



Commenting on the OMB Proposed Rule for Federal Grantmaking

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Important Dates

- May 29: Regulation for Federal Financial Assistance Proposed Rule released
- July 13: Public Comment due
- October 1: Effective date



Where Did It Come From?

- Rule has been under development for months; implements several Trump executive orders (EOs)
 - [Improving Oversight of Federal Grantmaking](#)
 - [Restoring Gold Standard Science](#)
 - [Ending Radical and Wasteful Government DEI Programs and Preferencing](#)
 - [Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)
 - [Preventing Woke AI in the Federal Government](#)
 - [Improving Oversight of Federal Grantmaking](#)



“Goals”

OMB's Stated Goals

1. Improve transparency, accountability and oversight for the use of federal taxpayer money.
2. Clarify the status of OMB's policies and requirements as **OMB regulation**.
3. Reduce recipient burden.

What It Actually Does

1. Codifies problematic or unclear EOs.
2. Centralizes OMB's authority over grantmaking (i.e., **“guidance” becomes “regulation”**)
3. Policy changes.



Changes Fall into 2 Buckets

Substantive Changes

- WHAT federal agencies fund

Procedural Changes

- HOW federal agencies fund

Substantive Changes

- **Unlawful DEI Practices** – “fund, promote, encourage, subsidize, or facilitate” DEI policies that violate federal anti-discrimination law
- **Gender Identify** – “fund, promote, encourage, subsidize, or facilitate” the notion that sex is a mutable characteristic, the denial of the sex binary, or gender transition in someone under the age of 19.”
- **Immigration** – “fund, promote, encourage, subsidize, or facilitate . . . illegal immigration”
- **Disparate Impact Liability** – “eliminate the use of disparate-impact liability in all contexts relevant to Federal awards;” includes “disparate-impact studies.”



Substantive Changes

- **Advancing the President's Priorities** – “demonstrably advance the President's policy priorities” *where applicable*.
- **Voter Registration, Lobbying and Abortion** – extends existing restrictions to new activities.
- **Viewpoint Neutrality in Events** – public and private recipients must treat speech neutrally in administering events



Procedural Changes

- **Pre-Issuance Political Review** – Each agency designate a “senior appointee” to create process for reviewing new FOAs and discretionary proposals
 - “Senior Appointee” = Political appointee, non-career
 - Check that consistent with law, agency priorities, and the “national interest”
 - May not treat peer-review recommendations as binding.
 - No obvious requirement to explain decisions or notify rejected applicants.
- **Termination & Suspension** – Require all discretionary grants to “permit terminations for convenience”
 - No longer advance agency priorities or “national interest”
 - Includes funding already awarded under different leadership/priorities



Procedural Changes

- **Restricted Costs & Fixed-Amount Awards** – New unallowable/pre-approval costs
 - Some international collaborations
 - Conference attendance (limited)
 - Professional memberships (limited)
 - Publication/open access fees and subscriptions
 - Public communication efforts
 - Grant denials can be based on memberships/affiliations with certain groups
- **Domestic-First** – Limits R&D funding involving foreign entities w/o statutory authorization or a compelling interest for the agency's mission, the Administration's priorities, and the United States



Procedural Changes

- **“Gold Standard Science”** – requires discretionary science awards to commit to a 9-factor “Gold Standard Science” framework, the practical application of which remains unclear.
- **Fraud Referrals** – allegations must be referred to DC U.S. Attorney’s Office within 10 days.
- **Expanded Risk Factors** – The list of factors assessing an applicants’ “risk” would expand and include past performance and “affiliations” with groups engaged in unlawful activity or activities that “undermine public safety or national security”



Undefined and Vague Terms

- “fund, promote, encourage, subsidize, or facilitate”
- “advance the President's policy priorities” where “applicable”
- “Gold Standard Science”
- “national interest”
- “unlawful activity or activities that undermine public safety or national security”



The Bigger Picture

- Assume rule will be implemented – Public comment will have little bearing
- Congress is trying to understand the rule and its impacts:
 - Democrats are vocally objecting to the rule in its entirety
 - Republicans are sensitive to the research community's concerns but looking for ways to help around the margins (privately)
- Science PACs are working members to try to get the rule pulled down
- BUT, even if the rule is pulled, EOs still exist and are having an effect.



So Why Comment?

- Now – July 13: Building the record
- After July 14: Litigation and legislative action



Building the Record

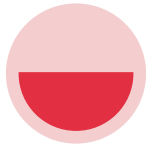
Administrative Procedures Act (1946) – governs how federal agencies create regulations, enforce rules, and make decisions.

---- Rulemaking Process ----



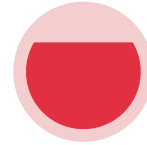
Notice & Comment

The agency publishes a proposed rule and invites the public to submit written arguments, data, or views.



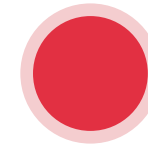
Review & Synthesis

Agency staff read through all submitted public feedback. They do not need to respond to every single form letter or repetitive comment, but they **must address all significant issues**.



