Office of Management and Budget
725 17th St., NW
Washington, DC 20503
Re: OMB-2026-0034, Office of Management and Budget (OMB) Regulation for Federal Financial Assistance. Submitted via regulations.gov

July 13, 2026

Director Russell Vought,

On behalf of the undersigned programs at New America, we write to oppose key parts of the Office of Management and Budget (OMB) Guidance for Federal Financial Assistance. New America is a nonpartisan think tank located in Washington, DC. We have broad expertise in education, including through original research, technical assistance, advocacy, and storytelling. We work to ensure America's most fundamental systems—education and work, democracy, family well-being, security, and technology—work for everyone.

We are deeply concerned about the proposed changes to the OMB Guidance for Federal Financial Assistance. These changes would politicize the grant process, increase risk for grantees, and make it harder to reach underserved communities.

Pre-Issuance Review (§ 200.205)

> Summary: The proposed rule would amend § 200.205 to require every federal agency to designate a senior political appointee to conduct a "pre-issuance review" of all discretionary awards "to ensure consistency with applicable law, agency priorities, and national interest," applying principles that include ensuring that awards "demonstrably advance the President's policy priorities" and that they do not "promote anti-American values." Peer review recommendations must remain advisory and cannot be "ministerially ratified, routinely deferred to, or otherwise treated as de facto binding by senior appointees or their designees."

We oppose the proposed amendment to § 200.205 because it would undermine the quality and effectiveness of federal grants, jeopardize our international leadership in science and technology, be administratively unworkable, and exponentially increase litigation over federal grant-making. OMB should withdraw it.

- **The proposed regulation will undermine the quality and effectiveness of federal grant assistance because it would substitute political judgment for technical expertise**. Federal agencies award grants using merit-based and peer-review procedures because assessing the rigor, feasibility, and significance of grant proposals

requires deep, highly specialized subject-matter expertise. It is not possible for a political appointee to meaningfully evaluate the technical merits of thousands of applications in a multitude of different fields. In FY 2025, for example, the National Science Foundation (NSF) awarded 8,800 grants[1] on topics as diverse as astrophysics,[2] quantum information science,[3] and Antarctic ice streams,[4] while the U.S. Department of Education awarded more than 2,000 new competitive grants on topics as disparate as postsecondary programs for students with intellectual disabilities, charter school facilities, and American history and civics education.[5] Given the diversity and breadth of the fields in which each federal agency offers grants, it is not possible for a political appointee or a designee to have the technical expertise to assess the quality and promise of every proposed grant. Award decisions will inevitably be driven by political considerations instead of merit. Rather than improving the stewardship of public dollars and delivering greater value to the taxpayers–two of the stated purposes of the regulations–the result will be lower-quality grant awards that are less effective in advancing the goals established by Congress in creating each program.

- **Making peer review purely advisory and requiring a political appointee to find that all grants "demonstrably advance the President's policy priorities" jeopardizes our international leadership in science and technology and puts our economic prosperity at risk**. The competitive, merit-based peer-review system that has awarded most federal science and technology funding for generations has helped the U.S. achieve international preeminence in research and program innovation, producing enormous economic dividends for our country. The muliti-trillion dollar[6] U.S. corporation Alphabet, for example, originated from peer-reviewed National Science Foundation (NSF) grants awarded to Stanford University to support research on a digital library project, leading to the development of a search engine that two graduate students later commercialized as Google.[7] Or consider polymerase chain reaction, which is the foundation of modern molecular diagnostics and the genomics industry, with a market value of $10.75 billion in 2025.[8] Its origins trace back to an obscure NSF-funded

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[1] Jeffrey Brainard and Monica Hersher, "Despite Trump chaos, NSF avoided feared dip in research financing," Science, November 19, 2025. Retrieved from: https://www.science.org/content/article/despite-trump-chaos-nsf-avoided-feared-dip-research-financing
[2] National Science Foundation, Award Abstract # 2514763, "Hot and Dense Quark-Gluon Plasma from First Principles." Retrieved from: https://www.nsf.gov/awardsearch/show-award/?AWD_ID=2514763
[3] National Science Foundation, Award Abstract # 2522101, "NeTS: Small: Surrogate-Assisted Full-Stack Optimization of Quantum Networks with Reinforcement Learning." Retrieved from: https://www.nsf.gov/awardsearch/show-award/?AWD_ID=2514763.
[4] National Science Foundation, Award Abstract # 2520980, "Mind the Gap: Fluid Flow Along the Ice-Bed Interface." Retrieved from: https://www.nsf.gov/awardsearch/show-award/?AWD_ID=2520980.
[5] Author's analysis of Grants.gov and USASpending.gov data.
[6] Jennifer Elias, "Tech Alphabet hits $4 trillion market capitalization," CNBC, January 12, 2026. Retrieved from: https://www.cnbc.com/2026/01/12/alphabet-4-trillion-market-cap.html.
[7] Peter L. Singer, Federally Supported Innovations, Information Technology and Innovation Foundation, February 3, 2014. Retrieved from: https://itif.org/publications/2014/02/03/federally-supported-innovations/
[8] Fortune Business Insights, Polymerase Chain Reaction (PCR) Market Size (2026), Retrieved from: https://www.fortunebusinessinsights.com/polymerase-chain-reaction-pcr-market-102528.

