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September 22, 2026

The Honorable Nicholas Kent
Under Secretary of Education
Office of Postsecondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

RE: Docket ID: ED-2026-OPEPD-2542

Dear Under Secretary Kent:

On behalf of the University of California (UC) system, thank you for the opportunity to comment on the U.S. Department of Education's (ED's) proposed rule concerning the Education Department's General Administrative Regulations (EDGAR).

UC is the nation's leading public research university system – comprised of ten campuses, six academic health centers, three affiliated national laboratories, and a Division of Agriculture and Natural Resources – educating more than 300,000 students and employing more than 280,000 faculty and staff. Since its founding as California's land-grant university in 1868, UC has advanced a public mission centered on education, research, and public service. That mission is supported by various Department of Education (ED) grant programs that bolster student support, promote student success, and provide institutional funding.

UC supports the Department's goals of updating regulations to better align them with other Departmental regulations and procedures. However, several provisions within the proposed rule raise concerns and have significant implications for extramural funding, sponsored programs, institutional cost recovery, multi-year awards, compliance, subrecipients, and award stability.

UC does not address every provision of the proposed rule, and the absence of comment should not be interpreted as agreement. Our comments focus on provisions with the greatest implications for UC's academic mission, students, faculty, and operations.

Specifically, UC urges the Department, in finalizing the regulations, to:

- Permit applicants to address relevant population and implementation context;
- Provide clear and consistent selection criteria with statutory equitable-access requirements;
- Have intentional evidence standards that are appropriate to a program's purpose, design, and feasibility;

- Require predictability across project periods;
- Separate technical updates from substantive policy changes;
- Withdraw the competitive preference for reduced indirect cost-recovery;
- Ensure objective standards and meaningful review;
- Require clear definitions and narrow scope for merit-related grant conditions;
- Withdraw grant terminations based on convenience;
- Specifically identify executive order requirements;
- Require a permanent record of original notices and subsequent amendments; and
- Re-evaluate potential impacts of final rule on institutions of higher education.

Selection Criteria Should Permit Applicants to Address Relevant Population and Implementation Context

Proposed § 75.210 would revise the general selection criteria available to the Department when evaluating applications for discretionary grants, including by replacing references to underserved populations with the term "target population" and removing or revising factors that address barriers to participation, diversity of perspectives, and the experience of project personnel.

UC recognizes the Department's interest in establishing clear and consistently applicable selection criteria. However, selection criteria should not prevent or discourage applicants from describing relevant characteristics, needs, barriers, and contextual conditions of the populations and communities a federally funded program is intended to serve. Such information may be essential to demonstrating the need for a project, selecting appropriate interventions, identifying effective implementation strategies, and explaining how a proposed project advances the statutory purposes of the particular grant program.

This consideration is especially important for programs whose authorizing statutes expressly identify populations based on educational or economic circumstances or whose effectiveness depends on understanding the conditions of the schools, communities, and populations in which services will be implemented. Applicants should not face uncertainty about whether relevant demographic or contextual information may be considered when that information is necessary to establish program eligibility, document need, develop appropriate services, or comply with other Federal requirements.

UC recommends that ED clarify that proposed § 75.210 does not prohibit applicants from identifying and discussing demographic, economic, geographic, educational, or other relevant characteristics when they are pertinent to the statutory purposes of a program, eligibility requirements, assessment of need, project design, or effective implementation. ED should further ensure that selection criteria remain sufficiently flexible to allow reviewers to consider relevant contextual information necessary to assess whether a proposed project is appropriately designed to achieve the objectives of the Federal program.

Selection Criteria Should Be Clear and Consistent with Statutory Equitable-Access Requirements

The proposed revisions to § 75.210 also raise questions regarding their interaction with section 427 of the General Education Provisions Act (GEPA). Applicants remain responsible for identifying barriers that may impede equitable access to or participation in federally assisted programs and for describing the steps they will take to address those barriers. At the same time, proposed § 75.210 would remove or revise several selection factors that currently allow consideration of barriers affecting underserved populations and communities.