The Final Rule

Finalized rule includes **a written "preamble" summarizing the main public concerns** and explains the agency's reasoning for accepting or rejecting the public's suggestions.



Legal Enforcement

If an **agency ignores a major comment or provides a flawed or illogical response**, a court can strike down the rule as "arbitrary and capricious".

Public Comment

- Quantity AND quality of comments matter
 - 70,000+ as of today
- Be specific – targeted objections carry more weight than general objections.
 - Talk about **who you are** and your expertise – are you a researcher, student, faculty member? All have credibility.
 - Reference specific **section numbers** when possible (e.g., [200.220])
 - Tailor your message with **specific examples** of impact (e.g., increase in administrative burden, loss of research in important topic areas)
 - Identify **vague language** (e.g., “national interest”) and any **legal conflicts**
- Beat the machine – AI likely be used to organize/synthesize comments.
 - Comments should be unique and specific



How to Reply: Individuals

***** share what you share publicly**

For researchers, faculty, administrators, and practitioners who receive or work under federal grants

1 Identify yourself, if comfortable (it strengthens your comment but you CAN submit anonymously):

'I am an education researcher at [institution] with 3 active NSF grants...' Your role as a researcher, PI, or grants administrator is your credential.

2 Focus on 1-2 provisions you know best:

Pick sections most affecting your work — e.g., §200.305 (payment burden) or §200.205 (topic prohibitions affecting your research area).

3 Quantify the administrative burden:

OMB must consider costs. Estimate: 'Section 200.305 would add approximately X hours per grant per quarter.' Real numbers matter.

4 Describe chilling effects on your research:

Explain if vague prohibitions would cause you to avoid topics, change research designs, or self-censor. Chilling effects are legally relevant and under-documented.

Courtesy: National Academy of Education



Important Section Numbers

- DEI(A) Restrictions: §200.205 and 200.300
- Immigration & Anti-American Values: §200.205
- President's Policy Priorities: §200.205
- Pre-Issuance Political Review: §200.205
- Gender Ideology/Sex Binary: §200.205
- Disparate Impact Prohibition: §200.218
- Viewpoint Neutrality: §200.219
- Payment Justification: §200.305
- “Domestic-First” Research: §200.202 and §200.220
- Termination & Suspension: §200.340
- Unallowable & Restricted Costs: §200.421, §200.429, §200.432, §200.442, §200.461
- “Gold Standard Science”: §200.205
- Indirect Cost Preference: §200.205



Litigation & Legislative Action

- Real action happens after July 13.
- Effective Date is October 1; final rule must be published before that.
- Lawsuits likely, using public comment as evidence.
- Congress may seek legislative “fixes.”
- Federal agencies will need to make changes to their internal policies to comply (conforming language).



Share with Congress

- Once you have submitted your comment, send a PDF to your Congressional delegation (House and Senate).
- Include in your cover note any relevant local information:
 - Do you work at the local university?
 - Is grant funding at risk?
 - Will you experience additional administrative burden?
- **Appropriators** and **authorizes** especially need to hear from you.





CONSORTIUM of SOCIAL SCIENCE ASSOCIATIONS

Advocacy Handbook for Social & Behavioral Science Researchers



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House Committees

House Committee on Appropriations

Chair: Tom Cole (R-OK)

Ranking Member: Rosa DeLauro (D-CT)

Website: <http://appropriations.house.gov>

Minority Website: <https://democrats-appropriations.house.gov/>

The House Appropriations Committee is responsible for crafting the legislation each year that funds the federal government. This legislation is divided into twelve individual funding bills, each of which is assigned to a designated subcommittee. These subcommittees review the President's annual budget request, hear testimony from federal agency officials and outside witnesses, and draft legislation that will fund their respective agencies for the coming fiscal year.

Some of the key appropriations subcommittees for social and behavioral science are:

- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies
- Commerce, Justice, Science, and Related Agencies (CJS)
- Labor, Health and Human Services, Education, and Related Agencies (Labor-H)

- Environment and the Economy
- Health
- Oversight and Investigations

House Committee on Science, Space, and Technology

Chair: Brian Babin (R-TX)

Ranking Member: Zoe Lofgren (D-CA)

Website: <http://science.house.gov>

Minority Website: <https://democrats-science.house.gov/>

The House Science Committee has jurisdiction over the National Science Foundation, NASA, and the National Institute of Standards and Technology, as well as issues including energy research, environmental research, and other scientific research and development areas. This Committee is responsible for passing the legislation that authorizes the National Science Foundation.

The Committee has five subcommittees:

- Energy
- Environment
- Oversight
- Research and Technology

Summary

- **Submit comments by midnight on July 13 (or preferably earlier)**
 - Include section numbers, specific examples when possible.
 - Share your comment with colleagues and ask that they send something similar (but not identical).
- Share your comment with your Congressional delegation
 - Also consider sharing with your professional association
- Rule to be finalized before October 1
- Comment on agency specific RFIs (e.g., [NSF](#))
- Litigation and legislative action likely



Questions?

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