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Higher Education Alert

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Proposed OMB Uniform Grants Regulation: Federal funding changes

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OMB's proposed Uniform Grants Regulation includes major changes to federal research funding, grant compliance, and award administration.

What's the impact?

- OMB's proposed Uniform Grant Regulation would fundamentally reshape federal grant requirements by embedding administrative policy priorities directly into award selection, administration, compliance, and termination decisions.
- Agencies would get broader power to pause or end discretionary awards if funding no longer aligns with program goals, agency priorities, or the national interest, raising risk for multi-year projects.

On May 29, 2026, the Office of Management and Budget (OMB), joined by virtually every federal grantmaking agency, published a proposed rule that would fundamentally reshape the framework governing federal financial assistance by directly inserting senior political appointees into both the grantmaking and grant review process, and making clear that those appointees will have a major role in reviewing grants for compliance with the Administration's agenda and policy

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mandates. To effectuate this, the proposal would revise 2 CFR Part 200, currently known as the Uniform Guidance, and replace it with a new Uniform Grants Regulation (UGR).

The proposal represents a sea change from traditional grant administration requirements and practices, and the most significant revision to the federal grants framework since the Uniform Guidance was adopted in 2013. Whereas the current Uniform Guidance primarily focuses on responsible stewardship of federal funds, financial controls, procurement, cost allowability, audit requirements, and subrecipient oversight, OMB proposes in the UGR to expand political oversight of discretionary awards; broaden agencies' authority to suspend and terminate grants; explicitly integrate policy priorities into award selection, administration, and termination decisions; impose new restrictions relating to so-called diversity, equity, and inclusion (DEI) activities and gender identity-related programs; tighten requirements governing international research collaborations; and significantly revise longstanding cost allowability rules. For research institutions in particular, the proposal would formalize a funding framework in which scientific peer review remains relevant but no longer serves as the primary determinant of funding decisions. Instead, under the new OMB rubric, senior political appointees expressly tasked with evaluating proposals for consistency with presidential priorities, agency priorities, and the national interest will have the determinative say.

It is critical that recipients and subrecipients of federal financial assistance, especially colleges, universities, academic medical centers, and teaching hospitals, view this proposal not merely as a compliance update, but as a significant change in the federal government's approach to discretionary grant funding and a potential new source of exposure to federal investigations, suspension and termination actions, repayment demands, and, in certain circumstances, False Claims Act liability, and consult with counsel to evaluate their programmatic, funding, and enforcement risks accordingly.

OMB has identified **October 1, 2026,** as the anticipated effective date for a final rule, following a July 13, 2026, public comment deadline. The proposed OMB rule and many of its aspects may well face court challenges in the short term, but these new provisions represent a clear and continuing effort to apply all available levers of policy and funding control to advance the Administration’s agenda, now enhanced by the prospect of political appointee review at key stages of the process. Their breadth and impact require institutions to proactively evaluate impact and risk, even prior to the rule’s potential implementation.

Five immediate questions higher education institutions and other recipients of federal financial assistance should be asking:

/ Could any currently funded programs, research initiatives, training activities, or clinical services be characterized as supporting DEI initiatives, disparate-impact theories, gender identity-related activities, or gender-affirming care?

- How dependent is the institution on multi-year discretionary federal awards that could become subject to expanded suspension or termination authority?
- Does the institution maintain international research collaborations, foreign subawards, or foreign partnerships that could be affected by the proposed domestic-first framework or covered foreign entity restrictions?
- What costs currently charged to federal awards—including publication costs, conference attendance, memberships, subscriptions, and related expenses—could become unallowable if the rule is finalized?
- Are existing grant administration, compliance, and internal control systems sufficient to demonstrate clear separation between federally funded activities and activities that may become subject to heightened scrutiny under the proposed rule?

Political appointee review and expanded agency discretion

SENIOR POLITICAL APPOINTEES WILL REVIEW DISCRETIONARY AWARDS

Perhaps the most significant structural change in the proposal is a new requirement that discretionary awards undergo review by one or more senior political appointees (or their designees) before issuance.

The current Uniform Guidance generally leaves merit review and award-selection processes to individual agencies. Under proposed § 200.205, each agency would require a senior political appointee to assess whether awards advance presidential and agency priorities and the national interest, presumably as defined and articulated by the Administration. Reviewers would also evaluate whether proposed awards support activities that OMB identifies as inconsistent with administration priorities, including those that further racial preferences, gender ideology, illegal immigration, or initiatives deemed inconsistent with public safety or American values.