peer-reviewed study of bacteria living in Yellowstone National Park's hot springs,[9] a topic that likely would have failed a "demonstrably advances the President's policy priorities" test had the proposed regulation been in effect. We also note that the potential policy impact of federally supported research selected through peer review is not always apparent at the time of funding. For example, the Federal Communications Commission's radio-spectrum auctions, which have returned more than $100 billion to the U.S. Treasury, were designed based on years of NSF-funded peer-reviewed research in auction theory, research that had no obvious, near-term policy relevance when it began.[10] The pattern is not confined to any one field. Peer-reviewed federal support for research that may have appeared arcane and inapplicable to federal policy priorities at the time it was funded has yielded large economic returns for this country for decades.

- **To be worthwhile, to advance human knowledge, scientific inquiry must be driven by evidence, not partisan preference**. We note, for example, that the Obama Administration strongly supported the policy of offering merit pay for teachers. However, when the early scientific evidence showed that teacher merit pay was not effective in improving student achievement, the U.S. Department of Education embraced and funded continued inquiry on the topic, even if the findings were politically inconvenient.[11] It understood that Americans expect that taxpayer investments in research will advance the public interest, and not be used for public relations.

- **Designating a political appointee to review all proposed grants is operationally unworkable.** The proposed pre-issuance review will bottleneck funding within agencies and increase the likelihood that some agencies will fail to make all of their planned grant awards before the end of the fiscal year, thereby lapsing funds that Congress appropriated. As noted previously, federal agencies award thousands of competitive grants annually, and some agencies, such as the Department of Education, award most of them toward the end of the fiscal year. In FY 2025, for example, the Department of Education awarded more than 1,800 competitive grants–about 90 percent of its FY 2025 awards–in the last three months of the fiscal year. A senior political appointee would not have time to screen each award and apply the proposed principles within this compressed time frame, creating a risk that some grants will not be awarded before the appropriation lapses. ED's Office of Postsecondary Education (OPE) estimates that a peer reviewer spends "three to seven hours per application reviewed (reading, evaluating, scoring applications to include, completing required documents, entering

[9] Thomas D. Brock, "The Value of Basic Research: Discovery of Thermus aquaticus and Other Extreme Thermophiles," Genetics 146(4):1207–10 (1997). Retrieved from: https://pmc.ncbi.nlm.nih.gov/articles/PMC1208068/
[10] Jason Stoughton, "'The Greatest Auction Ever' – Q&A with Paul Milgrom, 2020 Nobel laureate," National Science Foundation,
[11] Institute of Education Sciences, U.S. Department of Education, "The Role of IES in Advancing Science and Pushing Public Conversation: The Merit Pay Experience" (May 23, 2023). Retrieved from: https://ies.ed.gov/learn/blog/role-ies-advancing-science-and-pushing-public-conversation-merit-pay-experience/

assessments into the electronic system, participating in panel discussions, reviewing and certifying final forms)."[12] Using 2,000 applications as an example, even if each application is only reviewed by one person, this estimate provides for a minimum of 6,000 hours or 750 business days. Even if the political appointee assigned to review applications only spent 15 minutes per application—not nearly enough time to seriously evaluate each document—it would be 63 business days (or about three months) of reviewing applications full-time and doing no other tasks. The National Institutes of Health (NIH) strives to stagger its awards more evenly across the fiscal year, but even NIH awarded about 50 percent of its extramural research grants in the last three months of FY 2025.[13] Given the large volume of grants NIH makes–there were 8,161 new and competitive renewal awards just for extramural research in FY 2025[14]–completing a pre-issuance review of all of them is simply beyond the capacity of a senior appointee to review before the close of the fiscal year. The proposed rule is a recipe for illegal impoundment, causing agencies to lapse funds that Congress appropriated.

