September 23, 2026

Zachary Rogers
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Re: Comments on Notice of Proposed Rulemaking, Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026);[1] Docket ID ED–2026–OPEPD–2542

Dear Mr. Rogers:

The undersigned organizations write in opposition to the Department of Education's (Department) proposed revisions to the Education Department General Administrative Regulations (EDGAR). This proposal would unnecessarily continue this administration's practice of destabilizing the federal grantmaking process. It would politicize federal education funding while injecting uncertainty and reducing transparency in the process. And under the guise of promoting "merit," the proposal undercuts policies aimed at achieving the Department's Congressionally mandated purpose established under federal law: "strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual."[2]

One of the most troubling elements of this proposal is the Department's plan to give the Secretary of Education express authority to terminate a discretionary grant "for convenience," with no requirement to show cause related to a grantee's performance or compliance. Paired with proposed revisions to continuation-award policy that would give the Secretary considerably more latitude in deciding whether, when, and how much continuation funding a multi-year project will actually receive, this NPRM would leave even a properly performing grantee with little assurance that an already-awarded, multi-year grant will be paid out as promised. That is an irresponsible degree of uncertainty to introduce into a funding system designed around multi-year projects and continuation awards.

We also note the irony built into this approach. The same NPRM that would require grantees to base hiring, promotion, and admissions decisions strictly on "merit" and "high standards" would simultaneously let the Secretary end or curtail a grant for reasons that have nothing to do with the grantee's merit or performance. If merit is the right standard for a grantee's personnel decisions, it should be the right standard for the Department's funding decisions.

The public has good reason to be wary of a rule that expands the Secretary's discretion to cancel or delay federal education funding. In the summer of 2025, the administration withheld nearly $7 billion in already-appropriated Fiscal Year (FY) 2025 K-12 funding, disrupting state and local planning shortly before the school year. The withholding prompted bipartisan opposition and

[1] Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (proposed Aug. 24, 2026) (Docket ID ED–2026–OPEPD–2542), https://www.federalregister.gov/documents/2026/08/24/2026-17239/education-department-general-administrative-regulations. Citations to the NPRM throughout this letter are to this Federal Register document.

[2] Department of Education Organization Act, 20 U.S.C. § 3402(1).

concern, including a letter from ten Senate Republicans,[3] a lawsuit from roughly two dozen states,[4] and weeks of disruption to education programming, all before the administration reversed course and released the funding. The administration's grant and contract terminations have generated an unprecedented and unnecessary degree of uncertainty and confusion for states, districts, and school leaders; codifying these practices would embed instability into the federal grantmaking process.

The NPRM also continues this administration's campaign against equity in federal education programs. Equity is a stated statutory purpose of the Department and its programs; it is not simply a policy preference this or any administration is free to abandon by regulation. Congress made equity a central purpose of Title I of the Elementary and Secondary Education Act, whose express aim "is to provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps."[5] Further, Section 427 of the General Education Provisions Act (GEPA) requires every applicant for Department funding to describe how it will advance equity:

> *The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.*[6]

Against this statutory backdrop, we are especially troubled by several proposed changes to the Department's grant selection criteria. The NPRM would remove references to "underserved populations" and strike "civil rights organizations" from the list of community voices that grant applicants are required to engage. These eliminations are asserted without any justification offered in the NPRM. That is simply unacceptable.

Finally, we note the basic incoherence of a proposal that would concentrate more discretionary authority in the Secretary at the very moment the Secretary is working to eliminate the Department that would exercise it. The Department's own Office of Inspector General recently found that the Department's workforce reductions eliminated at least 1,579 of the Department's 3,902 employees. This 40 percent reduction included "the elimination of several suboffices in 15 of the Department's 17 offices, including some that appear to have been performing statutory functions or oversight and monitoring functions."[7] The NPRM would have the Secretary make

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[3] Letter from Sens. Shelley Moore Capito et al. to Russell Vought, Director, Office of Management and Budget (July 16, 2025) (urging the administration to "reverse [its] decision and release this Congressionally-approved funding to states"), https://www.capito.senate.gov/imo/media/doc/letter_to_director_vought.pdf.