Of particular relevance to higher education institutions, the proposal would also direct agencies, all else being equal, to favor institutions with lower indirect cost rates and to prioritize "rigorous, reproducible scholarship" over institutional prestige.

PEER REVIEW RECOMMENDATIONS WOULD BECOME EXPRESSLY ADVISORY

Although federal agencies have historically retained ultimate discretion over funding decisions, peer-review evaluations have generally served as the principal mechanism for assessing scientific merit and prioritizing research proposals.

The proposed rule would preserve peer-review processes but expressly states that peer-review recommendations are *advisory only* and may not bind agency decision-makers. As a result, particularly given the explicit insertion of political appointees into the grant award and review process, policy considerations may play a more significant role in award decisions than under the traditional research funding model.

AGENCIES WOULD RECEIVE EXPANDED AUTHORITY TO SUSPEND AND TERMINATE AWARDS

In addition to providing significantly heightened political and policy-based oversight during the award phase, OMB's proposal would also significantly expand agencies' authority to suspend and terminate discretionary awards once they have been issued.

Existing Uniform Guidance termination provisions are largely focused on noncompliance, mutual agreement, or circumstances specified in award terms and conditions. Proposed § 200.340 would allow agencies to terminate discretionary awards whenever continued funding is no longer in the agency's interest or no longer advances current program goals, agency priorities, or the national interest, with each of those criteria presumably determined by the agency's politically appointed leadership. The proposal would also authorize agencies to issue stop-work orders lasting up to 90 days.

For institutions dependent on multi-year federal funding, these provisions create a new level of uncertainty regarding the continuity of research support and other federally funded activities. The proposal effectively introduces a termination-for-convenience concept, long familiar in federal procurement contracts, into the context of federal grants.

EXPANDED RISK ASSESSMENT FACTORS

The factors agencies may consider when evaluating applicant risk are also significantly broadened by the proposal. Under the current Uniform Guidance, risk assessments generally focus on financial stability, management systems, prior performance, and audit findings. Proposed § 200.206(b) would permit agencies to consider a broader set of factors, including publicly available information relating to plagiarism, discredited or non-replicable studies, activities viewed as inconsistent with civil rights laws or religious liberty laws, compliance with foreign gift reporting requirements under Section 117 of the Higher Education Act, and affiliations with organizations viewed as presenting public safety or national security concerns.

For colleges and universities that have faced heightened scrutiny regarding foreign funding disclosures, research integrity, or civil rights compliance, the proposal could substantially increase pre-award review and compliance considerations.

DEI, disparate impact, and gender identity restrictions

RESTRICTIONS ON DEI ACTIVITIES

Of particular potential consequence to colleges and universities, proposed § 200.300(b)(1) would prohibit the use of federal award funds to "fund, promote, encourage, subsidize, or facilitate" DEI or DEIA (Diversity, Equity, Inclusion, and Accessibility) activities that violate applicable federal anti-discrimination laws. The regulations clarify that "[t]his includes racial preferences or other forms of racial discrimination used by the recipient or subrecipient that violate any applicable Federal anti-discrimination laws, including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation." A violation would constitute a material breach of the award and could result in suspension, termination, or the recovery of funds.

OMB frames this provision as a clarification of existing obligations under Title VI of the Civil Rights Act of 1964, Title VII, Title IX, and the Equal Protection Clause, as interpreted in light of the Supreme Court's 2023 decision in *Students for Fair Admissions v. Harvard* and subsequent agency and Executive branch guidance, including Executive Order 14151, Executive Order 14173, and the Department of Justice's July 2025 guidance to recipients of federal funding regarding unlawful discrimination. OMB makes clear throughout the preamble that it intends to incorporate these Executive Branch interpretations directly into the federal grants' framework, effectively transforming positions that previously appeared in executive orders, agency guidance, and enforcement memoranda into government-wide grant requirements.

ELIMINATION OF DISPARATE-IMPACT STANDARDS

Consistent with the Administration's broader efforts to curtail reliance on disparate-impact theories—including DOJ's recent Title VI regulatory revisions and reported EEOC enforcement directives deprioritizing disparate-impact investigations—proposed § 200.218 would require agencies to eliminate reliance on disparate-impact liability in contexts relevant to federal awards and would prohibit recipients from using federal funds to support disparate-impact analyses, enforcement frameworks, or related litigation. A limited exception permits statistical or demographic analysis for internal program evaluation or research purposes, but only if federal award funds are not used to conduct the analysis and the results are not applied to activities under the award (such as adjusting programs based on theories of disparate-impact liability or treating individuals differently based on protected characteristics).

