



Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Re: Education Department General Administrative Regulations
Submitted via [regulations.gov](https://www.regulations.gov) [Docket ID ED-2026-OPEPD-2542]

September 23, 2026

Secretary McMahon and Deputy Assistant Secretary Bessette,

On behalf of the undersigned programs at New America, we write to oppose key parts of the Department of Education's proposed rule on Education Department General Administrative Regulations (EDGAR). 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 EDGAR. These changes would make it more difficult for ED programs to serve the students who need support the most (and for whom Congress designed the policy).

§ 75.210 General selection criteria.

We oppose the proposed removal of references to "underserved populations" from § 75.210 because they are essential tools in advancing the chief purpose for which Congress established the Department: "to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual" (section 102(1) of the Department of Education Organization Act). These provisions help ensure that the Department's competitive grant programs promote equal opportunities for students, educators, and other program participants, and close gaps in access and success, consistent with the Department's purpose and mission.

The Department describes these changes as revisions that "consistently refer to grant participants as the 'target population,'" undertaken to "ensure alignment of factors throughout § 75.210." But "target population" and "underserved populations" are not synonyms, and they do not perform the same function in a selection criterion. A target population is whoever an applicant proposes to serve. "Underserved" is a comparison: to describe a population as "underserved," an applicant must show it is receiving less of a service or activity than it needs, measured against some standard of what adequate service looks like. Substituting the first for the second converts a substantive standard into something meaningless. Every applicant serves its target population. A factor that every application satisfies cannot help peer reviewers

identify stronger proposals from weaker ones, which is the purpose of selection criteria in the first place.

The Department's proposal to remove from reviewers' consideration the needs of "underserved populations" and the importance of closing opportunity gaps from **§ 75.210 (a)(iii)** and **(iv)** and **§ 75.210 (d)(3)(xii)** should be rejected. In assessing the need for a particular project described in the application, peer reviewers must examine the extent to which members of "underserved populations" will be served by and benefit from the project. This also assures that limited federal dollars are focused on addressing the most compelling needs in public education. For example, causal research has demonstrated that taking multiple career and technical education (CTE) courses in a single program area (i.e., "concentrating" in CTE) during high school boosts the likelihood of on-time graduation with a regular diploma. English learners, who have lower rates of on-time high school completion than peers who are proficient in English,¹ are greatly underrepresented among CTE concentrators² and less likely to benefit from these programs. The Department's statutory purpose as an equity driver requires that it ask peer reviewers who are assessing the need for a CTE competitive grant project to look beyond whether a project will address the needs of the "typical" high school student to examine the extent to which it will address the needs of English learners and other students who are systematically underserved by CTE programs. This is necessary so that these students can also enjoy the benefits of CTE concentration.

Similarly, the Department's proposal to remove "underserved populations" from **§ 75.210 (a)(vi)**, which is used to assess the need for pre-service teacher professional development and other training programs, must be rejected in order to promote the use of strategies that remove barriers to the inclusion of people who are underrepresented in the fields and careers for which these programs train people. African-Americans comprised 15 percent of K-12 public school enrollment during the school year 2020-21, but only about 6 percent of public school teachers.³ Addressing the underrepresentation of African-Americans and other groups among educators is an important strategy for improving student achievement. For example, rigorous research has demonstrated that African-American students achieve at higher levels when they are taught by teachers who are also African-American, particularly in the early grades and among lower-performing students.^{4 5}

¹ Johnson, Angela. 2019. "The Effects of English Learner Classification on High School Graduation and College Attendance." AERA Open. <https://doi.org/10.1177/2332858419850801>

² "Unlocking Opportunities: Supporting English Learners' Equitable Access to Career and Technical Education | Migration Policy Institute." 2023. April. <https://www.migrationpolicy.org/publication/unlocking-opportunities-supporting-english-learners-equitable-access-career-and>