Recipients should not be placed in a position in which fulfilling one Federal requirement creates uncertainty regarding compliance with another. Applicants need clear guidance regarding how they identify and address barriers to participation as required by GEPA while complying with the Department's proposed requirements concerning participant selection and other grant-supported activities.

This issue is particularly relevant for Federal programs that, by statute, are designed to address educational or economic disadvantages. For these programs, consideration of barriers to access and participation may be integral to identifying the population Congress intended the program to serve and designing services capable of achieving the program's statutory objectives.

UC recommends that ED clarify in the final rule and implementing guidance how the revised § 75.210 criteria interact with applicants' obligations under GEPA § 427 and other applicable statutory program requirements. ED should confirm that applicants may identify and address relevant barriers to access and participation when necessary to satisfy Federal law, demonstrate program need, or design effective services, and that doing so will not disadvantage an otherwise compliant applicant in the competitive review process.

Evidence Standards Should Be Appropriate to Program Purpose, Design, and Feasibility

The proposed revisions to § 75.210(h) and § 77.1 would revise the evidence framework available to the Department when establishing selection criteria for discretionary grant competitions, including criteria associated with promising, moderate, and strong evidence.

UC supports rigorous evaluation and the use of high-quality evidence to inform Federal investments. However, the appropriate level and form of evidence may vary substantially based on the statutory purpose of a program, the maturity of the intervention, the populations and settings involved, the availability of appropriate comparison groups and longitudinal data, and the feasibility and cost of particular research designs.

Evidence requirements can have significant consequences for project design and resource allocation. In longitudinal education programs, for example, rigorous evaluations may require multi-year data-sharing agreements, participation by school districts and other partners, access to comparison populations, specialized evaluation expertise, and substantial investments in data collection and analysis. When evidence requirements are disproportionate to the purpose or scale of a grant program, applicants may be required to divert significant resources from program implementation and direct services or may be unable to compete despite proposing otherwise strong projects.

ED therefore should retain flexibility to select evidence standards appropriate to the statutory purpose, program design, maturity of the evidence base, and practical circumstances of each grant competition. The Department also should provide applicants with clear advance notice of the applicable evidence level, accepted methodologies, reviewer expectations, and any requirements related to independent or third-party evaluation.

UC recommends ED clarify that no particular evidence tier will apply across discretionary grant programs, absent a program-specific determination that the standard is appropriate and feasible. In establishing evidence-related selection criteria, ED should consider evaluation cost, data availability, project duration, implementation setting, access to appropriate comparison groups, and the potential effect of evaluation requirements on resources available to carry out the underlying statutory program.

Longitudinal Programs Require Predictability Across Approved Project Periods

The concerns associated with continuation funding, carryover, delayed or installment funding, suspension, or termination. are particularly significant for Federal programs intentionally structured around longitudinal services and outcomes. Certain department programs authorize recipients to serve cohorts of students over multiple years and require sustained partnerships among educational institutions, school districts, community organizations, evaluators, students, and families.

Recipients operating these programs make commitments based on the approved project period that extend well beyond a single annual budget cycle. They hire and retain specialized personnel, establish multi-year agreements with schools and partners, develop longitudinal data systems, secure matching or other partner commitments, and provide students and families with services designed to continue across critical educational transitions. Interruptions or substantial reductions in the funding affect institutional planning and the continuity of services to participants already enrolled in an approved Federal project.

UC recommends that ED take the longitudinal design and statutory purposes of individual programs into account when exercising any authority related to continuation funding, carryover, delayed or installment funding, suspension, or termination. For an otherwise compliant award, changes in department policy priorities should not disrupt services already approved and underway. At a minimum, ED should provide objective standards, timely notice, meaningful review, and reasonable transition protections sufficient to preserve commitments to participants and partners made in reliance on an approved multi-year award.

Separate Technical Updates from Substantive Policy Changes

UC recognizes that portions of the proposed rule are technical amendments intended to reflect the Office of Management and Budget's (OMB's) final April 2024 Uniform Guidance revisions. UC does not oppose updates to citations, definitions, and cross-references that do not change existing ED requirements.