- **The proposed regulation would direct political appointees to use standards and criteria that are so vague that they cannot be consistently and objectively applied.** Standards like "demonstrably advance the President's policy priorities," "the national interest," and a prohibition against "anti-American values" are so nebulous that their evaluation will inevitably be arbitrary, the product of one individual's unique perceptions, beliefs, and biases. What one political appointee considers "the national interest" may be viewed otherwise by another. The results will be vulnerable to legal challenge by unsuccessful applicants as "arbitrary and capricious" violations of the Administrative Procedure Act, making federal grant-making exponentially more litigious than it is currently and further slowing the work.

Pre-Issuance Review to Ensure an Award is Not Used to "Fund, Promote, Encourage, Subsidize, or Facilitate" "Illegal Immigration" (§ 200.205(b)(2)((iii))

Summary: Proposed § 200.205(b)(2)((iii)) would require a senior political appointee to conduct a "pre-issuance review" of each discretionary grant award to ensure the award is not used to "fund, promote, encourage, subsidize, or facilitate" "illegal immigration." The term "illegal immigration" is not defined.

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[12] Office of Postsecondary Education Peer Reviewers: Frequently Asked Questions. Retrieved from: https://www.ed.gov/about/doing-business-ed/peer-reviewers/office-of-postsecondary-education-peer-reviewers-frequently-asked-questions#q5

[13] National Institutes of Health, Number of NIH Extramural Awards by Awarded Month, NIH Data Book. Retrieved from: https://report.nih.gov/nihdatabook/category/32.

[14] National Institutes of Health, "Fiscal Year 2025 By the Numbers: Extramural Grant Investments in Research (NIH Blog), March 12, 2026. This excludes thousands more competitive, peer-reviewed FY 2025 grants that NIH made for training, fellowships, career development awards, and research centers. Retrieved from: https://grants.nih.gov/news-events/nih-extramural-nexus-news/2026/03/fiscal-year-2025-by-the-numbers-extramural-grant-investments-in-research.

Proposed § 200.205(b)(2)((iii)) should be withdrawn because it exceeds OMB's statutory authority and conflicts with federal laws and constitutional rulings that require serving individuals regardless of immigration status.

The sweeping prohibition in proposed § 200.205(b)(2)((iii)) could encompass a long list of public services and activities that Congress and the Supreme Court have specifically established are legally permissible and, in some cases, are required by the U.S. Constitution to be provided to persons regardless of their immigration status. OMB has no authority to override these provisions of law in a rule that governs grants administration, cost principles, and audit procedures. Federal law carefully specifies which public benefits are available to noncitizens, and it preserves certain categories of services for everyone regardless of their immigration status. Under the Personal Responsibility and Work Opportunity Reconciliation Act (8 U.S.C. § 1611(b)), Congress preserved, regardless of status, the provision of emergency medical care, immunizations and the testing and treatment of communicable diseases, short-term non-cash emergency disaster relief, and in-kind community services necessary to protect life or safety. The Emergency Medical Treatment and Labor Act (42 U.S.C. § 1395dd) requires emergency care regardless of status. *Plyler v. Doe*, 457 U.S. 202 (1982), found that the United States Constitution guarantees public K-12 education to all children. OMB has no authority to direct senior political appointees to disregard these requirements and decline to approve, for example, discretionary grants to school districts on the premise that their delivery of K-12 education to all children regardless of status "subsidizes" or "facilitates" "illegal discrimination." OMB should withdraw the proposed rule.

Prohibition Against Unlawful Diversity, Equity, and Inclusion Policies, Principles, and Practices (§ 200.300(b))

> Summary: Proposed § 200.300(b) would require, "to the maximum extent permitted by law," that federal agencies and pass-through entities ensure federal awards are not used to "fund, promote, encourage, subsidize, or facilitate": (i) diversity, equity, and inclusion (DEI) or diversity, equity, inclusion, and accessibility (DEIA) policies, principles, or practices that violate federal anti-discrimination laws, including racial preferences or the use of intentional proxies for race as selection criteria." The terms "diversity," "equity," "inclusion," and "accessibility" are not defined either individually or collectively.

We oppose proposed § 200.300(b) because it is exceptionally vague and is redundant, serving no other purpose than to create confusion that will result in the arbitrary exclusion of grantees and subrecipients pursuing activities that are permissible under federal anti-discrimination laws. It should be withdrawn.