³ National Center for Education Statistics. n.d. "Characteristics of Public School Teachers." Accessed September 22, 2026. <https://nces.ed.gov/programs/coe/indicator/clr/public-school-teachers>

⁴ Egalite, Anna, Kisida, Brian, and Winters, Marcus A. 2015. "Representation in the classroom: The effect of own-race teachers on student achievement." *Economics of Education Review*, Volume 45, pp. 44 - 52. <https://open.bu.edu/items/a2895808-0465-4fe2-bc41-0e0adc966c92>

⁵ Gershenson, Seth, Cassandra M. D. Hart, Joshua Hyman, Constance Lindsay, and Nicholas W. Papageorge. 2018. "The Long-Run Impacts of Same-Race Teachers." Working Paper Series. National Bureau of Economic Research, November. <https://www.nber.org/papers/w25254>

We oppose the Department's proposed elimination from § 75.210(b)(2)(ii) of the phrase directing the Secretary to consider the significance of the problem or issue "as it affects educational access and opportunity, including the underlying or related challenges for underserved populations," and the corresponding replacement of "underserved populations" with "target population" in **§ 75.210(b)(2)(viii)** and **(b)(2)(xvi)**.

These provisions go to the heart of the fundamental purpose of the Department, which is to increase educational opportunity in this country. They also advance the secondary purpose for which Congress created the Department: "to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States" (section 102(2) of the Department of Education Organization Act). To supplement and complement non-federal efforts in education, federal education dollars must be invested in reaching and improving outcomes for populations and communities that states and localities are systematically underserving. Limited federal resources should be focused on improving and increasing opportunities for underserved populations, not subsidizing an inequitable status quo.

The two purposes are interdependent. Federal investment supplements and complements non-federal effort precisely where it reaches populations and communities that state and local funding structures do not adequately serve. Where federal dollars flow to activities that States and localities would have funded regardless, they substitute rather than supplement, and the federal contribution produces nothing of consequence. For this same reason, Congress included supplement-not-supplant requirements in the Elementary and Secondary Education Act and most of the Department's program statutes that authorize competitive grants. Directing limited federal resources toward underserved populations is how federal grantmaking achieves the purposes for which Congress created the Department and its programs.

We oppose the Department's proposal to strike "underserved" from **§ 75.210 (c)(vii)** because it would remove this criterion's emphasis on identifying the results of grant activities on the outcomes of populations that do not participate in a program at the same level or rate as other populations. For example, youth from high-poverty communities are significantly less likely to enroll in postsecondary education after high school than peers who live in more affluent communities. In 2024, only about half of graduates from high-poverty high schools (i.e., those in which 75 percent or more of students were eligible for free or reduced-price school lunches) enrolled in college immediately after graduation, as compared with two-thirds of graduates from low-poverty schools.⁶ For that reason, it is critical that the Department grant programs that seek to improve postsecondary access document the services they provide to students from economically disadvantaged families and collect data on the outcomes of these youth so that we can better understand how to improve these results. Removing the reference to "underserved populations" from **§ 75.210 (c)(vii)** would discourage applicants from assessing the results of programs for those students who need them the most.

⁶ "Data Dive: Spotlighting Gaps in Postsecondary Attainment | National Student Clearinghouse." 2025. <https://www.studentclearinghouse.org/nscblog/date-dive-spotlighting-gaps-in-postsecondary-attainment/>

We oppose the deletion of “underserved” from **§ 75.210 (c)(xviii)** and “underserved populations” from **§ 75.210(d)(3)(i)** and **(x)** because they would remove the expectation that Department-funded grant projects will improve opportunities and outcomes for underserved populations and engage community members and partners in these improvement activities. Effectively addressing the needs of underserved populations is core to the Department’s mission.

We oppose the Department’s proposed revision of **§ 75.210(c)(2)(xxi)** because it is unnecessary and confusing. Department grantees are already required by law to adhere to federal civil rights laws and regulations. The proposed revision of the criterion adds a cramped, misleading, and incomplete summary of those requirements that would trap applicants into establishing policies inconsistent with federal civil rights laws and regulations.

