya Hill et. al., *Racial Disparities in Maternal and Infant Health: Current Status and Key Issues*, KFF (Dec. 3, 2025), https://www.kff.org/racial-equity-and-health-policy/racial-disparities-in-maternal-and-infant-health-current-status-and-key-issues/.
[54] UC Berkeley Public Health, Black students are punished more often (Nov. 25, 2024), https://publichealth.berkeley.edu/articles/spotlight/research/black-students-are-punished-more-often.

The Proposed Rule would leave policymakers in the dark about gaps in policies and disproportionate impacts on certain populations. For example, this Administration has already taken steps to systematically remove the federal data sources affecting the LGBTQIA+ community. One study estimated that sexual orientation and gender identity measures have been removed from 360 different federal data collections, removing key data about this demographic.[55] The Proposed Rule would ultimately have a chilling effect on these kinds of studies, hamper efforts to ensure equitable access to federally assisted programs, and reduce transparency about the impact of federal policies.

The Proposed Rule could also have a chilling effect on the statutory mandate under the *General Education Provisions Act* (GEPA), which states that the Department of Education must require each entity receiving assistance to describe the steps that the applicant will take to ensure equitable access to, and equitable participation in, the funded program, as well as to address the needs of students, teachers, and others in order to overcome barriers to equitable participation.[56] As written, the Proposed Rule undermines the public interest; lacks clarity, consistency, and brevity; and fails to meet even the minimum standard for drafting regulations.[57]

Section 200.219—Prohibition of discriminatory event services.

Changes to section 200.219 would prohibit public grantees from discriminating "on the basis of the viewpoint, content, or subject matter of speech . . . in providing services for events, meetings, or other expressive activities."[58] The Section-By-Section Discussion of the Proposed Revisions to Subtitle A of 2 CFR specifically highlights colleges and universities that charge additional security fees when certain speakers are brought to campus.[59] Public colleges and universities must already abide by the First Amendment; any restrictions on speech they implement must be viewpoint, content, and subject matter neutral. However, schools also have a duty of care over their students and must maintain safe and secure facilities. In establishing standards regarding security fees charged for campus events, they should be able to take into account the anticipated reaction by students or the public to the event. The public record is replete with situations where public colleges and universities have faced exorbitant costs to ensure public safety when a student group invites a controversial speaker to campus.[60] It is well

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[55] Lauren Bouton & Elana Redfield, *Removal of Sexual Orientation and Gender Identity From Federal Data Collections*, The Williams Inst., Univ. of Cal. Los Angeles School of Law (Feb. 2026), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Federal-SOGI-Data-Collection-Feb-2026.pdf.
[56] 20 U.S.C. § 1228a.
[57] Bryan A. Garner & Joseph Kimble, *Essentials for Drafting Clear Legal Rules*, U.S. Courts (2024), https://www.uscourts.gov/forms-rules/about-rulemaking-process/how-suggest-a-change-federal-court-rules-and-forms/essentials-drafting-clear-legal-rules.
[58] *Supra* note 1, at 32252.
[59] *Supra* note 1, at 32214. This Section-By-Section Discussion also explains that non-public entities are subject to the same requirements only when the non-public entity is conducting activities as part of a federal program and for which they accepted federal funding. *Id.*
[60] *See*, *e.g.*, Jeremy Bauer-Wolf, *Lessons from Spencer's Florida Speech*, Inside Higher Educ. (Oct. 22, 2017) ("As of now, the university [of Florida] is estimating at least $600,000 spent on security [for a speech by White

documented that conservative campus groups have embraced the tactic of "owning the libs," intentionally bringing controversial figures to campus to knowingly stir up fervor among students.[61] A public school taking this into account when assessing security costs is not discriminating on the basis of the viewpoint of a speech—it is making an assessment of what it will cost to keep the campus safe and requiring an organization that is welcoming a potential security threat to campus to defray some of the cost of that threat.

Section 200.220—Prohibition of using Federal funds for covered foreign collaborations.