[4] *See* Complaint, *California v. McMahon*, No. 1:25-cv-00329 (D.R.I. July 14, 2025) (lawsuit brought by 22 states and the District of Columbia, along with the governors of Kentucky and Pennsylvania, challenging the withholding of approximately $6.8 billion in congressionally appropriated education funding).

[5] Elementary and Secondary Education Act of 1965 § 1001, 20 U.S.C. § 6301.

[6] General Education Provisions Act (GEPA) § 427(b), 20 U.S.C. § 1228a(b).

[7] U.S. Department of Education, Office of Inspector General, *Review of U.S. Department of Education Changes in Staffing and Operations*, Flash Report No. F25DC0245, at i–ii (June 2026), https://oig.ed.gov/sites/default/files/reports/2026-06/FY26%20F25DC0245%20%286.22.26%29v100_508_SECURED.pdf.

more individualized decisions on continuation awards, terminations, suspensions, and the design of scoring criteria with far less staff capacity and oversight than the Department had just two years ago. Giving the Secretary more authority with far less capacity will not make government more efficient. It will facilitate arbitrary and inconsistent administration of federal education funds.

For these reasons, and for the reasons detailed below, we urge the Department to withdraw this proposal. The NPRM's central provisions are not supported by reasoned justification, would destabilize the federal grantmaking process at a moment when it can least afford further disruption, and, in several respects detailed below, are without merit.

Detailed Comments

1. Politicizing Federal Education Funding

CFR sections addressed: 34 CFR §§ 75.253, 75.700, 75.901; 34 CFR § 76.700.

Taken together, the proposed revisions to §§ 75.253, 75.901, and 76.700 shift EDGAR's framework for continuing, terminating, and conditioning federal education grants away from grantee performance and toward the administration's own, shifting policy preferences. Individually, each change expands the Secretary's discretion. Together, they remove the performance-based guardrails that currently give grantees confidence that a properly performing project will be funded through to completion.

a. Canceling grants "for convenience."

Proposed § 75.901 would revise EDGAR to "provide clear notice to all recipients of the Department's ability to terminate discretionary awards for convenience in a manner consistent with law," resting that authority on the theory that a federal grant is "ultimately contractual in nature." A termination-for-convenience standard would let the Department end a grant not because a grantee failed to perform, but because the grant no longer suits the Department's current priorities, whatever those priorities happen to be at the moment. That standard would fall hardest on grantees least able to absorb an abrupt loss of federal funds: rural school districts, small nonprofit organizations, and first-time federal grant recipients who typically lack the non-federal reserves that better-resourced institutions can draw on to bridge a funding gap.

b. Uncertainty regarding continuation awards.

i. Proposed § 75.253(b) would retain the Secretary's authority to consider "any relevant information" in deciding whether to make a continuation award, but it strikes the current qualifying phrase "regarding grantee performance." The current regulation ties the Secretary's discretion to a defined, performance-based universe of information. The proposed regulation removes that anchor entirely. If the Department genuinely intends merit to govern its relationship with grantees as the NPRM's other provisions repeatedly insist, then the merit of a grantee's actual performance under its grant is exactly the kind of "relevant information" a continuation decision should turn on. Deleting that qualifier does not add flexibility so much as it removes an important constraint that tied continuation decisions to something other than the Department's own policy preferences.

ii. Proposed § 75.253(e)(5) would newly authorize the Secretary to make a continuation award as a partial award, in installments, or on a delayed release schedule. The only justification the Department offers for this change is the general assertion that these revisions "may benefit the Department and the general public by improving the clarity and transparency of regulations."[8] There is no apparent logical connection between authorizing the Department to withhold, delay, or fragment an already-approved continuation award and improving "clarity" or "transparency" for the public. If anything, a grantee that cannot predict whether or when the balance of its award will arrive faces less clarity, not more, which could lead to a disruption in programming and services for students.

c. Compliance with Executive Orders.