The list in the proposed revision is also incomplete. The proposed factor identifies race, color, religion, sex, and national origin. It omits disability and age, both of which are prohibited bases of discrimination in federally assisted programs under Section 504, Title II of the Americans with Disabilities Act (ADA), and the Age Discrimination Act. An applicant reading **§ 75.210(c)(2)(xxi)** as a statement of its legal obligations could conclude that disability and age are not protected in participant selection.

The reference to “any proxies for these characteristics” compounds the problem. No definition is provided for “proxy,” leaving peer reviewers to apply the term without standards. Facially neutral eligibility criteria that correlate with protected characteristics are not unlawful. But an undefined proxy standard in a selection criterion may lead applicants to abandon targeting that is permissible and in many cases statutorily required, including targeting by income, first-generation status, geography, English learner status, and disability. The Department should not adopt a criterion that deters applicants from complying with the statutes authorizing the programs they seek to implement.

Finally, the proposed revision inappropriately shifts responsibility for evaluating civil rights compliance from the Office for Civil Rights to peer reviewers, who are selected for subject-matter expertise in education rather than for expertise in federal antidiscrimination law.

We oppose the removal of **§ 75.210 (d)(2)** because it undermines the requirement in section 427 of the General Education Provisions Act (GEPA) that every applicant (other than an individual) for Department assistance “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.” Critically, **§ 75.210 (d)(2)** evaluates the likely effectiveness of the strategies that an applicant describes for ensuring equitable and adequate access and participation so that the description each applicant submits is not just a paper exercise in compliance. This criterion ensures that the description provided by an applicant has meaning

and impact on the success of its application in peer review. The Department would continue to require applicants to submit a GEPA section 427 statement while removing both the criterion under which peer reviewers evaluate that statement. We ask the Department to address and explain this inconsistency directly in the final rule.

§ 75.210 (d)(2) identifies many important groups of students or prospective students who experience barriers to participation and success in education that must be addressed by applicants in developing and implementing their projects. They include barriers based on 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. We highlight several of these groups of individuals below and explain why it is vital that applicants describe how they will promote their successful participation in Department-funded programs.

Pregnant, parenting, and caregiving students:

Between elementary and graduate school, there are at least 180,000 pregnant students each academic year who continue their pregnancies to term.⁷ Parenting students make up approximately one in five undergraduate students,⁸ but are significantly less likely than their non-parenting peers to complete college.⁹ Despite their prevalence in our K-12 and postsecondary education systems, pregnant and parenting students are underserved. They often lack accommodations that enable their equal access to education and face discrimination, inflexible school policies, and inadequate support for basic needs.

In college, parenting students earn GPAs similar to their peers, suggesting that non-academic barriers interfere with their ability to stay enrolled and graduate. Parenting students face higher non-tuition (living) costs than their non-parenting peers,¹⁰ higher rates of basic needs insecurity,¹¹ and often lack adequate time to manage their

⁷ Anderson, Theresa, Kimberly Salazar, and Jessica Lee. 2024. The New Title IX Regulations Will Help More Than 180,000 Pregnant Students Every Semester and Millions of Parenting Students Long Term. Urban Institute.
<https://www.urban.org/urban-wire/new-title-ix-regulations-will-help-more-180000-pregnant-students-every-semester>

⁸ American Council on Education. 2024. "Student-Parents."
<https://www.acenet.edu/Research-Insights/Pages/Student-Support/Student-Parents.aspx>

⁹ Spark Collaborative. 2026. Supporting Student Parents Pays Off.
<https://studentparentaction.org/assets/r-file/Student-Parent-Overview-updated-August-2026.pdf>