Section 200.220 of the Proposed Rule would restrict grantees from using any appropriated funds for bilateral or multilateral collaboration with certain foreign countries or foreign entities; it does provide that an exception *may* be made "when expressly authorized by Federal statute or . . . the activity does not pose a risk to national security and is in the national interest of the United States."[62] However, a regulation cannot supersede a statute, and once again, the term "national interest" remains undefined and vague. This change would negatively impact researchers in every sector, including at colleges and universities. Moreover, although there is already a robust interagency foreign influence framework that promotes compliance and ethical international partnerships[63], this Administration continues to misrepresent and intimidate colleges for their collaborations with global partners.[64] This harmful policy would undoubtedly be used as a scare tactic against researchers, colleges, and students and would aid in the Administration's broader attacks on multilateralism[65] and international collaborations.

Section 200.300—Statutory and national policy requirements.

Section 200.300 of the Proposed Rule would codify the Administration's policies and priorities related to diversity, so-called gender ideology, and religious liberty.

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supremacist Richard Spencer]. Berkeley dropped upwards of $800,000 on security for a recent appearance by Yiannopoulos.").

[61] E.g., Joe Perticone, *How 'Owning the Libs' Became the Ethos of the Right*, Business Insider (July 28, 2018) ("Conservative student activist groups have played a significant role in the build up of "owning the libs" as a core principle on the right. Groups like the Young America's Foundation and Turning Point USA have vast networks across college campuses where students can organize, host events, and propel themselves into careers in media and politics. Both YAF and TPUSA, while at odds with one another, utilize a heavy strategy of provoking what they view as a liberal control of America's colleges and universities.").

[62] *Supra* note 1, at 32253.

[63] *See, e.g.*, Section 117 Foreign Gift and Contract Reporting, Off. of Fed. Stud. Aid, U.S. Dep't of Educ., https://fsapartners.ed.gov/knowledge-center/topics/section-117-foreign-gift-and-contract-reporting (last visited June 29, 2026); Exec. Off. of the President, *Presidential Memorandum on United States Government: Supported Research and Development National Security Policy,* Nat'l Sec. Presidential Memo 33 (Jan. 14, 2021), https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-united-states-government-supported-research-development-national-security-policy/; Research Security at the National Science Foundation, Off. of the Chief of Rsch. Security Strat. and Pol'y, Nat'l Sci. Found., https://www.nsf.gov/research-security (last visited June 29, 2026).

[64] Danielle McClean, *A New site tracks foreign gifts to colleges. Is it misleading?* Higher Ed Dive (June 22, 2026), https://www.highereddive.com/news/a-new-site-tracks-foreign-gifts-to-colleges-is-it-misleading/823226/.

[65] Ryan Mulholland & Damian Murphy, *Trump's Attacks on Multilateralism Make America Weaker, Not Stronger*, Ctr. for Amer. Progress (Nov. 13, 2025), https://www.americanprogress.org/article/trumps-attacks-on-multilateralism-make-america-weaker-not-stronger/.

Diversity, Equity, Inclusion, and Accessibility

Section 200.300 of the Proposed Rule would limit the use of funds for *unlawful* diversity, equity, inclusion, and accessibility (DEIA).[66] The *Civil Rights Act* and other civil rights laws have long prohibited discrimination on protected characteristics in federally assisted programs, while allowing actions to reduce barriers to equal opportunity.[67] Diversity, equity, inclusion, and accessibility initiatives help prevent and address discriminatory practices, are lawful, and thus advance compliance with our nation's civil rights laws.[68] Given that the Administration fails to understand what is lawful under our civil rights laws, this proposal could have a chilling effect on efforts to advance equity, promote inclusion, and address systemic disparities in federal programs or conduct research on systemic disparities with federal support.[69] As a result, the Proposed Rule threatens to undermine important programs that help address longstanding disparities and serve underserved communities. Further, the Proposed Rule does not define DEIA but instead refers to agency guidance materials and executive orders, which collectively misrepresent the law.[70] In fact, misrepresentations involving these terms by this Administration have previously led to federal grants being terminated for simply having the words "diversity, equity, or inclusion."[71] This Administration incorrectly operates under the belief that providing historically marginalized communities access to resources based off their needs inherently discriminates against other communities, however diversity, equity, and inclusion initiatives are often put in place to ensure everyone has a fair chance at success. Instead, this language would further exacerbate inequities and potentially eliminate decades of work to ensure diverse communities are served. The Proposed Rule is based on a misunderstanding of law; as a result,

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[66] *Supra* note 1, at 32253.

