



Submitted via regulations.gov

September 23, 2026

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

Re: Comments on Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026); Docket ID ED-2026-OPEPD-2542

Dear Mr. Rogers:

The American Association of University Women (AAUW) opposes the proposed changes to the rules for federal education grants. We urge the U.S. Department of Education to withdraw the proposed restrictions on hiring, admissions, and program participation; the new power to end grants for convenience; the changes that would make continued funding less secure; and the preference for applicants that give up reimbursement for shared costs. These changes appear in proposed §§ 75.500(f), 76.500(f), 75.901, 75.253, and 75.228. We also oppose the proposed changes to grant selection criteria, public notice, and conditions on state-administered grants discussed below. AAUW has joined coalition comments on this proposal, and we write separately to address its effects on women and girls and additional legal concerns.

For more than 140 years, AAUW has advocated for women's educational opportunity. We work to ensure that women and girls can enter, remain in, and succeed in education, including fields where they have historically faced barriers. We also advocate for pregnant and parenting students, affordable higher education, and effective enforcement of students' civil rights. We are commenting because the Department's grant rules shape whether schools, colleges, and community organizations can carry out that work. Because the rule does not define "proxies," a college may stop reaching out to women in fields where they remain underrepresented, even if that outreach is lawful. An unexpected grant termination can interrupt services to students who were counting on them.

The proposal ignores both risks. It adds undefined conditions to federal education grants. It also gives the Department more power to cut or end funding after recipients have committed to approved projects.

I. The "proxies" standard is unsupported by evidence and ignores reliance interests.

The proposed rules would require grant recipients to base hiring, admissions, promotions, and pay decisions on "merit and high standards" for direct grants, or "merit and qualification" for state-administered grants, without regard to specified protected characteristics "or proxies thereof." The Department does not define "proxies" or explain how a recipient should identify one. Its rationale is that it "believes" grants are more likely to achieve their objectives if recipients emphasize merit and high standards. The proposal offers no findings or program-specific evidence showing that existing practices are failing, that these new requirements would improve outcomes, or that a narrower approach would be insufficient.ⁱ



We have seen this approach before. In 2025, the Department required schools to certify that they were not engaged in “illegal DEI.” A federal court held that certification unconstitutionally vague and vacated it. The proposed “proxies” standard raises the same notice problem. It tells recipients what they may not consider without telling them what the term covers.ⁱⁱ

AAUW supports fair and rigorous selection practices. The problem is that the Department has not told recipients what its new standard means. Could outreach to women in engineering be treated as a proxy for sex? Would recruitment at a community college, outreach to first-generation students, or a program designed to reach pregnant and parenting students raise the same concern? The rule covers admissions and also refers to who may take part in a grant-funded project. It does not explain where outreach ends and a prohibited selection practice begins. Colleges and nonprofits may stop activities they reasonably believe are lawful rather than risk losing funding.

The proposal also fails to reconcile its terms with existing law. The Department’s Title IX rule, 34 C.F.R. § 106.3(b), allows schools to take voluntary steps to address limited participation by people of a particular sex, even without a finding of discrimination. The proposed text does not explain how that authority fits within its exceptions. Nor does it explain how “proxies” would apply when Congress itself defines whom a program must serve, including first-generation students or institutions eligible for programs serving tribal colleges and minority-serving institutions. A general grant condition cannot override a program’s statutory eligibility requirements.ⁱⁱⁱ

These questions matter to current recipients, not only future applicants. Grantees have hired staff, established partnerships, and undertaken outreach described in applications the Department approved. Yet the regulatory impact analysis says the § 75.500 changes are unlikely to produce quantifiable costs. It does not examine the cost of reviewing existing projects, changing recruitment or admissions practices, obtaining legal advice, or interrupting services while recipients seek clarity. An undefined rule can also discourage research and inquiry concerning barriers facing women, despite the proposal’s stated protection for freedom of inquiry and research.^{iv}

The Department should withdraw the proposed restrictions on hiring, admissions, and program participation in §§ 75.500(f) and 76.500(f). Any replacement must define “proxies,” distinguish outreach from selection, explain how the term applies to project participation, and expressly preserve statutory eligibility requirements and voluntary action permitted by the Department’s Title IX rule.