RESTRICTIONS RELATING TO GENDER IDENTITY AND GENDER-AFFIRMING CARE FOR MINORS

Proposed § 200.300(b)(2)–(3) contains two distinct but related provisions affecting gender identity and gender-affirming care.

The Gender Ideology Provision

Under the proposed rule, federal awards could not be used to fund, promote, encourage, subsidize, or facilitate "gender ideology," defined as theories or ideologies that "deny the biological reality of sex or the sex binary in humans, or endorse or advocate for the notion that sex is a chosen or mutable characteristic." This provision applies broadly to any federally funded activity.

The practical implications for institutions are potentially far-reaching. Unlike many grant conditions that focus on how federal funds are spent, the breadth of the terms "promote," "encourage," and "facilitate" may create uncertainty regarding the extent to which institutions must segregate federally funded and non-federally funded activities. Research grants that study gender identity, gender dysphoria, or the efficacy of gender-affirming treatments could be affected if the agency determines the research "promotes" gender ideology as the Administration defines it. Medical education and training programs, including residency programs, nursing curricula, and social work programs that include instruction on gender-affirming care models funded with federal dollars are potentially implicated. Campus health and counseling services supported in part by federal funds that provide or refer patients for gender-affirming care may likewise need to assess their funding structures. Curriculum development and educational materials funded with federal dollars that discuss gender identity in terms inconsistent with a binary sex framework could be implicated.

The Protecting Children Provision

Federal awards could not be used to fund, promote, encourage, subsidize, or facilitate "the so-called 'transition' of a child under 19 years of age from one sex to another, including the chemical and surgical mutilation of children." The term "chemical and surgical mutilation" is defined, by reference to Executive Order 14187, to encompass puberty blockers, cross-sex hormones, and surgical procedures performed on minors for the purpose of gender transition. The prohibition covers not only direct clinical costs but potentially also indirect costs allocable to such activities.

The preamble characterizes these interventions as "harmful experimentation on minors" and states plainly that the Federal Government has determined that assisting with such procedures on children is not in the public interest. OMB's legal analysis relies in part on the Supreme Court's 2025 decision in *United States v. Skrmetti*, which upheld a Tennessee law restricting gender-affirming care for minors on rational-basis review.

Research funding and foreign collaboration changes

DOMESTIC-FIRST FRAMEWORK FOR R&D AWARDS

Proposed § 200.202(e) would establish a "domestic-first" framework for federal research and development awards. Under the current Uniform Guidance, eligibility for federal awards is generally determined by agency-specific program statutes and regulations, with foreign participation governed by program-level restrictions and sponsor-specific requirements.

The proposed rule would establish a government-wide presumption favoring domestic entities for R&D awards and would require affirmative justification for awards involving foreign entities or international components. Agencies would need to determine that foreign participation is necessary, advances program objectives, and is in the national interest.

While the provision does not prohibit foreign subrecipients or contractors under an award to an eligible US entity, it could significantly affect universities with extensive international research collaborations, joint research programs, and subawards to foreign institutions, particularly in fields such as global health, climate science, and high-energy physics.

PROHIBITION ON COVERED FOREIGN COLLABORATIONS

Separately from the R&D eligibility provision, a new blanket restriction in proposed § 200.220 would prohibit recipients from using federal funds for bilateral or multilateral collaborations with "covered foreign countries" (foreign adversaries, countries of particular concern, and countries subject to national security sanctions) or "covered foreign entities" (entities owned or controlled by such countries, on federal concern lists, or affiliated with foreign military or intelligence services).

The prohibition applies regardless of whether funds support direct activities, research, travel, or even indirect costs allocable to such collaborations. Limited exceptions are available with agency head approval.

Importantly, this provision appears significantly broader than existing federal restrictions governing foreign research collaborations, including the Wolf Amendment and various agency-specific requirements on foreign influence and research security.