[67] *See, e.g.*, Art Coleman, *Overreaching and Misleading: An Analysis of the U.S. Department of Education's February 14, 2025 "Dear Colleague" Letter on Diversity, Equity and Inclusion Policies and Programs*, Education Counsel (Feb. 19, 2025), https://educationcounsel.com/our_work/publications/all/overreaching-and-misleading-an-analysis-of-the-u-s-department-of-education-s-february-14-2025-dear-colleague-letter-on-diversity-equity-and-inclusion-policies-and-programs; *Misguidance: Analyzing the U.S. Department of Justice's 7/29/25 Civil Rights Guidance*, Education Counsel (Aug. 12, 2025), https://educationcounsel.com/our_work/publications/2025-federal-executive-actions/deep-dive-misguidance-an-analysis-of-the-u-s-department-of-justice-s-july-29-2025-civil-rights-guidance.

[68] *Trump's Executive Orders on Diversity, Equity, and Inclusion, Explained*, The Leadership Conf. on Civil and Hum. Rights (Feb. 2, 2025), https://civilrights.org/resource/anti-deia-eos/; Memorandum from Kathryn Abrams, et al. to Colleagues, University Offices of General Counsel, and University Leaders, *Re: DEI Programs Are Lawful Under Federal Civil Rights Laws and Supreme Court Precedent (2025)* (Feb. 20, 2025), https://teachinglegalhistory.unl.edu/s/oer/item/1486.

[69] *Supra* note 8. *See also* Letter from EEO Leaders to U.S. General Services Administration, *Re: OMB Control No. 3090-0290 System for Award Management Registration Requirements for Financial Assistance Recipients* (Mar. 30, 2026), https://static1.squarespace.com/static/67f14b136c5a8838cca88ae0/t/69cc051beb0da158074d57cb/1774978332245/EEO+Leaders+Final+DEI+Certification+Comments.pdf.

[70] *Supra* note 8.

[71] Jessica Blake, *National Science Foundation Sets New Priorities*, Inside Higher Ed (Apr. 22, 2025), https://www.insidehighered.com/news/government/science-research-policy/2025/04/22/nsf-terminates-grants-focused-dei-or; Mark Lieberman, *Districts Lose Millions for This School Year as Trump Ends Desegregation Grants*, Educ. Week (Sept. 25, 2025), https://www.edweek.org/policy-politics/districts-lose-millions-for-this-school-year-as-trump-ends-desegregation-grants/2025/09.

it would disqualify many valid grant applications for no legal reason. In addition, it would continue to disqualify grant applications that have nothing to do with DEIA simply for using a word in a different context.

Gender Ideology

Similarly, section 200.300 of the Proposed Rule would limit the use of funds for so-called "gender ideology,"[72] not defining the term but incorporating by reference a definition from an EO that is counter to prevailing scientific and psychological discourse and denies the very existence of transgender people. Transgender people exist and are recognized in scientific study, research, and legal precedent.[73] This fact alone demonstrates that the provision is unclear. Moreover, by prohibiting the use of grant funds to "advance" the concept of gender identity generally, an entire population of people would be ignored. Grantees would not be permitted to conduct research or provide services to them or address their needs while taking their gender into consideration. Grantees should be able to use federal dollars without the threat of micromanagement of every decision to determine if it adheres to the Administration's ideology. The Administration cannot condition funding on specific beliefs—in this case the non-existence of transgender people—in violation of the First Amendment.[74] However, grantees may feel forced to succumb to such ideology in order to acquire a grant or prevent its termination. Finally, the Proposed Rule conflicts with statutory requirements.[75]

Religious Exemptions

The Proposed Rule would advance the religious liberty interests of faith-based organizations by proposing language that could be used to justify broad exemptions from any program requirements.[76] For example, the changes would add a new provision requiring non-discrimination against faith-based organizations, but the language goes beyond requiring equal