¹⁰ Williams, Brittani, et al. 2022. "For Student Parents, The Biggest Hurdles to A Higher Education Are Costs and Finding Child Care." EdTrust.
<https://edtrust.org/rti/for-student-parents-the-biggest-hurdles-to-a-higher-education-are-costs-and-finding-child-care/>

¹¹ Plumb, May Helena. 2025. Parenting Students: What They Need and What Institutions Can Do. Trellis Strategies.
https://www.trellisstrategies.org/wp-content/uploads/2025/03/Research-Brief_ParentingStudents_March2025.pdf

responsibilities of school, work, and caregiving.¹² The Child Care Access Means Parents in School (CCAMPIS) grant program is the only federal program specifically meant, by law, to support low-income parenting students in higher education. But CCAMPIS reaches only a fraction of eligible parenting students,¹³ and alone is not enough to meet the needs of this underserved population.

At all levels of education, pregnant and parenting students and their unique needs should be considered across grant programs administered by the Department of Education. Grant applicants that do not contend with the health risks of pregnancy, or the affordability, basic needs, and time barriers specific to pregnant, parenting, and caregiving students are unlikely to be successful in serving this population and ensuring their equitable access to educational programs. For example, a grantee that proposes work to address students' basic needs but does not consider the child care needs of parenting students is unlikely to serve parenting students well. Similarly, providing a campus food pantry to support students' basic needs security is inadequate for parenting students if it does not offer the types of resources a parent might need, such as formula, diapers, or snacks for young children. Providing tailored supports and access to resources that address the barriers this underserved population faces is key to promoting their equal access to education.

Students experiencing homelessness or housing insecurity:

Students experiencing homelessness or housing insecurity face barriers that extend well beyond access to a physical place to live. In the 2023-2024 school year, public schools identified 1,548,191 K-12 students experiencing homelessness.¹⁴ These students face challenges such as frequent school transfers, transportation barriers, and a lack of a fixed address, which affects their enrollment in education. These compounding obstacles lead to chronic absenteeism, and on average, states report that nearly half (47.7 percent) of their identified homeless students were chronically absent in the 2023-2024 school year.¹⁵ Ultimately, these factors hinder graduation outcomes, which grantees can help mitigate through funding for education programs tailored to this population. Research shows that when grantees receive funding for these programs, they can provide school stability through transportation services, school support through McKinney-Vento liaisons, and school access, all of which lead to improved educational outcomes for these students.¹⁶ Targeted strategies to meet the needs of homelessness

¹² Conway, K. M., Wladis, C., & Hachey, A. C. (2021). Time Poverty and Parenthood: Who Has Time for College? AERA Open. <https://journals.sagepub.com/doi/10.1177/23328584211011608>

¹³ Nadworny, Elissa. 2019. "Vital Federal Program To Help Parents In College Is 'A Drop In The Bucket.'" Institute for Women's Policy Research. <https://iwpr.org/press/vital-federal-program-to-help-parents-in-college-is-a-drop-in-the-bucket/>

¹⁴ Schoolhouse Connection. 2026 Fact Sheet: K12 Students Experiencing Homelessness. <https://e1.nmcdn.io/assets/schoolhouse/wp-content/uploads/2026/02/Educating-Children-and-Youth-Experiencing-Homelessness-Fact-Sheet.pdf>

¹⁵ Ibid

¹⁶ Ibid

or housing-insecure students are critical to serving this population and ensuring their access to education.

Furthermore, an estimated 1.5 million undergraduate and graduate students experienced homelessness within a single academic year, according to nationally representative federal data.¹⁷ A 2023–24 survey of students across 91 institutions in 16 states similarly found that nearly half of respondents experienced housing insecurity.¹⁸ Housing insecurity is not just about whether students have access to housing; it is about whether that housing is affordable, safe, and stable enough to sustain their enrollment and graduation. These barriers are associated with worse student outcomes: students facing basic needs insecurity, including unstable housing, are more likely to report stopping out of college than their peers.¹⁹ Many students facing housing insecurity are unaware of the supports available to them, and even those who are aware and ask for help often do not receive it.²⁰ Grant applicants that treat housing insecurity as incidental to broader education or basic needs work, rather than addressing the needs of housing-insecure students specifically, are unlikely to be successful in serving this population.