The provision bars awards used to "promote, encourage, subsidize, or facilitate" "DEI or DEIA policies, principles, or practices," but it does not define any of these terms. The verbs "promote," "encourage," and "facilitate" are vast and could encompass anything and everything. Does an institution of higher education "promote" or "facilitate" a viewpoint if a visitor's car in its parking lot has a bumper sticker espousing that viewpoint? It's not clear. And absent any criteria or

definitions, “DEI” and “DEIA” are ambiguous and open to wildly different, arbitrary interpretations by senior political appointees. Are vegetarian meal options in the college cafeteria considered DEIA? Or giving preference in hiring to veterans? There is no way to know under the proposed rule.

What is most important, though, is that the proposed rule is redundant. The tell is that only DEI and DEIA that “violate federal anti-discrimination laws” are prohibited. If they are already prohibited by federal anti-discrimination laws, why is OMB proposing this rule at all? The uniform guidance already bars the use of funds for unlawful discrimination; existing § 200.300 requires recipients to comply with all applicable federal statutes. The proposed rule serves no purpose other than to promote interpretive confusion and invite inconsistent, agency-by-agency enforcement against an undefined category of policies, principles, and practices. Great mischief and misunderstanding would ensue as senior political appointees attempt to divine or deliberately misinterpret what “DEIA” means and whether a particular policy, principle, or practice is actually unlawful. For example, a senior political appointee unfamiliar with federal clinical research requirements might bar making an award to a university because it promotes diversity in the recruitment of participants in its clinical research, even though it is doing so because the NIH Revitalization Act of 1993 requires it.[15] Proposed § 200.300(b) would cause some applicants for federal awards to be denied grants unjustly when senior political appointees, confused by what the provision requires, misapply it. The proposed rule is unnecessary and should be withdrawn.

Removal of Grantee and Subrecipient Procurement Flexibilities to Implement Targeted Hiring Requirements and Community Benefit Agreements (§ 200.319)

> Summary: The rulemaking would delete from § 200.319 provisions that clarify that recipients and subrecipients may, consistent with their own policies and applicable law, require construction contractors to use hiring preferences or goals for residents of high-poverty, disadvantaged, or high-unemployment areas; require preferences or goals for individuals with barriers to employment as defined in the Workforce Innovation and Opportunity Act; use project labor agreements intended to ensure uninterrupted delivery of services; and use agreements intended to ensure community benefits.

We oppose the proposed removal from § 200.319 of clarifications that recipients and subrecipients may require construction contractors to use hiring preferences or goals for residents of high-poverty, disadvantaged, or high-unemployment areas; require preferences or goals for individuals with barriers to employment; use project labor agreements intended to ensure uninterrupted delivery of services; and use agreements intended to ensure community benefits. These clarifications give states and local communities important flexibility that enables

[15] See 42 U.S.C. § 289a-2, Inclusion of women and minorities in clinical research. Retrieved from: https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title42-section289a-2&num=0&edition=prelim.

them to ensure that federally-financed infrastructure projects create meaningful employment and training opportunities for the most disadvantaged residents of the communities where projects are built. Withdrawing the Uniform Guidance's recognition of these tools leaves grantees and subrecipients to guess whether such provisions are violations of the general competition requirements and will cause those that are most risk-averse to stop using them. OMB offers no explanation for the deletions, indicating only that it is "streamlining" § 200.319.

Communities can make the impact of federal construction dollars reach even further by directing contractors to commit to hiring and training residents of high-poverty areas and individuals with barriers to employment. Not only do the federal resources create the public asset under construction, but they also help move people out of poverty and into high-wage careers, often through Registered Apprenticeship, and build a local skilled workforce that will outlast the project. Community benefit agreements are legally binding contracts negotiated between a developer and a coalition of community organizations. The benefits vary by project, but often include some combination of reserving a share of jobs for residents of the area and providing training to prepare them for those jobs, paying living wages, purchasing from local businesses, and making financial contributions to support affordable housing, community facilities, or needed services. Through these agreements, communities can harness public infrastructure dollars to generate returns to the neighborhoods that are most impacted by construction and development.

These are long-established, lawful procurement instruments that should continue to be available to grantees and subrecipients. OMB should restore references to them in the final rule.

Termination (§ 200.340)

> Summary: § 200.340 (a)(4) of the uniform guidance currently permits a federal agency or pass-through entity to terminate a grant award if it "no longer effectuates the program goals or agency priorities." The proposed rule would authorize termination if it "is in the interest of the Federal agency or pass-through entity, including if a Federal award does not effectuate program goals, Federal agency priorities, or the national interest as they exist at the time of the termination."