II. The selection criteria remove equity factors without explaining the change.

Under current grant selection rules (§ 75.210), reviewers may consider whether an applicant has staff, or a plan to hire staff, with direct experience of barriers to education. These include barriers related to gender, pregnancy, parenting, and caregiving. The proposal would remove that factor. It would also remove the factor that lets reviewers consider how an applicant would give people facing such barriers equitable access to a project. That factor helps carry out section 427(b) of the General Education Provisions Act (GEPA), 20 U.S.C. § 1228a(b). GEPA requires applicants to describe how they will overcome barriers to participation, “including barriers based on gender.” The Department cannot remove a way to score applicants on that statutory requirement without explaining why. The proposal also removes “civil rights organizations” from the community perspectives that applicants may bring to project design, again without explanation.^v



The new selection criteria would instead allow reviewers to award points for admissions, promotions, hiring, pay, and participant selection decisions made without considering protected characteristics “or any proxies.” The Department describes much of its revision of the selection criteria as streamlining and alignment. It does not explain why it is removing the existing equity factors or assess what the change means for grant competitions. An agency that changes course must acknowledge the change and give good reasons for it.^{vi}

The difference is concrete for AAUW’s priorities. A project preparing women for a field in which they have been underrepresented might draw on staff with direct experience of the barriers participants face and design services to overcome them. The current criteria allow reviewers to consider that capacity and those services. Under the proposal, the explicit equity factors disappear while applicants must navigate a new, undefined “proxies” standard. The Department should retain the existing factors and explain how its proposed scoring criteria would affect projects designed to expand women’s participation and opportunity.

III. Allowing the Department to end grants “for convenience” would disrupt projects without addressing their costs.

The proposal would expressly allow the Department to end a discretionary grant “for convenience” (§ 75.901). The explanation accompanying the rule calls this a clarification, links it to changes in agency priorities under government-wide grant rules, and compares it to federal contracts. For a recipient that has met its obligations, giving the Department explicit power to end an approved project because its priorities have changed is a major change. The Department should acknowledge it and explain why its existing grounds for ending grants are inadequate.^{vii}

The procurement analogy is incomplete. The contract clause the Department cites, 48 C.F.R. § 52.249-2, provides for settlement of work performed, costs incurred, and reasonable settlement expenses after a termination for convenience. Proposed § 75.901 supplies no comparable account of how the Department would treat a grantee’s good-faith commitments to staff, students, partners, and subrecipients. Grants and contracts differ, but the Department cannot borrow the justification for a termination power without addressing the costs and safeguards associated with its exercise.^{viii}

The Department’s impact analysis finds no quantifiable costs from this provision. For a multiyear education grant, that overlooks recruitment already completed, matching funds committed, staff hired, and students enrolled in services intended to continue. The 2025 emergency Supreme Court orders concerning terminated grants do not fill the gap in the Department’s explanation. They concerned interim relief and which court could hear particular claims; they did not decide that the Department may end any grant at will.^{ix}

The Department should withdraw the proposed power to end grants for convenience in § 75.901. A future proposal should identify the grounds for ending a grant, how recipients would receive notice and a chance to respond, and how the Department would address costs incurred under an approved award.

IV. The changes to continued funding remove clear standards and threaten hearing rights.

The proposal would let the Secretary consider “any relevant information” when deciding whether to fund the next year of a multiyear project (§ 75.253). It removes the current rule’s express focus



on how well the recipient is performing and its existing limits on decisions to continue funding. It would also permit smaller awards, payments in installments, or delayed release of funds. A recipient meeting its approved goals could have no dependable way to plan the next budget period.^x

The proposed text retains written reconsideration when the Secretary decides not to continue an award. But it says a recipient is not entitled to that reconsideration when the Department reduces a continuation award. A substantial reduction or delay can disrupt classes, research, or student services just as a denial can. The Department has not explained why recipients facing those decisions should have different opportunities to respond.^{xi}

The proposal also says that reducing or denying the next year of funding is never a “withholding” under section 455 of the General Education Provisions Act (GEPA), 20 U.S.C. § 1234d. It would prevent the Department’s Office of Hearings and Appeals from hearing these cases. GEPA gives recipients notice and a hearing before the Department withholds funding under that law. Whether a particular decision is a withholding depends on the law and what the Department actually does, not simply on the label it uses in a regulation. The proposal does not explain why its blanket exclusion would be consistent with GEPA in every case.^{xii}

The Department should withdraw the changes to continued funding in § 75.253, keep clear standards based on recipient performance, provide review of substantial funding cuts, and confirm that GEPA’s notice and hearing protections remain available whenever its action constitutes a withholding under 20 U.S.C. § 1234d.

V. Removing Federal Register publication would make grant opportunities and priorities less visible.

The Department proposes to stop publishing application notices, maximum award amounts, and annual competition priorities in the Federal Register (§§ 75.100, 75.104, and 75.105), placing that information in application notices available through Grants.gov instead. Grants.gov does not replace the public record created by Federal Register publication, particularly for smaller community organizations, community colleges, and institutions with limited staff to monitor grant opportunities.^{xiii}

This change compounds the risk of ending grants for convenience. If the Department can later end an award because it no longer serves agency priorities, recipients and the public need a clear, lasting record of the priorities announced when the award was made. The Department estimates approximately \$400,000 in annual benefits from the changes it could measure, but does not weigh the loss of public visibility or the costs shifted to applicants.^{xiv}

The Department also does not explain how it would apply section 437(d) of GEPA, 20 U.S.C. § 1232(d), which limits the usual exemption of grant rules from notice-and-comment requirements. It should confirm that competition priorities with legally binding effect will continue to be published for public comment when required by GEPA and the Administrative Procedure Act.^{xv}

The Department should retain the Federal Register publication requirements and clarify which priorities will undergo notice and comment.