However, ED's proposed rulemaking also includes significant substantive policy changes affecting competitive selection, indirect cost recovery, continuation funding, grant-supported

institutional practices, Executive Order compliance, and termination. Several of these changes closely parallel provisions in OMB's pending 2026 Uniform Guidance proposed rule, particularly the preference for applicants with lower indirect cost rates and expanded termination authority. Because OMB has not finalized the 2026 Uniform Guidance proposed rule, ED should not treat these policy decisions as settled. ED should independently justify each substantive provision based on its own statutory authority and rulemaking record.

Because ED states that portions of the rule may be finalized separately, it should proceed with accurate and uncontested technical corrections while withdrawing, substantially revising, or reproposing the substantive provisions after further stakeholder review.

ED Should Withdraw the Competitive Preference for Reduced Indirect Cost Recovery

Proposed § 75.228 would permit ED to give competitive preference to applicants that agree to reduce the indirect cost rate they otherwise would be authorized to use. Any reduction would apply for the life of the grant, and the institution could not recover the forgone amount as a direct cost, count it as cost sharing, or charge it to another Federal award.

Negotiated facilities and administrative (F&A) rates are federally reviewed cost-recovery mechanisms. They reimburse a portion of the shared infrastructure necessary to carry out ED-funded research, education, training, evaluation, technical-assistance, workforce-development, and public-service activities. Those costs include proposal and award administration, financial systems, payroll, compliance, information technology, cybersecurity, facilities, data stewardship, intellectual-property administration, and subrecipient monitoring.

Reducing the rate does not eliminate those costs. It shifts responsibility for the unrecovered portion to the recipient institution. ED's own Regulatory Impact Analysis characterizes the expected budgetary effect of proposed § 75.228 as a transfer from the indirect cost category to the direct-cost category (*see EDGAR Proposed Rule, Regulatory Impact Analysis, 91 Fed. Reg. 54,672–73)*, which is not allowable.
Although ED describes the reduction as voluntary, the preference would pressure applicants to waive legitimate costs to remain competitive. It would also favor institutions with greater unrestricted resources and disadvantage public universities and other institutions with less capacity to subsidize federally funded work. ED should evaluate applications based on their merit and expected outcomes, not an institution's ability to absorb Federal project costs. ED should clarify that § 75.228 will not create pressure to reduce rates already limited by an 8 percent training cap, a restricted-rate requirement, or another program-specific rule. UC therefore recommends that ED withdraw proposed § 75.228 and continue to honor the applicable approved indirect cost rate authorized under the relevant program.

Continuation, Frontloading, and Carryover Decisions Need Objective Standards and Meaningful Review

UC recognizes that approval of a multi-year project does not guarantee future funding. Continuation awards may depend on available appropriations, continued eligibility, and compliance with award requirements. The proposed provisions at §§ 75.230 and 75.251-

75.253, however, would give ED broad discretion over continuation funding. ED could consider "any relevant information," decide whether continuation is in the "best interest of the Federal Government," reduce funding based on unobligated balances, and provide later funding through partial awards, installments, or delayed releases. Although a recipient could seek reconsideration if ED denies continuation entirely, the proposal would not provide the same protection when ED materially reduces, delays, or restricts an award, even though each action can disrupt approved activities as severely as a complete denial.

These standards are too broad and could make it difficult for universities to plan and carry out multi-year projects. Multi-year ED awards support research and evaluation, student-success programs, teacher preparation, workforce development, training, technical assistance, institutional capacity, and community partnerships. Recipients make long-term commitments to employees, students, trainees, subrecipients, school districts, and community partners based on the approved project and budget. Significant or late changes in funding can disrupt those commitments and undermine the project ED originally approved.

ED also should not assume that an unobligated balance represents excess funding. Funds may remain unobligated because of academic calendars, participant recruitment, specialized hiring, institutional review or data-use approvals, subaward negotiations, longitudinal schedules, prudent financial management, or activities planned for later budget periods. A continuation review should not become an indirect method of interrupting otherwise compliant work for later policy reasons. Nor should frontloading be undermined by making annual access to already obligated funds dependent on undefined or changing standards.