We oppose authorizing agencies and pass-through entities to terminate grants "if a Federal award does not effectuate program goals, Federal agency priorities, or the national interest as they exist at the time of the termination" because it will undermine the effectiveness of federal grant programs, waste taxpayer dollars, reduce the pool of entities that compete for federal awards, and increase litigation in federal grant-making. OMB should withdraw the amendment to § 200.340.

- **The proposed rule will reduce the effectiveness of federal programs and waste taxpayer dollars by making federal grant commitments tenuous and subject to abrupt termination.** Most federal grants are awarded for multiple years because this is the most effective way to achieve the goals of a program. It takes months to hire staff,

establish partnerships, recruit students and participants, and ramp up services and activities. Little can be accomplished in most programs if awards are a single year. Federal agencies also make multi-year awards because it is costly and time-consuming to compete, review, and award grants.

The proposed rule, however, would make federal grant commitments provisional and subject to sudden termination when there is a change in an agency's or pass-through entity's perception of "the national interest." This change in perception could happen when a new political appointee comes on board or partisan political considerations shift. Projects would be needlessly halted midway before they can be completed. Federal dollars spent starting and implementing an endeavor would be lost; taxpayers would not see a return on their investment. Services and activities relied upon by students and participants would stop when they need them. After-school programs could cease in the middle of the school year; mathematics tutoring could end before the final exam; the technical instruction an apprentice needs to complete her apprenticeship could be discontinued. The purposes of these programs would not be achieved.

- **The proposed rule would shrink the pool of entities that choose to compete for federal funding and narrow the breadth of expertise available to address the nation's most difficult problems.** State and local governments, institutions of higher education, non-profit organizations, and other entities make important long-term plans and commitments when they apply for and receive a multi-year federal grant award. They shift personnel or hire new staff to administer the project, they create space in their facilities, they establish partnerships, and they recruit students and participants. They do this with the understanding that, provided they adhere to the terms and conditions of the award and that future federal appropriations are sufficient for the renewal of the award, they will be able to carry out a sustained effort to accomplish the goals that Congress and the agency established at the time of the award. The "national interest at the time of termination" clause, however, would make the federal government an unreliable and mercurial partner, with projects subject to termination at the whims of political appointees whose perceptions of the "national interest" suddenly differ from what they were when the grant was made. This would significantly reduce the appeal of federal funding: who wants to start a long-term endeavor to improve student achievement, for example, knowing that it could all suddenly and unexpectedly end, wasting the time that administrators, teachers, and students put into the project? Fewer entities would be willing to compete for federal funds and implement projects under this cloud of uncertainty, denying taxpayers valuable expertise and resources that could be brought to bear to achieve the purposes for which Congress established the program.

- **The proposed rule's "national interest at the time of termination" standard is so vague and so open to individualized interpretations that many grant terminations will be challenged in federal court as "arbitrary and capricious" violations of the Administrative Procedures Act.** Litigation over federal grants is extraordinarily time-consuming and costly for agencies and aggrieved grantees alike, as well as federal

courts. These resources are better invested in solving the problems that federal programs are created to address.

Suspension (§ 200.340)

Summary: The current uniform guidance does not authorize an agency or pass-through entity to suspend a grant award. The proposed rule would authorize a federal agency or pass-through entity to suspend a grant award for 90 days if the "agency or pass-through entity determines that a suspension is in the interest of the Federal agency or pass-through entity." All or part of the grant activities must temporarily stop, as directed by the agency or pass-through entity.

We oppose authorizing agencies and pass-through entities to suspend grants for 90 days if they deem it to be in their "interest" because it would interrupt important grant-funded services and activities without a well-founded cause. This proposed authority should be removed from § 200.340.

- **Federal grants are used by grantees to pay employee salaries and support important services to people; they cannot be temporarily paused without imposing significant collateral damage.** Consider a college-based program operated with funding from a TRIO Upward Bound competitive grant. The purpose of the program is to help high school students who are low-income and/or potential first-generation college students to prepare to enter and succeed in postsecondary education. The college uses the grant to provide academic tutoring during the school year, an intensive academic program during the summer, assistance in preparing for college entrance examinations and applying for college, and help in completing the Free Application for Federal Student Aid. The college pays the salaries of five employees to deliver these services. If the grant is suspended, the college must lay off the staff. Services that young people have come to rely on to ease their path to postsecondary education disappear at a critical moment in their education; their families scramble to try to find other resources. If the suspension is lifted, these pieces cannot be neatly put back together. Staff have found other jobs, and the students are gone and reluctant to return to an unreliable program. The program cannot achieve its goals for the year, and people have been harmed in the process. If a grantee violates the terms and conditions of its award, an agency and pass-through entity should terminate funding. They should not, however, have the authority to suspend a grant, interrupt services, and turn lives upside down if they suddenly decide that doing so is in their "interest."