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[72] *Supra* note 1, at 32253.
[73] Hillary B. Nguyen et al., *Gender-Affirming Hormone Use in Transgender Individuals: Impact on Behavioral Health and Cognition*, 20 Curr Psychiatry Rep 110 (2018), https://pmc.ncbi.nlm.nih.gov/articles/PMC6354936/; Carme Uribe et al., *Brain Network Interactions in Transgender Individuals with Gender Incongruence*, 211 NeuroImage 116613 (2020), https://www.sciencedirect.com/science/article/pii/S1053811920301002?via%3Dihub#sec3; *see also* Bostock v. Clayton Cty.*,* 590 U.S. 644, 660 (2020) ("it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex."*)*.
[74] *Supra* note 7.
[75] Federal education law requires domestic IHEs to disclose campus statistics related to certain criminal offenses motivated by hate—disaggregated by bias categories, including gender identity and sexual orientation—in order to inform students, including LGBTQIA+ students, and the larger campus community about campus safety. 20 U.S.C. § 1092(f)(1)(F)(ii). *See also Explaining Hate Crimes Under the Clery Act*, Clery Ctr., https://clery.memberclicks.net/assets/docs/Explaining-Hate-Crimes_101223.pdf (last visited June 29, 2026). Capturing accurate reporting about hate crimes ensures there is transparency about campus safety for all students, including transgender students. Likewise, IHEs are also required to administer campus climate surveys on sexual assault at least every two years. 20 U.S.C. §1161l-6(a). The survey requirements specifically incorporate a definition of sex-based violence and harassment that includes sexual orientation and gender identity. 20 U.S.C. § 1161l-6(c)(2)(xi). Thus, the Proposed Rule is contrary to the intent of Congress and the plain text of the law.
[76] *Supra* note 1, at 32253.

treatment for these organizations and could be read to exempt faith-based organizations from program requirements. This could include requirements related to nondiscrimination protections for beneficiaries and employees when those requirements purport to interfere in an organization's religious exercise.[77] This would have a harmful effect on individuals accessing services and equal employment opportunities. If the language is intended to merely convey that these organizations should receive equal treatment in their eligibility for federal grant programs without regard to their religious affiliation, the language is unnecessary. Recent Supreme Court decisions have clarified that the First Amendment bars the exclusion of religious organizations from a public benefit solely because of their religious character.[78] However, applying generally applicable and neutral requirements for program recipients to religious organizations remains legal under the First Amendment.[79]

Programs administered with federal financial assistance must, of course, comply with the First Amendment and applicable federal laws, including the *Religious Freedom Restoration Act* (RFRA).[80] Currently, section 200.300(a) already clearly outlines this requirement.[81] However, the revisions in the Proposed Rule this this section, taken together with the explanation of those changes, could allow any entity administering a federal award, including pass-through entities and grantees, to unilaterally approve a limitless number of religious exemptions without review.[82] Moreover, the Proposed Rule fails to acknowledge that RFRA allows the government to substantially burden religious exercise when it is necessary to achieve a compelling government interest, including non-discrimination requirements, when it is the least restrictive means available.[83] The Proposed Rule also fails to consider the impact of religious exemptions on individuals who would lose access to services or be denied equal employment opportunities in programs supported with taxpayer dollars. Nor does the Proposed Rule account for the constitutional limits of granting religious exemptions that cause harm against third parties.[84]