Proposed § 76.700 would add executive orders to the list of policies (e.g., statutes and regulations) with which formula-funded grantees must comply. But unlike statutes or regulations adopted through notice-and-comment rulemaking, executive orders can be issued, rescinded, or revised unilaterally by the President. Several of this administration's education-related executive orders have already been challenged in court, with courts blocking or restricting implementation of several orders while other challenges remain in litigation.[9] Given how unsettled the legal status of several executive orders remains, we urge the removal of the executive order compliance requirement for competitive grants under § 75.700. Further, we oppose the NPRM's proposal to extend that same executive order compliance requirement to every state educational agency and school district that receives formula funds. Doing so would put grantees' federal education funding at risk based on compliance (or lack thereof) with a legally dubious executive order.

2. Anti-DEI Policies

CFR sections addressed: 34 CFR §§ 75.500(f), 76.500(f); 34 CFR § 75.210(g)(2)(v); current 34 CFR § 75.210(d)(2), (e)(2).

The NPRM's proposed changes to grantee hiring requirements and to the § 75.210 scoring-criteria menu are not isolated, technical edits. Read together, they remove policies intended to promote education opportunities for all students, while offering no reasoned basis for doing so.

a. Interference in grantee hiring practices.

Proposed §§ 75.500(f) and 76.500(f) would require every grantee's hiring, admissions, promotion, and compensation decisions "under the grant" to be based on "merit and high standards," without defining either term anywhere in EDGAR. That ambiguity is problematic: without a definition, grantees cannot know in advance what practices the requirement does or does not permit, and the Department retains unreviewable discretion to interpret "merit" however it prefers in a given enforcement action. The proposed provisions compound this problem by also prohibiting hiring, admissions, promotion, or compensation decisions based on "proxies" for race, color, religion, sex, or national origin, again without defining what counts as a proxy.

[8] NPRM at 54672 (Regulatory Impact Analysis discussion of proposed § 75.253).

[9] Rachel M. Perera, Thalia González & Aidan Tomlinson, *Tracking Lawsuits Challenging the Trump Administration's K-12 Education Agenda*, Brookings Institution (updated July 6, 2026), https://www.brookings.edu/articles/tracking-lawsuits-challenging-the-trump-administrations-k-12-education-agenda/.

Grantees are left to guess what criteria might later be characterized as an unlawful proxy. A rule this vague does not give grantees clear notice of what is required of them; it simply shifts risk onto grantees for however the Department chooses to interpret an undefined standard.

b. Removal of "underserved populations" throughout § 75.210.

The NPRM would replace "underserved population(s)" with "target population" throughout the menu of scoring criteria in § 75.210, and would eliminate two factors (current § 75.210(d)(2) and § 75.210(e)(2)) that currently list the specific barriers a project's design or personnel plan may address, including economic disadvantage, race, ethnicity, disability, national origin, and several others. The Department describes this as a change made purely for internal "alignment." But a "target" population is simply whatever population an applicant chooses to describe; nothing in the revised language requires that population to include students who are the furthest behind or need the most support. That distinction matters because achievement and opportunity gaps by income, race, disability status, and English learner status remain well documented and persistent.

The federal role in education is to close these gaps. Congress created the Department of Education in part "to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual,"[10] made equitable access to "a fair, equitable, and high-quality education" the express purpose of Title I of the Elementary and Secondary Education Act (ESEA),[11] and made ensuring that children with disabilities receive a free appropriate public education (FAPE) a central purpose of the Individuals with Disabilities Education Act (IDEA).[12] Removing the language that ties scoring criteria to the specific populations these statutes were written to assist removes the incentive for applicants to design projects that actually serve them.

c. Removal of the Department's incentive for grantees to advance GEPA's equity purpose.