- **The disruptive prospect of sudden grant suspensions without a well-founded cause would prompt entities that can avoid federal grant assistance to do so, even if they are well-suited to the government's goals.** The federal government would become an unappealing funder of last resort, reducing the pool of talent available to agencies to help them achieve the purposes of the grants. Programs would become less effective in doing what Congress created them to do.

- **The exceptionally vague agency "interest" standard lacks the precision and clarity that is essential for decisions that will have an impact of this magnitude.** Grant suspensions would put people out of work and shut down services**.** The absence of objective criteria for agency "interest" invites arbitrary action and abuse of authority. Agency "interest" becomes whatever the responsible agency official decides it is–and there is no recourse for grantees and no accountability for the decision-maker.

Disparate-Impact Prohibition (§ 200.218)

> Summary: Proposed § 200.218 provides that, "to the maximum extent permitted by law, Federal agencies must eliminate the use of disparate-impact liability in all contexts relevant to Federal awards," prohibiting the use of federal awards to promote or support theories of disparate-impact liability, which is broadly defined as any framework that infers unlawful discrimination based on federally protected characteristics (such as race, sex, or age) from statistical outcome disparities without evidence of discriminatory intent. Federal awards could not be used in support of disparate-impact studies, disparate-impact litigation, or related activities, and recipients and subrecipients would be barred from adopting or enforcing disparate-impact liability standards in administering federally funded programs, subject only to a narrow exception for internal research and program evaluation, provided federal award funds are not used for that work and the results are not applied to award activities.

We oppose proposed § 200.218 because it would prohibit recipients from using federal grant funds for a critical method of evaluating the effectiveness of federal grant programs that is not only sanctioned by federal education and workforce development laws, but required by them. OMB should not include it in the final rule.

Proposed § 200.218 conflates the legal doctrine of "disparate-impact liability" with "disparate-impact analysis," a method of identifying differences in student or participant access and success by race, ethnicity, sex, and age, as well as for those with and without disabilities. Disparate-impact analysis is essential to understanding the impact of grant policies and programs and identifying strategies to improve them. We need to know, for example, not only if a youth training program increases youth employment overall, but also whether it increases employment by youth with disabilities, a group of young people with an exceptionally high rate of unemployment.[16] If the program is not having a positive impact for youth with disabilities, we want to learn how to change that. This is the kind of disparate-impact analysis that the proposed rule would prohibit grantees from carrying out.

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[16] For 16-to-19-year-olds with a disability, the unemployment rate in 2025 was 25.6 percent, nearly double the 13.5 percent rate for 16-to-19-year-olds without a disability. For 20-to-24-year-olds with a disability, it was 15.7 percent, versus 8.0 percent for their peers without a disability. U.S. Bureau of Labor Statistics, "People with a Disability: Labor Force Characteristics (2025)," USDL-26-0364 (released March 3, 2026), Table 1. Retrieved from https://www.bls.gov/news.release/disabl.nr0.htm

The proposed rule also pressures states, school districts, and institutions of higher education to disregard directives in multiple federal education and workforce development programs that they perform disparate-impact analyses to uncover and address differences in student participation and outcomes by race, ethnicity, sex, and other characteristics. Section 1111 of Title I, Part A of the Elementary and Secondary Education of 1965 (ESEA), for example, requires state education agencies to disaggregate state assessment results and rates of on-time high school completion by each major racial and ethnic group, students from low-income families as compared to students who are not from low-income families, children with disabilities as compared to children without disabilities, English learner status, gender, and migrant status; to set goals for closing achievement gaps between subgroups and all students; and to support school districts in implementing evidence-based interventions to advance those goals. Similarly, community colleges that receive funds under the Carl D. Perkins Career and Technical Education Act of 2004 must disaggregate student outcomes measured by that law's accountability indicators for these subgroups and several others identified by the law and to implement strategies to close any gaps in outcomes. They must also assess and address gaps between subgroups in participation in career and technical education (CTE) programs that prepare them for in-demand, high-skill, or high-wage occupations.