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[77] *Supra* note 1, at 32253. The inclusion of religious exercise in the Proposed Rule goes beyond what is in longstanding agency faith-based regulations prohibiting discrimination against an organization "on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization." *See, e.g.*, 45 C.F.R § 87.3(a).
[78] Valerie C. Brannon, *Supreme Court Rules That Excluding Religious Schools from Aid Program Violates Constitution: Implication for Congress*, Cong. Rsch. Serv. (July 2, 2020), https://www.everycrsreport.com/reports/LSB10509.html.
[79] *See* Fulton v. City of Philadelphia, 593 U.S. 522, 522 (2021) (citing Emp. Div. v. Smith, 494 U.S. 872, 878-82 (1990) ("[L]aws incidentally burdening religion are ordinarily not subject to strict scrutiny under the Free Exercise Clause so long as they are neutral and generally applicable.").
[80] 42 U.S.C. 2000bb, *et seq*.
[81] 2 C.F.R. § 200.300(a).
[82] *Supra* note 1, at 32216, 32233. The Proposed Rule removes a U.S. Department of Health and Human Services (HHS) regulation, 2 C.F.R. §300.300(d), that made it clear that it was the role of HHS to make determinations with respect to assessing requests for exemptions.
[83] *Supra* note 80.
[84] E.g., Burwell v. Hobby Lobby Stores, Inc. 134 S. Ct. 2751, 2781 n.37 (2014) (citing Cutter v. Wilkinson, 544 U.S. 709, 720 (2005)); Holt v. Hobbs, 135 S. Ct. 853, 867 (2015) (Ginsburg, J., concurring); Cutter, 544 U.S. at 726 (may not "impose unjustified burdens on other[s]"); Texas Monthly, Inc. v. Bullock, 489 U.S. 1, 18 n.8 (1989) (may not "impose substantial burdens on nonbeneficiaries"). There has been demonstratable harm from the misuse of RFRA to justify granting religious exemptions in child welfare programs. The first Trump Administration granted RFRA waivers to the states of South Carolina and Texas with respect to federal nondiscrimination requirements for state-contracted child welfare providers receiving federal funds. Laura Meckler, *Trump administration grants*

Section 200.303—Internal Controls.

The revisions to section 200.303 would require that all grantees, as part of "maintain[ing] effective internal control over the Federal award," must utilize "the Department of Homeland Security's E-Verify program to confirm the employment eligibility of all employees and contractors hired in or performing work" in the U.S. under the grant.[85] A Final Nonconfirmation (FNC) under E-Verify must be reported to the agency or pass-through entity and appropriate action must be taken; failure to do so may lead to termination of the grant.[86] Appropriate action includes the employer, here the grantee, confirming in the E-Verify system whether it intends to terminate or retain the nonconfirmed worker,[87] the latter of which exposes the employer to liability and risk under the E-Verify system. Combined with the discretionary termination revision in section 200.340, an employer grantee would be at risk of grant termination regardless of what steps it takes. This provision would have a significant effect on grantees, including colleges and universities, that employ researchers and scientists from foreign countries to work in the U.S., and it would increase their administrative burden with more stringent controls and increased documentation requirements contrary to OMB's stated goal of reducing the burden on recipients.[88] The language is unclear whether this provision also applies to students and graduate students from other countries who are living, studying, and working in the U.S. as part of the grant team. Considered together with sections 200.202 (domestic-first framework), 200.206 (foreign gift and contract disclosure requirements), and 200.220 (foreign collaboration limitations), this revision would have a chilling effect on successfully attracting foreign researchers and scientists who are experts in their fields to come to the U.S., restrict the pipeline of future researchers and scientists, and further diminish U.S. standing in the research and scientific communities.

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waiver to agency that works only with Christian families, Wash. Post (Jan. 23, 2019), https://www.washingtonpost.com/local/education/trump-administration-grants-waiver-to-agency-that-works-only-with-christian-families/2019/01/23/5beafed0-1f30-11e9-8b59-0a28f2191131_story.html; *Religious Liberty? The History of Religious Liberty in Federal Policy from 1993 to 2022*, House Educ. and Workforce Comm. (Jan. 2023), https://democrats-edworkforce.house.gov/imo/media/doc/religious_liberty_the_history_of_religious_liberty_in_federal_policy_from_1993_to_2022.pdf; U.S. Dep't of Health and Human Servs., Office for Civil Rights, Opinion Letter to Attorney General of Texas (Mar. 5, 2020) (on file with the Committee) and U.S. Dep't of Health and Human Servs., Admin. for Children and Families, Opinion Letter to South Carolina Governor Henry McMaster (Jan. 23, 2019) (on file with the Committee). These agencies rejected otherwise qualified families based solely on their religion. Catholic, Jewish, and LGBTQIA+ families were turned away from a federally funded program simply because they were the wrong religion or because of religious objections to their families. *Id.* This misguided policy not only denied these otherwise qualified families opportunities to foster children but also reduced the number of qualified loving homes available for placement.

[85] *Supra* note 1, at 32254.