GEPA requires every applicant for Department funding to describe how it will advance equity, and EDGAR currently permits the Department to award points based on this description. Specifically, EDGAR currently states:

> In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equitable and adequate access and participation for project participants who experience barriers based on one or more of the following: economic disadvantage; gender; race; ethnicity; color; national origin; disability; age; language; migration; living in a rural location; experiencing homelessness or housing insecurity; involvement with the justice system; pregnancy, parenting, or caregiver status; and sexual orientation. This determination includes the steps developed and described in the form Equity For Students, Teachers, And Other Program Beneficiaries (OMB Control No. 1894-0005) (section 427 of the General Education Provisions Act (20 U.S.C. 1228a)).[13]

The NPRM would strike this language in its entirety, thereby eliminating the mechanism EDGAR uses to reward applicants who design a strong equitable-access plan. The NPRM offers

[10] Department of Education Organization Act, 20 U.S.C. § 3402(1).
[11] Elementary and Secondary Education Act of 1965 § 1001, 20 U.S.C. § 6301.
[12] Individuals with Disabilities Education Act, 20 U.S.C. § 1400(d)(1)(A).
[13] Current 34 CFR § 75.210(d)(2).

no explanation for abandoning it, despite the fact that this provision explicitly incentivizes grantees to implement activities that will achieve the statutorily established purpose of the Department.

d. Removal of civil rights organizations from § 75.210(g)(2)(v).

Current § 75.210(g)(2)(v) asks the Secretary to consider how an applicant will ensure that a range of perspectives, including those of parents, educators, community-based organizations, civil rights organizations, and the business community, among others, are brought to bear in designing, implementing, and improving a proposed project. The NPRM would strike "civil rights" from that list, leaving every other named category of community voice untouched. The preamble offers no reason for this deletion at all; it is not mentioned in the Significant Proposed Regulations discussion, the Regulatory Impact Analysis, or anywhere else in the NPRM. Civil rights organizations bring exactly the kind of on-the-ground knowledge of a community's needs, and of how a proposed project's design will actually affect the population it intends to serve, that this criterion is meant to capture. Singling out this one category of organization for removal without explanation will make federally funded projects less responsive to the communities they serve and less effective at achieving their stated goals.

3. Commitment to Objectivity and Evidence-Based Practice

CFR sections addressed: 34 CFR § 77.1(c); 34 CFR § 75.210(h)(2)(viii)–(x).

The NPRM's changes to § 77.1(c) would remove the reference to the What Works Clearinghouse (WWC) from the definitions of experimental, quasi-experimental, and correlational studies, and would create a new "evidence framework" concept under which WWC-aligned review is only "one approach" the Department "may" use to verify that a study meets a given evidence tier. Further, the NPRM would allow the Department to utilize reviewers funded by third parties to conduct evidence reviews.

There may be legitimate, rigorous ways to demonstrate a strong evidence base other than WWC-aligned review, and we do not object to the Department recognizing them. Prior to making this policy change, we urge the Department to more thoroughly consider how this shift may impact R&D initiatives.

In addition, the NPRM does not describe the conditions under which third-party funding would support evidence reviews. Third-party funding of a review process that determines which projects receive federal grants creates an obvious risk that the funder's own preferences, rather than the rigor of the underlying research, will shape which studies are found to meet a given evidence standard. If the Department moves forward with this option, it should adopt explicit, enforceable guardrails ensuring that any third-party-funded reviewer's process and expertise remain free of bias, political influence, and conflicts of interest.

4. Indirect Cost Rate

CFR sections addressed: 34 CFR § 75.228.

Promoting cost-effective use of federal funds is a reasonable goal, and we do not object to the Department's interest in ensuring that federal dollars reach students and core program activities.

But proposed § 75.228 does not simply permit cost-effectiveness; it would let the Secretary award competitive preference points to applicants that voluntarily accept an indirect cost rate below their federally negotiated rate. Because a Negotiated Indirect Cost Rate Agreement is itself the product of a negotiation between the federal government and the applicant, the Department and its sibling agencies already have a direct role in setting the rate the Department now proposes to reward applicants for undercutting. A lower indirect cost rate does not necessarily mean a higher-quality or a lower-cost project overall. Indirect costs support the research administration, compliance, technology, and facilities infrastructure that make rigorous project implementation possible in the first place. Rewarding applicants for accepting a rate lower than their own negotiated infrastructure costs could risk favoring organizations that can afford to underprice their administrative capacity over organizations that propose an honest, adequately resourced budget. Just because a proposal costs less does not mean it is the stronger proposal. A scoring system that treats a lower indirect rate as a positive signal, independent of program quality, risks rewarding the wrong thing.