While the proposed rule cannot override these statutes, which it acknowledges with the hedge that the prohibition only applies "to the maximum extent permitted by law," a government-wide grant condition against disparate-impact liability and analysis would sow great confusion among the grantees of these programs. It would put them in an impossible bind, leaving them to figure out whether an action contemplated to implement the statutory directive in an education or workforce development program might run afoul of the grant condition. For example, under the proposed rule, could a school district perform a disparate-impact analysis of the interim results of a peer tutoring program that is intended to improve the achievement of ESEA Title I, Part A student subgroups on state assessments? Or do they have to wait until the end of the school year for the state assessment results that ESEA requires to be disaggregated? It is not clear. The proposed rule would make any disparate-impact analysis not specifically required by law high-risk, undermining foundational goals that Congress has established for education and workforce development programs.

Payment Justification (§ 200.305)
Conferences (§ 200.432)
Memberships, Subscriptions, and Professional Activity Costs (§ 200.454)
Publication and Printing Costs (§ 200.461)

> Summary: In order to access grant funds, under proposed 2 C.F.R. § 200.305(c), recipients (other than States) would be required to submit a written justification with each drawdown payment request that describes the purpose of the payment and the specific award-related work it supports. Proposed § 200.432(b) would permit recipients to use grant funds to attend conferences only if participation in the conference is expressly approved by the federal agency and included in the terms and conditions of the grant award; under the current uniform guidance, grant funds may be used to attend

conferences if they are reasonably related to the purposes of the grant. The proposed rule would amend § 200.454(a) to require grantees to obtain prior written approval of the federal agency for membership in professional, civic, business, and technical, and professional organizations; under the current uniform guidance, these memberships do not require federal approval. Under the uniform guidance, publication costs are now generally allowable; the proposed rule would amend § 200.461 to permit the use of grant funds for publication costs only if they are specifically required by Federal statute or approved in advance by the Federal agency on a case-by-case basis.

We oppose proposed § 200.305 and the proposed amendments to § 200.432, § 200.454, and § 200.461 and recommend that they be withdrawn. Without offering any meaningful justification or analysis of the cost implications, the proposed rule would inject the federal government into the day-to-day work of grantees to an extraordinary extent. Instead of providing technical assistance and promoting innovation to improve program results, employees of federal agencies and pass-through entities would be redeployed to micromanage the actions of grantees, while drowning grantees in red tape and busywork that takes them away from implementing projects that advance program goals.

The finances and activities of grantees and subrecipients of federal assistance already receive a high degree of scrutiny through multiple means. With their applications, grantees and subrecipients submit detailed budgets, management plans, and projected schedules of activities that are evaluated carefully and approved by federal agency or pass-through entity staff. They submit detailed financial and performance reports at least annually, which are also reviewed and approved by agencies and pass-through entities. The Single Audit Act of 1984 and 2 CFR Part 200, Subpart F require every non-federal entity that expends $1 million or more in federal grant funds during its fiscal year to undergo a single, organization-wide audit. The audit, performed by an independent auditor under Generally Accepted Government Auditing Standards, must cover both the entity's financial statements and its compliance with the laws, regulations, and award terms (including allowable uses of funds) governing the major federal programs from which it receives funds. Agency and pass-through entity staff supervise the resolution and correction of any findings and deficiencies discovered through the audit. Finally, the finances and activities of grantees and subrecipients are subject to risk-based monitoring by agencies and pass-through entities at any time.

Even as OMB maintains that “reducing recipient burden” is one of the core objectives of this rulemaking, the proposed rule would impose a massive new burden on grantees and subrecipients by requiring that they justify and explain every payment request for the approval by a federal agency or pass-through entity. This would add millions of transactions annually to the work of agencies, pass-through entities, grantees, subrecipients; there is no accounting in the rulemaking, however, for the costs of these transactions. Nor does OMB articulate a meaningful justification for adding this burden, or provide evidence that the current, multi-method system of fiscal and programmatic scrutiny is deficient.

Reviewing and approving these transactions would require agencies and pass-through entities to redeploy staff from their current work. Staff in the U.S. Department of Health and Human Services (HHS) would no longer have time to focus on improving the effectiveness and safety of Early Head Start programs and the well-being and developmental progress of the children who participate in these programs. Instead, they would be reviewing and approving thousands of requests for payments for the biweekly payroll, diapers, baby wipes, and more. It would be an absurd redirection of federal resources to inconsequential minutiae.