[86] *Id.*

[87] 3.6 Final Nonconfirmation, E-Verify (updated June 6, 2024), https://www.e-verify.gov/e-verify-user-manual-30-case-results/36-final-nonconfirmation.

[88] *Supra* note 1, at 32208.

Section 200.305—Federal payment.

The changes to section 200.305 would require grantees that are not states "to include justifications describing the purpose of the payment and the specific award-related work it supports."[89] Federal grants already require rigorous application and record-keeping requirements. The proposed change to this section would increase the administrative burden on recipients contrary to OMB's stated goal of reducing the burden on recipients.[90]

Section 200.332—Requirements for pass-through entities.

Revisions to section 200.332 would require pass-through entities to ensure grantees do not take actions that could "significantly damage the reputation of the pass-through entity, the Federal agency making the award, or the Federal Government" and would make it easier to terminate federal awards for grantees that have been determined to violate this condition.[91] The Proposed Rule does not define the term "significantly damage the reputation," making it impossible for any entity to ascertain what conditions apply to a federal award as is required by the APA.[92]

Section 200.339—Remedies for noncompliance.

The Proposed Rule would undermine due process in the federal grants system, create uncertainty about funding conditions, result in chaotic funding terminations and suspensions, prioritize political expediency at the expense of good governance, and fundamentally interfere with the execution of congressionally authorized and appropriated programs.[93] Moreover, the Proposed Rule fails to account for the harm to individuals and communities served by federally funded programs with arbitrary suspension, termination, and removal of due process.

Revisions to section 200.339 would allow federal agencies to cooperate with individuals or organizations pursuing a private cause of action or civil remedies against a grantee for a failure to comply with the federal requirements. This provision is ripe for political abuse, potentially allowing this Administration to selectively join legal actions by right-wing advocacy organizations challenging any number of policies, including DEIA, disparate impact, and protections for LGBTQIA+ individuals. This Administration has a track record of misusing the existing levers of government to attack educational institutions, nonprofit organizations, states, and any number of entities it politically disagrees with.[94] This provision only serves to add to the political toolkit available to the Administration in the pursuit of its radical agenda and does not serve legitimate interests in the prudent governance of federal grants.

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[89] *Supra* note 1, at 32223.
[90] *Supra* note 1, at 32208.
[91] *Supra* note 1, at 32257.
[92] *Supra* note 4.
[93] *See, e.g.*, Jacob Leibenluft et al., *The Trump Administration Seeks to End Nonpartisan Grantmaking,* Ctr. on Budget and Pol'y Priorities (June 17, 2026), https://www.cbpp.org/research/federal-budget/the-trump-administration-seeks-to-end-nonpartisan-grantmaking.
[94] *The Weaponization of the Government Against Civil Society*, American Oversight (updated June 4, 2025), https://americanoversight.org/investigation/the-weaponization-of-the-government-against-civil-society/.

Section 200.340—Termination and suspension.

Just as in section 200.339, the changes to section 200.340 would further undermine due process in federal grants by newly requiring that, to the extent permitted by law and with exceptions, all federal grants must allow discretionary termination.[95] Also, the Proposed Rule states that existing awards can be terminated if they are no longer aligned with "Federal agency priorities or that an agency otherwise determines is no longer in the Federal Government's interest."[96] This provision would create uncertainty for grantees, as it would mean an ever-changing landscape of agency priorities and shifting grant conditions. This would lead to a lack of consistency and reliability, making it difficult to plan for or rely on funding for a project and resulting in a chilling effect across every sector of federal grantmaking, particularly for long-term efforts or multi-year awards. The potential for discretionary termination would make it difficult to hire staff or researchers as well as recruit program or study participants. Data that has been acquired could no longer be used, resulting in wasted taxpayer dollars with nothing to show for it. Ultimately, grantees could feel forced to chase invisible political benchmarks or grant political favors with the hope of holding on to their funding. The Administration has previously justified the suspension and termination of billions in grants on the basis of not aligning with its priorities,[97] so the implications are clear—this represents a tool of political expediency with no justification.

Section 200.342—Opportunities to object, hearings, and appeals.