VI. Adding executive orders to state grant conditions leaves recipients uncertain about their obligations.

The Department describes the addition of executive orders to its state grant rules as an oversight correction (§ 76.700). The proposed text would require states and organizations receiving funds through them to comply with applicable executive orders and use federal funds in accordance with them. It does not identify which orders would govern which grants, how recipients would learn of a changed requirement, or how an order would interact with a program law, regulation, state plan, or approved application.^{xvi}

Those questions affect school districts and state-administered higher education programs that must plan services and budgets in advance. The Department should withdraw this change unless it identifies the requirements it intends to enforce and explains their legal basis and application to existing awards.

VII. The indirect-cost preference favors applicants that can subsidize federal grants.

The proposal would let the Department favor applicants that request less reimbursement for shared costs than their approved rate allows (§ 75.228). Those costs pay for financial oversight, facilities, and shared administration needed to carry out a grant. An institution with substantial unrestricted resources may be able to cover them itself; a smaller nonprofit or college with fewer resources may not. Requesting less reimbursement does not, by itself, show that a project is stronger or costs less overall.^{xvii}

The Department estimates that this change could move approximately \$45 million a year from support costs to direct project costs and assumes that this would improve educational outcomes. It does not show that recipients can keep the staff and systems needed to deliver and account for those services while giving up reimbursement for shared costs. We urge the Department to withdraw this preference in § 75.228 and assess its effects on applicants with different levels of institutional support.^{xviii}

VIII. The Department has not assessed this proposal together with OMB's pending grant rule.

This proposal must also be read alongside OMB's pending revision of the government-wide grant rules, Regulation for Federal Financial Assistance, 91 Fed. Reg. 32198 (May 29, 2026). Proposed § 3474.1 would adopt 2 C.F.R. part 200 for Department grants with only two stated exceptions. If OMB finalizes its proposed changes, the resulting government-wide requirements would operate alongside the Department-specific conditions in this rule. OMB's proposal addresses pre-award review against agency priorities and new restrictions on grant-funded activities. The Department has not analyzed how recipients would comply with the combined requirements, what the combined costs would be, or how conflicting or overlapping standards would be resolved. It should do so before proceeding.^{xix}

Conclusion

AAUW respectfully urges the Department to withdraw the proposed hiring, admissions, and program participation; the power to end grants for convenience; the changes to continued funding; and the preference for applicants that give up reimbursement for shared costs. We also ask the



Department to reconsider the related changes to grant selection, public notice, executive-order conditions on state grants, and how its rules would interact with the pending government-wide grant proposal.

Women and girls should not lose educational opportunities because a grant recipient cannot determine whether its approved outreach is permitted or whether funding for its program will continue. The Department should address these foreseeable effects before changing the rules on which recipients and students rely.

Sincerely,

A handwritten signature in purple ink that reads "Meghan Kissell".

Meghan Kissell
Senior Director, Policy & Member Advocacy

ⁱ Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

ⁱⁱ American Federation of Teachers v. U.S. Department of Education, No. SAG-25-628, Memorandum Opinion (D. Md. Aug. 14, 2025), <https://docs.justia.com/cases/federal/district-courts/maryland/mddce/1:2025cv00628/577437/83>.

ⁱⁱⁱ 34 C.F.R. § 106.3(b), <https://www.ecfr.gov/current/title-34/section-106.3>.

^{iv} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^v 34 C.F.R. § 75.210(d)(2), (e)(2), (g)(2)(v) (current regulation), <https://www.ecfr.gov/current/title-34/section-75.210>.

20 U.S.C. § 1228a(b), <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section1228a>.

^{vi} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>. 34 C.F.R. § 75.210(d)(2), (e)(2), (g)(2)(v) (current regulation), <https://www.ecfr.gov/current/title-34/section-75.210>.

^{vii} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{viii} 48 C.F.R. § 52.249-2(e)-(g), <https://www.acquisition.gov/far/52.249-2>.

^{ix} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^x Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{xi} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{xii} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>. 20 U.S.C. § 1234d, <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section1234d>.

^{xiii} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{xiv} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{xv} 20 U.S.C. § 1232(a), (d), <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title20-section1232>.

^{xvi} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{xvii} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.

^{xviii} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>.



^{xix} Education Department General Administrative Regulations, 91 Fed. Reg. 54666 (Aug. 24, 2026), <https://www.federalregister.gov/d/2026-17239>. Regulation for Federal Financial Assistance, 91 Fed. Reg. 32198 (May 29, 2026), Docket No. OMB-2026-0034, <https://www.federalregister.gov/d/2026-10817>.