UC recommends that ED:

- Use objective, published criteria tied to award performance, compliance, eligibility, available appropriations, and the approved project, and limit consideration to reliable, material, and award related information;
- Provide timely written reasons, an opportunity to correct factual errors, and reconsideration of material reductions, delayed releases, installment restrictions, and complete denials;
- Preserve carryover when the recipient provides a reasonable plan for completing approved activities;
- Make decisions early enough to avoid funding gaps; and
- Provide reasonable no-cost-extension, transition, and wind-down options when funding is reduced or denied.

Merit-Related Grant Conditions Require Clear Definitions and Narrow Scope

UC supports nondiscrimination, rigorous and fair selection practices, academic freedom, freedom of inquiry and research, and freedom from compelled statements supporting or opposing political views.
Proposed §§ 75.500(f) and 76.500(f), however, use terms with unclear scope, including "under the grant," "merit," "high standards," "qualification," "proxy," "political views," and "project participation." The provisions would address hiring, admissions, promotion, compensation, compelled statements, and institutional policies connected to ED-funded

activities. Section 75.500(f) refers to "merit and high standards," while § 76.500(f) refers to "merit and qualification." ED should explain and rectify the difference.

ED should also clearly define the scope of these requirements. In particular, ED should clarify whether "admissions" refers to admission to the institution or an academic program, selection for a grant-funded training opportunity, or participation in a sponsored project. The requirements should apply only to personnel and decisions directly supported by or necessary to carry out the award, not to unrelated institutional activities. ED should further explain how these requirements interact with statutory program criteria and other lawful institutional practices, including disability accommodations, veterans' preferences, collective-bargaining agreements, and legally authorized remedial measures. Finally, ED should identify any records that recipients would be required to maintain and ensure that the documentation requirements are clear, reasonable, and limited to demonstrating compliance with the specific award.

The final rule also should confirm that ordinary requirements concerning research integrity, ethics, nondiscrimination, conflicts of interest, professional conduct, human-subject protections, and faithful award performance are not prohibited compelled statements. Nothing in the rule should regulate research questions, methodologies, findings, publication, or academic conclusions.

ED should provide materially revised and clearly defined and narrowly tailored language for further stakeholder review before finalization.

ED Should Withdraw Termination for Convenience

Proposed § 75.901(a)(2) would authorize ED or a pass-through entity to terminate a discretionary award, in whole or in part, for convenience. The preamble analogizes this authority to termination for convenience under the Federal Acquisition Regulation. Federal grants and procurement contracts serve different purposes. Procurement contracts acquire goods or services for the government's direct benefit. Grants support public purposes authorized by Congress and carried out by recipients.

Universities and their partners make significant commitments once a grant is awarded. They hire or assign faculty and staff, offer positions to students and trainees, issue subawards, recruit participants, enter into data agreements, and begin multi-year research and program activities. These commitments often cannot be ended quickly or without cost. Terminating an otherwise compliant grant for convenience could waste Federal funds already invested, disrupt students and community partners, disrupt longitudinal research or evaluation, and leave recipients with commitments that cannot easily be canceled. Changes in ED's policy priorities should generally apply to future competitions, not be used to terminate active awards that remain funded and compliant with their terms.

UC recommends that ED withdraw the proposed § 75.901(a)(2) and the related termination-for-convenience language. If ED retains expanded termination authority, it should:

- Limit termination to objective grounds tied to performance, material compliance, statutory authority, available appropriations, or clearly stated award terms;

- Require a written, reasoned determination identifying the legal authority, factual basis, and award terms, and provide advance notice, an opportunity to respond, and neutral review;
- Protect unaffected portions of the award and permit reasonable wind-down and close-out costs;
- Clarify when a pass-through entity may use authority and protect personnel, participants, subrecipients, data, and other reliance-based commitments;
- Ensure that non-fault termination does not harm future eligibility or reputation; and
- Apply the authority prospectively only to awards whose terms clearly include it at issuance. Any temporary suspension should be narrowly tailored, time-limited, supported by written reasons, and accompanied by a defined path to resolution.