We oppose the proposed elimination of **§ 75.210 (e)(2)**, which assesses the extent to which an applicant demonstrates that it will seek to hire project personnel “who are members of groups that have historically encountered barriers, or who have professional or personal experiences with 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 criterion is consistent with the Department’s purpose to drive equity and equal opportunity in education and helps to ensure that Department-funded grant projects will be effective in achieving that purpose. For example, correctional education projects designed and delivered by personnel with direct experience of the justice system are better positioned to anticipate the institutional constraints and challenges faced by students that help determine whether the project will be successful in increasing educational attainment.

The Department states that it proposes this change “to focus the project personnel criterion on the qualifications of the personnel.” That rationale cannot be reconciled with the remainder of the proposed rule. Experience is a qualification, and the proposed regulation repeatedly states as much. Proposed § 75.210(e)(2)(i), for example, evaluates a project director’s “relevant training or experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects for the target population.” The

¹⁷ Davis, Richard, and Eddie Conroy. 2024. “The Harsh Reality of Parenting Student Homelessness.” New America. <https://www.newamerica.org/insights/the-harsh-reality-of-parenting-student-homelessness/>

¹⁸ The Hope Center for Student Basic Needs. 2025. <https://hope.temple.edu/research/hope-center-basic-needs-survey/2023-2024-student-basic-needs-survey-report>

¹⁹ Ibid

²⁰ Ibid

Department preserves experience-based factors throughout the personnel and resources criterion. What this proposal removes is not experience in general but one specific category of experience: direct familiarity with the barriers the project is intended to overcome. The Department does not explain why that experience alone is irrelevant to an individual's qualifications when other forms of experience are retained in the same paragraph. The proposed deletion should be rejected.

We oppose the proposed addition of **§ 75.210(e)(2)(vi)**. For the reasons set out in our comment on **§ 75.210(c)(2)(xxi)**, the provision is unnecessary, duplicates legal obligations grantees already have, and is incomplete in ways that will mislead applicants.

The removal of representation or lived experiences of the target population is inconsistent with the Department's purpose to drive equity and equal opportunity in education and will make it harder to ensure that Department-funded grant projects will be effective in achieving that purpose. For example, English learner education projects designed and delivered by personnel with direct experience learning English as an additional language are better positioned to anticipate the institutional constraints and challenges faced by students that help determine whether the project will be successful in increasing educational attainment.

The proposed factor identifies race, color, religion, sex, and national origin. It omits disability and age, even though employment discrimination on those bases is prohibited for recipients of federal financial assistance by Section 504 of the Rehabilitation Act, by Title I of the ADA, and by the Age Discrimination in Employment Act (ADEA). Moreover, Section 504 and the ADA require an employer to consider an applicant's or employee's disability for purposes of providing reasonable accommodation. A criterion instructing applicants that employment decisions be made "without consideration of" listed characteristics that omit disability encourages an applicant to conclude either that disability is unprotected or that considering it will put their application at a disadvantage in a grant competition. Both conclusions are wrong.

We urge the Department not to adopt **§ 75.210(e)(2)(vi)**. Grantees' employment obligations are established by Title VII, Section 504, the ADA, and the ADEA, and are enforced by the Equal Employment Opportunity Commission and the Department's Office for Civil Rights. Asking peer reviewers to assess compliance is inappropriate and outside their expertise.