Just as in the sections 200.339 and 200.340, revisions to section 200.342 would further undermine due process rights for entities receiving federal financial assistance by limiting access to appeals. The Proposed Rule would give federal agencies the authority to deny grantees access to any hearing or appeals process, unless the termination was due to noncompliance.[98] This would allow unfettered political abuse through discretionary terminations to go unchecked, create added uncertainty for grantees,[99] waste taxpayer dollars, and reduce transparency and accountability despite OMB's stated goals to improve both.[100]

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[95] *Supra* note 1, at 32258-32259.
[96] *Supra* note 1, at 32205.
[97] *See, e.g.*, Grant Witness, https://grant-witness.us/ (last visited June 29, 2026); Kelcie Moseley-Morris, *Federal health agency cancels most of its teen pregnancy prevention grants*, Stateline (June 26, 2026), https://stateline.org/2026/06/26/federal-health-agency-cancels-most-of-its-teen-pregnancy-prevention-grants/; Sydney Halleman, *CDC moves to cut $600m in grants to Democrat-led states,* Healthcare Dive (Feb. 11, 2026), https://www.healthcaredive.com/news/cdc-moves-to-cut-600-million-grants-democrat-led-states-hhs/811897/.
[98] *Supra* note 1, at 32260.
[99] Jacob Leibenluft, et al., *The Trump Administration Seeks to End Nonpartisan Grantmaking*, Ctr. On Budget and Pol'y Priorities (June 17, 2026), https://www.cbpp.org/research/federal-budget/the-trump-administration-seeks-to-end-nonpartisan-grantmaking.
[100] *Supra* note 1, at 32202.

Section 200.421—Advertising and Public Relations.

The revisions to section 200.421 would significantly restrict the use of funds for advertising and public relations unless required by statute.[101] The changes would preclude grant funding from being used to share information about the project with the public and the media, including keeping them apprised of the project, informing them about the project's accomplishments, or even sharing information about "matters of public concern."[102] It would also preclude funding from being used to recruit staff.[103] This would negatively impact all grantees. Researchers are expected to share their findings broadly with the public, the press, interested parties, and policymakers. The restrictions would handcuff researchers from ensuring that their taxpayer-funded research is useful. Frankly, it is a thinly veiled attempt to enable the Administration to control what information is released to the public based on the Administration's ideological preferences. This change is contrary to OMB's stated objectives of improving transparency and reducing recipient burden,[104] and it would deprive the public of information to which they are entitled.

Section 200.432—Conferences.

The proposed change to section 200.432 "that costs for attending conferences are allowable only if participation in the conference is expressly approved by the agency and included in the terms and conditions of the award"[105] would curtail the ability of grantees to send people to conferences relevant to their positions, expand their roles, and engage in professional development opportunities. For researchers, it would also prevent them from expanding their knowledge about their field, presenting and sharing the results of their work, receiving feedback on their research, and developing relationships with other scientists in their field. Many of these opportunities may not be identified in time to include in the award application and terms. In fact, research findings would certainly not be known at that time. This type of micromanagement is contrary to encouraging cutting edge research and science. In addition, it does not serve to meaningfully increase accountability or reduce the burden on the recipient, two of the stated purposes of the OMB proposal.[106]

Section 200.450—Lobbying.

The revisions to section 200.450 would add additional lobbying restrictions that apply to nonprofit organizations and IHEs. Specifically, they would be prohibited from "[e]ngaging in issue advocacy or public messaging that promotes or opposes a particular social, political, or public policy position unrelated to the statutory objectives or performance requirements of the Federal award" including at the state level.[107] This would have a deleterious chilling effect on

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[101] *Supra* note 1, at 32261.
[102] *Id.*
[103] *Id.*
[104] *Supra* note 1, at 32202, 32208.
[105] *Supra* note 1, at 32231.
[106] *Supra* note 1, at 32202, 32208.
[107] *Supra* note 1, at 32262.

grantees, including researchers, who would be fearful of discussing their work and findings. They are likely to be overly silent out of an abundance of caution, and this would undermine public knowledge, understanding, and accountability. It would also deprive interested parties, including state and local governments and policymakers, from learning about research findings that could be used to improve any number of aspects of people's lives and communities, depriving the public of evidence-based research upon which policy should be made and is in fact required to be made.[108] Moreover, this would have the impact of violating free speech rights under the First Amendment.[109] This revision would serve to provide this Administration with a cudgel to punish grantees for engaging in a variety of activities that may in fact be essential to fulfilling the mission Congress had in mind when it authorized the use of taxpayer funds.