Executive Order Requirements Must Be Specifically Identified

Proposed § 76.700 would add Executive Orders to the authorities with which states and subgrantees must comply. ED explains that the change would align state-administered programs with the existing direct-grant provision in § 75.700. A general reference to "Executive orders" does not identify the specific obligation, its legal basis, or how it applies to nonfederal recipients.

UC recommends that ED clarify that an Executive Order-derived requirement applies only when ED identifies the specific order and operative provision, specifically identifies how the order applies to recipients of federal funding, explains its legal and programmatic basis, and incorporates the requirement through a dated regulation, application notice, award term, or formal implementation notice. ED also should identify the governing version, effective date, applicability to pending and active awards, and transition rules. Requirements for an active award should not change based only on an unspecified Executive Order, revised webpage, or informal guidance.

Public Notice

UC recommends that if the Department chooses to replace Federal Register publication with Grants.gov or program webpages, it should require a permanent, dated, version-controlled record of the original notice and every amendment.

Cross-Cutting Burden and Implementation

ED's Regulatory Impact Analysis does not fully account for the cumulative effects of the substantive proposals. Recipients may need to revise proposal guidance, indirect cost procedures, financial systems, continuation processes, human resources and academic-personnel practices, subaward terms, evidence-review procedures, closeout processes, training, and legal and compliance review. ED's analysis recognizes estimated benefits from eliminating Federal Register publication but does not comparably quantify many recipient-side implementation and under-recovery costs.

For each new assurance, review, documentation, or monitoring requirement, ED should identify the problem being addressed, explain why existing award terms, reporting, audits,

civil-rights requirements, or risk-based oversight are insufficient, and adopt the least burdensome effective alternative. Accurate technical corrections may take effect on a shorter schedule. Major substantive provisions should apply prospectively and no earlier than 12 months after ED issues complete final regulations, implementation guidance, system specifications, forms, and award terms.

ED also should publish an applicability table explaining how each substantive provision applies to pending applications, new applications, new awards, continuation awards, supplemental funding, amendments, no-cost extensions, existing subawards, and active awards. ED should also require that every operative criterion, factor, weight, and evidence standard be published before applications are due and applied by qualified reviewers. The Department should also require accepted frameworks and reviewer qualifications to be published before competitions and avoid making applicant-funded third-party review a practical eligibility requirement.

Conclusion

UC supports the Department's efforts to modernize and clarify the EDGAR regulations, particularly where proposed changes would align the regulations with existing Federal requirements and reduce unnecessary administrative complexity. However, the proposed rule also includes significant substantive changes that could materially affect the stability, administration, and cost of federally funded programs. As discussed above, these changes raise concerns regarding competitive selection, evidence standards, indirect cost recovery, continuation funding, merit-related conditions, termination authority, Executive Order requirements, and implementation burdens.

In finalizing the regulations, ED should distinguish technical updates from substantive policy changes and ensure that any substantive requirements are clearly authorized, objectively defined, consistently applied, and implemented prospectively. Federal grant recipients need sufficient predictability to make responsible commitments to students, faculty, staff, research partners, subrecipients, and communities. This is particularly important for multi-year and longitudinal programs, where funding interruptions or changes in requirements can undermine projects that were approved and are being carried out in reliance on Federal awards.

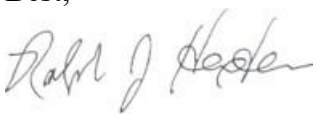
UC urges the Department to revise or withdraw provisions that create unnecessary uncertainty or shift substantial costs and risks to recipients, while preserving flexibility where program purpose and implementation circumstances warrant it. The final regulations should provide clear selection and evidence standards, protect appropriate indirect cost recovery, establish objective and reviewable standards for continuation and termination decisions, narrowly define merit-related requirements, specifically identify applicable Executive Order obligations, and provide adequate implementation and transition periods. ED should also publish a comprehensive applicability table and ensure that all operative requirements are clearly communicated before recipients are required to comply.

These changes would allow ED to achieve its stated goals of clarity, consistency, accountability, and effective stewardship of Federal funds without unnecessarily disrupting

the academic, research, student-support, and public-service activities that ED grants are intended to advance.

UC appreciates the opportunity to comment and looks forward to continued engagement with the Department as it finalizes the regulations.

Best,



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