5. Reducing Transparency

CFR sections addressed: 34 CFR §§ 75.100, 75.104, 75.105; 34 CFR §§ 79.3, 79.6, 79.8.

The NPRM would: eliminate the requirement to publish notices inviting applications in the Federal Register, relying on Grants.gov postings alone (§ 75.100); eliminate the requirement to publish maximum award amounts in the Federal Register, moving that information into the application notice only (§ 75.104); eliminate the requirement to publish annual competitive-priority notices in the Federal Register (§ 75.105); eliminate the requirement to publish in the Federal Register the list of programs subject to intergovernmental review (§ 79.3) and the procedures that apply to that review (§ 79.6); and eliminate the requirement to publish in the Federal Register the deadline by which States may comment on proposed federal financial assistance under the intergovernmental review process (§ 79.8).

The Federal Register is not simply one venue among several for posting a grant notice; it is a durable, independently indexed public record that remains searchable long after a given funding opportunity has closed, and that is not subject to the Department's own, unilateral control over what remains posted and for how long. Moving exclusively to Grants.gov postings will make it harder for the field to research past Department priorities, will eliminate an independent check on whether Grants.gov postings are complete or accurate, and will particularly disadvantage first-time applicants and smaller organizations who rely on the Federal Register's centralized, historical record rather than on the institutional knowledge that longtime federal grantees have built up over repeated competitions. The NPRM frames these changes as cost savings and administrative efficiencies, but it does not weigh those savings against the transparency and public-accountability functions the Federal Register currently serves, several of which cannot be replicated by a Grants.gov posting alone.

We appreciate the opportunity to comment on this NPRM and would welcome the opportunity to discuss these concerns further with the Department. For the reasons stated above, we urge the Department to withdraw this proposal.

Sincerely,

AA Tutoring

Academic Language Research & Training

ACTFL

Advance Illinois

AFT

AFT Massachusetts

All4Ed

American Association of Physics Teachers

American Association of School Librarians, a division of the American Library Association

American Library Association

Boston Teachers Union

Building Healthy Communities Monterey County

California Association for Leading Innovation in Education (CALIE)

Californians Together

CASMEO Inc.

Center for American Progress (CAP)

Chiefs for Change

Children's Defense Fund

Cincinnati State Technical and Community College

Clearinghouse on Women's Issues

Coalition on Human Needs

Collaborative for Academic, Social, and Emotional Learning (CASEL)

Committee for Children

CREATE for Education

ED/OCR Alumni Collective

Ed2Market

EDGE Partners

EdTrust

Education Law Center-PA

Educators for Excellence

Empower the Learner

Families In Schools

Family Voices NJ

Feminist Majority Foundation

Freedom to Choose Schools

FullScale

Honesty for Ohio Education

Illinois Families for Public Schools

Innovations4Education, Inc.

Institute for Advancing Computing Education

Kids First Chicago

Lillie's Foundation

Michigan Association of School Librarians

Michigan's Children

Missouri School Counselor Association

National Association of School Psychologists

National Center for Learning Disabilities

National Down Syndrome Congress (NDSC)

National Education Association

National Parents Union

National PLACE

National PTA

National Urban League

Ohio Equal Rights

Parents for Public Schools

Public Advocacy for Kids (PAK)

Public Advocates Inc.

Respectful Ways Trauma-Informed Programming & PD

Save Our Schools Arizona

Scottsdale Unified School District

SPAN Parent Advocacy Network

St Nicks Alliance

Stand For Schools

State Wide Education Organized Committee

Stop Sexual Assault in Schools

TCY

Teacher Education Division of the Council for Exceptional Children

The Advocacy Institute

The Alliance to Reclaim Our Schools (AROS)

The Center for Learner Equity

The Greater West Town Community Development Project

Treehouse

UnidosUS

Virginia School Consortium for Learning

Wisconsin Alliance for Excellent Schools

Wisconsin Public Education Network

Women Employed