Submitted via www.regulations.gov under DOE-HQ-2025-0024

Chris Wright, Secretary
U.S. Department of Energy
c/o David Taggart
Office of the General Counsel
1000 Independence Avenue SW
Washington, DC 20585

RE: Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions) DOE-HQ-2025-0024

To Whom It May Concern:

Drawing on decades of research that documents persistent pay gaps, under-representation of women and girls of color in STEM, and systemic employment discrimination, the American Association of University Women (AAUW) submits these **significant adverse comments** opposing the Department of Energy's direct final rule (DFR) entitled "Rescinding Regulations Related to Nondiscrimination in Federally Assisted Programs or Activities (General Provisions)." We urge the Department to withdraw the rule immediately.

The proposal is neither routine nor noncontroversial. DOE is wrong to assert that the changes in this DFR are "noncontroversial" because this change would strip away long-standing protections against **disparate-impact discrimination**—the standard that holds recipients accountable when a facially neutral policy nevertheless burdens certain racial or ethnic groups more than others. Civil-rights investigators recognize two ways discrimination manifests: (1) explicit different treatment and (2) policies whose **effects** create unequal barriers. By ignoring the second prong, the rule invites exactly the harms Congress enacted Title VI to prevent.

Why disparate-impact protections matter. Across classrooms, city streets, and digital portals, inequity shows up in familiar disguises: a "tardiness" suspension rule that disproportionately sidelines Latino students, sewer upgrades that detour around Black neighborhoods, and biometric log-ins that misidentify Asian American patrons and lock them out of the library. These examples reveal how facially neutral policies can hard-wire discrimination. That is why federal grantees must rigorously evaluate—and, where needed, replace—any practice that produces racially disparate outcomes when fairer, less restrictive alternatives are readily available.

Title VI's promise is still unfinished. The prohibition on discrimination in all its forms based on race, color, and national origin by recipients of federal financial assistance has meant that generations of Americans have had the opportunity to live, learn, and work free from discrimination. Yet this regulation seeks to narrow the scope of Title VI's prohibitions and rescind provisions that prohibit policies and practices with discriminatory effects, undermining the law's promises and subjecting people to unlawful and harmful discrimination. The

Department of Energy fails to provide a reasoned explanation for this change. Now is the time to strengthen civil rights enforcement, to recommit to equal protection under the law, and to act together to ensure that no person is excluded from participation in, denied the benefits of, or subject to discrimination under any program or activity receiving federal financial assistance. This direct final rule will instead undermine equal access to programs and perpetuate unlawful discrimination by removing longstanding protections against unjustified disparate impacts and requirements to provide language access. It should thus be immediately withdrawn.

Women and girls—especially in STEM fields—stand to lose. When schools, labs, or apprenticeship programs use screening tools that disproportionately shut out women or women of color, disparate-impact analysis is often the sole path to justice. Weakening that safeguard would stifle the very initiatives that usher women into the laboratories, studios, and data centers powering the next wave of scientific and technological innovation.

The DFR process is legally improper. Congress authorized direct final rules only for matters unlikely to draw objections. A proposal that dismantles core civil-rights protections is inherently controversial and must follow full notice-and-comment procedures. DOE offers no reasoned explanation for reversing decades of settled policy or for departing from sister agencies that continue to recognize disparate-impact claims.

In conclusion, AAUW calls on the Department of Energy to withdraw the direct final rule. Protecting against policies that look neutral but land unevenly is essential to fulfilling the Civil Rights Act's vision—and to ensuring that every person, regardless of race, color, national origin, or sex, can learn, lead, and thrive.

Sincerely,

Meghan Kissell, MSW
Senior Director, Policy & Member Advocacy
American Association of University Women (AAUW)