For grantees and subrecipients, § 200.305 would be paralyzing, and the implementation of federally funded programs would suffer as a result. Staff time now spent delivering services to advance the goals of a grant program would have to be shifted to preparing and submitting justifications for payment requests and answering any follow-up questions from the project officer. Inevitably, there will be processing delays that many grantees and subrecipients cannot afford. Community-based organizations, rural local governments, community colleges, Tribal entities, and others frequently operate on narrow margins and count on timely drawdowns so they can make payroll and pay their vendors. They do not have abundant working capital that they can use to front the costs while they wait for approval. They cannot afford to take out short-term bridge loans to fill the gap. Instead, staff will go unpaid, bills will become delinquent, and federally-funded services may be suspended as grantees and subrecipients wait for payment approval.

Proposed § 200.432, § 200.454, and § 200.461 would further mire everyone in unnecessary paperwork. If the Early Head Start program wants to join an early childhood professional association to get a discount on the professional development it provides, they would have to submit a request to HHS. If they want to send staff to attend the professional development conference, that's another request to HHS. If they want to publish a newsletter for the parents and families of the children they serve, it's one more request to HHS. And that subscription to the early childhood journal they have? That would be gone altogether, deemed unallowable under the proposed rule without clear explanation. Nowhere in the preamble does OMB provide evidence that there are systematic spending abuses by grantees and subrecipients that might justify these burdensome intrusions into their day-to-day work of implementing programs. Nor does it account for the enormous associated costs for the federal government, pass-through entities, grantees, and subrecipients that would be imposed by the proposed changes.

Membership in Organizations Whose Primary Purpose is "Issue Advocacy" (§ 200.454 (d))

> Summary: Currently, the uniform guidance bars the use of grant funds for membership in organizations whose primary purpose is lobbying. The proposed rule would add to this a prohibition against using grant funds for the costs of membership in organizations whose primary purpose is "issue advocacy." The term "issue advocacy" is not defined.

We oppose proposed § 200.454 (d) because it exceeds OMB's statutory authority and is so vague that it would be widely misunderstood and misapplied to exclude a host of professional

and technical organizations whose primary purpose is not “issue advocacy,” denying the taxpayers an important source of expertise needed to strengthen the quality of the implementation of federal grants. We urge OMB to withdraw the proposed rule.

OMB has no statutory authority to impose this prohibition. Federal law already prohibits using grant funds for lobbying through the Byrd Amendment (31 U.S.C. § 1352), anti-lobbying restrictions routinely included in appropriations acts, and current §§ 200.450 and 200.454(e), which are derived from those statutory bans. These provisions fully address the legitimate concern that grant dollars not subsidize lobbying. The proposed “issue advocacy” prohibition would sweep in non-lobbying advocacy that Congress deliberately left unrestricted. Beyond railing vaguely against “divisive ideologies,” OMB does not articulate a purpose for this proposed bar or explain what statutory authority it has to establish it.

Proposed § 200.454 (d) would also impose a new burden on the staff of federal agencies, pass-through entities, grantees, and subrecipients to attempt to determine the “primary purpose” of professional, technical, and business membership organizations. More importantly, because the proposed rule does not define the vague term “issue advocacy” or provide criteria to identify an organization’s “primary purpose,” it will be misapplied widely to exclude a wide swath of organizations that provide important services that improve grant administration.

There are many organizations whose chief purposes are to set professional and technical standards or credentialing requirements and to provide continuing education and technical assistance, but who also use their expertise to advocate on public policy issues as a secondary activity. They include, for example, professional and technical organizations focused on preventing domestic violence and child abuse, ending homelessness, protecting child welfare, and improving public education and health care. These organizations provide essential services that strengthen the implementation of grant programs in these fields, such as professional development and standards-setting. It is not difficult to imagine, however, an agency employee misapplying the rule and denying the use of grant funds, for example, by a community health center to access membership to a clinical professional organization for family physicians because the employee found on the organization’s website an article in which it had recommended several public policies to improve maternal health. The center suddenly loses access to professional development, technical assistance, and other expertise it needs to carry out vital grant functions. Under the proposed rule, mistakes like these would be a daily occurrence, significantly degrading the quality of public services.

At New America, we envision an America that represents and serves the public, where institutions work for all Americans, where workers, families, and communities can thrive, and where people are secure from existential threats. These proposed regulations will move us away from this vision. We urge you to rescind this proposal.

Please contact New America senior policy advisor Braden Goetz (goetz@newamerica.org) with any questions or to discuss further.

Sincerely,

Center on Education and Labor at New America
New America, Higher Education Program
New America, PreK-12 Education Program