Cost allowability and grant administration changes

PUBLICATION COSTS WOULD BECOME LARGELY UNALLOWABLE

In a reversal of current policy, publication costs—including page charges, article processing charges, and open access fees—would become unallowable under proposed § 200.461 unless

specifically required by statute or approved in advance by the agency on a case-by-case basis. The preamble states that a general requirement to make results publicly available (such as NIH's or NSF's open=access mandates) does not constitute authorization for publication costs. Given that many agencies now require open-access publication of research results, this change could create a significant operational tension for research universities. Institutions may need to determine whether publication costs historically charged to federal awards will instead need to be borne by institutional funds, departments, principal investigators, or other non-federal sources.

CONFERENCE ATTENDANCE, MEMBERSHIPS, AND SUBSCRIPTIONS

Conference attendance costs are generally allowable under the current Uniform Guidance when they are reasonable, allocable, and necessary to carry out an award. Professional memberships and subscriptions are also frequently allowable when they support the performance of federal awards.

The proposed rule would significantly narrow these categories. Conference attendance would require express agency approval, while professional memberships and subscriptions would become substantially restricted or unallowable absent specific authorization. These changes could affect journal access, professional society memberships, and other costs commonly charged to federal grants.

Additional compliance, cost recovery, and administrative changes

The proposal includes several additional changes that would affect institutional operations:

- Elimination of fixed amount awards absent statutory authorization (a mechanism currently permitted under the Uniform Guidance);
- Mandatory participation in E-Verify for all recipients and subrecipients;
- Expansion of unallowable costs, including certain advertising and public relations expenses;
- Enhanced reporting requirements for transfers between affiliated or related entities;
- New written justification requirements for payment requests;
- Expanded disclosure obligations involving prior federal agency employees participating in proposals or awards.

Individually, these changes may be incremental, but collectively, they would increase administrative burden and compliance complexity for research-intensive institutions.

Other notable additions

Several additional provisions relevant to higher education institutions include:

VIEWPOINT-NEUTRAL EVENT SERVICES AT PUBLIC INSTITUTIONS

An explicit bar on discrimination based on the viewpoint, content, or subject matter of speech by public colleges and universities in providing services for events, meetings, or other expressive activities on their property or facilities. This would specifically prohibit the practice of imposing differential security fees or charges (sometimes called "heckler's fees") based on a speaker's viewpoint. For non-public entities, including private universities, the requirement applies only to activities within the scope of the federal award.

ELECTIVE ABORTIONS

Costs associated with elective abortions would be unallowable under federal awards except as expressly authorized by federal law, codifying longstanding Hyde Amendment restrictions as a cost principle applicable across all federal financial assistance programs.

INDIRECT COSTS

Despite Executive Order 14332's direction to OMB to limit indirect cost recovery for discretionary grants, the proposed rule does not change the indirect cost rate negotiation system. The preamble explains that fiscal year 2026 appropriations language preserved existing negotiated rates and prohibited modifications. OMB states that it may issue a future request for information on this topic and specifically asks commenters not to submit comments on indirect cost rates in response to this proposed rule.

Institutions should note, however, that the pre-issuance review provision at § 200.205(b)(3) would require that, all else being equal, preference for discretionary awards be given to institutions with lower indirect cost rates. This introduces indirect cost rates as a competitive factor in award selection, even without a formal cap.

Readiness considerations

Given the breadth of the proposal and relatively quick implementation period, institutions should begin evaluating potential impacts immediately. Key steps include:

- Conducting a comprehensive review of federally funded programs, particularly those involving DEI initiatives, gender identity-related programming, or international collaborations to identify programs or activities that are potentially implicated by the new proposed rule;

- Assessing whether current grant-funded activities could be affected by expanded risk assessment criteria or new cost allowability rules;
- Reviewing funding structures to ensure clear separation between federally funded and non-federally funded activities, where appropriate;
- Gauging the impact of the potential expanded suspension or termination authority on ongoing multi-year discretionary federal awards;
- Assessing the financial impact of costs currently charged to federal awards no longer being allowable, including publication costs, conference attendance, memberships, subscriptions, and related expenses;
- Evaluating pending applications and future funding strategies in light of expanded political review of discretionary awards; and
- Engaging research administration, academic affairs, compliance, general counsel, clinical leadership, and faculty in coordinated response planning.

Nixon Peabody's Higher Education team is closely tracking OMB's proposed Uniform Grants Regulation and its impact on educational institutions. We can help colleges and universities assess exposure, prepare comments, update grant compliance and risk controls, and advise on readiness steps tailored to your programs and funding portfolio. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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