We oppose the proposed deletion of "including those from underserved populations" from **§ 75.210 (g)(2)(v)** because it would eliminate the expectation that applicants engage members of underserved populations in designing and implementing their proposed project. Including members of underserved populations in project design helps ensure that the proposed project will be effective in meeting the needs of these individuals and overcoming barriers that have excluded them or limited their participation and success in education. Nearly all Department grant programs were created by Congress to promote equitable and equal opportunities in education. Removing "underserved populations" from the criterion would make it less likely that Department grant projects will be successful in achieving those goals.

We oppose the Department's proposal to eliminate "underserved populations" from **§ 75.210 (i)(1)** because it is inconsistent with the Department's mission. The Department was established by Congress to increase educational opportunities in the U.S. The extent to which an applicant's proposed strategy for scaling its project will reach and improve opportunities for members of underserved populations should be the chief consideration in evaluating the merits of the strategy. Absurdly, the Department's revision of the criterion would give the same weight to a proposal to scale a project to serve affluent, high-achieving students as it would to one that aims to serve and improve opportunities for economically disadvantaged students who are struggling in school.

§ 75.228 Indirect costs

We oppose the proposal in **§ 75.228** that would provide competitive preference points for applicants that propose lower indirect cost rates, even if they have an indirect cost rate negotiated with and approved by the federal government. New America works with many community colleges in our Center on Education and Labor, often on workforce development initiatives and capacity building. Community colleges use indirect costs for essential functions such as utilities and maintenance.

Community colleges receive fewer state and private resources than other postsecondary institutions.²¹ Faced with the choice to cut already bare-bones operations costs or apply with a disadvantage, some colleges may choose not to apply for the federal grant at all. In the end, this could reduce the resources available to students who need the most support, as federal support shrinks while need does not.

§ 75.253 Continuation of a multiyear project after the first budget period

To receive a continuation award under the Department's current regulations, a grantee must demonstrate that it has made "substantial progress" toward the project's goals and objectives and performance targets or obtain the Secretary's approval for project changes that do not increase costs to the taxpayer that will enable it to achieve those goals and objectives and performance targets. The decision is exclusively performance-based. This assures a grantee that has committed time, personnel, facilities, and other resources to implementing a project will be able to continue the project so long as it maintains satisfactory performance and makes adequate progress in implementation, assuming Congress appropriates sufficient funds for the underlying program. This is a fair bargain that puts the onus on the grantee to deliver on the plans outlined in its application. The Department, however, is proposing to delete "grantee performance" from **§ 75.253(b)** as the exclusive consideration for making continuation awards, giving itself complete discretion to determine whether to make a continuation award. A school district or institution of higher education that works hard to implement its project and performs at a high-level could lose its continuation award at the whims of a political appointee. We oppose the injection of political considerations or other factors unrelated to grantee performance to

²¹ Community College Research Center. 2022. Policy Fact Sheet: Public Funding of Community Colleges. <https://ccrc.tc.columbia.edu/publications/public-funding-community-colleges.html>

decisions about continuation awards. The proposed amendment to **§ 75.253(b)** should be removed from the final rule.

We oppose the proposed elimination of the requirement in **§ 75.253 (c)** that the Department give priority to funding continuation awards over making new grants. This has been a bedrock requirement of the Department's direct grant regulations for many decades because it assures recipients of multi-year grants that the Department will fulfill the long-term financial commitment it made when it first funded the award. Removing this requirement would make the Department an unreliable partner in grant-making, 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 educational 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 perform at a high-level that they will be able to carry out a sustained effort to accomplish the goals that Congress and the Department established at the time of the award.

Striking the priority for funding continuation awards from **§ 75.253 (c)** would make Department grant opportunities high-risk and significantly reduce the appeal of federal funding. What institution of higher education would want to start a long-term initiative to increase postsecondary retention and completion, for example, knowing that it could all abruptly end mid-way through, wasting the time that administrators, instructors, and counselors put into the project and leaving students suddenly stranded without services they relied on? Applicants deterred from seeking Department grant funding would not constitute a random sample. Institutions with substantial endowments could absorb the impact of a project terminated at its midpoint and continue the project with its own resources. Community colleges and small and under-resourced institutions serving the students Department programs were designed to reach could not. Striking the continuation priority would screen out the very applicants best positioned to achieve the purposes for which Congress established Department programs, leaving the Department to pursue those purposes with the entities least suited to accomplish them.