Section 200.454—Memberships, subscriptions, and professional activity costs.

Section 200.454 would be revised to now prohibit grant funding from being used to pay for journal subscriptions.[110] Researchers rely on journals to learn about their field and conduct their research. This change would detrimentally harm researchers and lacks a justification.

Section 200.461—Publication and printing costs.

Revisions to section 200.461 would reverse the ability of grantees to use funding for publication costs associated with publishing their findings. Taxpayer funds pay for these grants, and the public should be provided with access to the results. In fact, a 2022 memorandum released by the White House Office of Science and Technology Policy (OSTP) established an open access mandate, requiring that all federal research be made available immediately and for free.[111] This established a priority for transparency, data sharing, and free and immediate access to information for anyone in the U.S. or abroad to benefit from the research being conducted in the United States, further solidifying our nation's standing as an open and democratic society concerned about our own future and that of the world around us. As with the revisions to section 200.421, this is an effort by the Administration to control information based on its ideological positions. This change is contrary to OMB's stated objective of transparency, would create an undue burden on grantees who would be forced to meet the open access requirement to publish their findings without support from the underlying grant, and would deprive the public of information to which they are entitled.

Conclusion

The changes in the Proposed Rule would drastically transform many aspects of the federal grantmaking and grants management processes as well as any research conducted with federal support, resulting in increased politicization and reduced due process. It implicates every federal

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[108] Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. No. 115-435 (Jan. 14, 2019).
[109] Legal Servs. Corp. v. Velasquez, 531 U.S. 533 (2001).
[110] *Supra* note 1, at 32262.
[111] Executive Office of the President, Ensuring Free, Immediate, and Equitable Access to Federally Funded Research (Aug. 25, 2022), https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf.

grant from any agency, including those grants totaling approximately $1.1 trillion dollars provided to state and local governments each year.[112] The Proposed Rule attempts to codify multiple executive orders (EO) issued by President Trump—orders that espouse radical interpretations of civil rights and constitutional law that are currently the subject of numerous legal challenges. The Proposed Rule embeds divisive and questionable legal doctrine promoted by the Trump Administration in every federal grant; exceeds the authority of the Executive Branch; and ignores decades of best practices in research and science supposedly in the name of transparency, accountability, and oversight.[113] The Proposed Rule would give more discretionary power to a Chief Executive who has proven willing to use the power he does have to punish political enemies and those who disagree with him.

The sweeping changes by the Proposed Rule would ultimately upend the continuity of federal programs, harming individuals' and communities' access to essential services, as well as federally supported research that is used to inform virtually every sector of our lives as well as policymaking at all levels of government. Moreover, numerous provisions included in the Proposed Rule, individually and considered jointly, undermine the foundational principles of research and scientific rigor, which have helped the U.S. become and remain a respected democracy and the greatest superpower to emerge after World War II. In addition, the Proposed Rule includes conflicting mandates, would cloud agencies' and grantees' understanding of federal grant management processes and procedures, and would diminish the usefulness of federal grants and research to the public for whom it is ultimately intended and to whom the government, including the Executive Branch, is ultimately accountable.

This Proposed Rule should be abandoned in its entirety. Moreover, any future changes made to the Uniform Guidance should de-emphasize the role of political appointees; embrace the concepts of scientific peer review, integrity, and independence; and not place the political pursuits of the President above the Constitution and laws of our country.

Sincerely,

Robert C. "Bobby" Scott
Ranking Member

[112] Adam G. Levin, *Federal Grants to State and Local Governments: Trends and Issues* (R40638), Cong. Rsch. Serv. (updated June 26, 2025). *See also* Elizabeth Ginexi, *This new OMB Rule Is Bigger Than Science. Much Bigger.*, Substack (June 1, 2026), https://elizabethginexi.substack.com/p/this-new-omb-rule-is-bigger-than ("Federal grants are not peripheral to how states and communities function. They represent, on average, 36 cents of every dollar a state spends.").
[113] *Supra* note 1.