Subpart E—What Conditions Must Be Met by a Grantee?

§ 75.500 Constitutional rights, freedom of inquiry, and Federal statutes and regulations on nondiscrimination.

We oppose the proposed addition of **§ 75.500(f)**. Proposed § 75.500(f)(1) names race, color, religion, sex, and national origin. It omits disability and age, even though discrimination on those bases by recipients of federal financial assistance is prohibited by Section 504 of the Rehabilitation Act, by the ADA, and by the ADEA. With respect to disability, the omission is not just incomplete but misleading because Section 504 and the ADA require an employer to consider disability for purposes of providing reasonable accommodation.

The provision would also require that admissions practices under the grant be "based on merit and high standards," notwithstanding requirements in many federal education program statutes that admissions be based on other considerations. Community colleges and adult education providers operate under open-admission policies. The Federal TRIO Programs and GEAR UP serve low-income and first-generation students, statuses that are defined in law. The Migrant Education Program, the McKinney-Vento Homeless Assistance Act, and vocational rehabilitation programs each serve populations Congress defined by need or status rather than merit. A grantee cannot comply with the eligibility requirements Congress established and also assure the Department that its admissions rest on merit and high standards.

Proposed § 75.500(f)(2) would require that a grantee's employment practices not "compel statements of belief in support or opposition to any political views." The proposed rule defines neither "statements of belief" nor "political views." It is unclear whether the clause would ban a teaching philosophy statement, an acknowledgment of an institutional code of conduct, an oath of office required of public employees, or a nondiscrimination policy that employees are asked to acknowledge in writing.

The Regulatory Impact Analysis states that the proposed changes to § 75.500, "which would require assurances from grantees, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations." Imposing a new assurance covering hiring, admissions, promotion, and compensation, together with a requirement to maintain institutional policies on speech, inquiry, press, association, and research, will require grantees to engage attorneys in legal review, possibly revise their policies, and establish documentation to demonstrate compliance with the assurance. The Department has not estimated any of these costs.

§ 75.901 Suspension and termination.

We oppose the Department's proposal to amend **§ 75.901** to permit the Secretary or a pass-through entity to terminate grant awards "for convenience" because it would undermine the effectiveness of Department grant programs, waste taxpayer dollars, and reduce the pool of entities that compete for Department awards:

- **The proposed rule will reduce the effectiveness of Department programs and waste taxpayer dollars by making 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 the Department decides it is convenient for it to terminate the award. 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 a CTE student needs to complete her program 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 “for convenience” clause, however, would make the federal government an unreliable and mercurial partner, with projects subject to termination at the whims of political appointees. This would significantly reduce the appeal of federal funding. Many states and local school districts would be reluctant to launch long-term projects to improve student achievement, for example, if the projects could unexpectedly end because a new political appointee suddenly decided grant termination was “convenient.” The time that administrators, teachers, and students invested in the project would be wasted. 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 Department's programs.

§ 76.700 Compliance with executive orders (EOs)

This regulation would require grantees, such as Community Colleges, to follow EOs for state-administered federal formula grants, such as Perkins Career and Technical Education and Adult Basic Education. Compliance with EOs goes beyond the requirement to follow the law and would add confusion to programs that community colleges rely on. Executive Orders do not have the force of law, so compliance should not be required. In Congress, there is strong bipartisan support for these state-administered education and workforce formula programs in the appropriations process. Requiring colleges to meet non-statutory executive orders—which can be vague and/or political—for core formula grants undermines Congress's intent.

At New America, we envision an America that represents and serves the public, where institutions—including the Department of Education—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