



March 30, 2026

RE: OMB Control No. 3090-0290; Docket No. 2026-0001; Sequence No. 2, System for Award Management Registration Requirements for Financial Assistance Recipients

On behalf of the Alliance for Higher Education and all the undersigned organizations and individuals, we submit the below comments with regard to the proposed changes to the Financial Assistance General Representations and Certifications in the System for Awards Management (SAM).

While the federal government has a legitimate interest in ensuring that grant recipients comply with applicable law and use federal funds responsibly, the proposed revisions undermine institutional autonomy, threaten First Amendment protections for faculty and students, will lead to institutional confusion as a result of vague, undefined terms, and asserts control over curriculum and administration of schools in ways that are beyond the federal government's statutory authority. In addition, these changes will be burdensome for institutions and are not necessary to ensure compliance with the law.

The proposed certifications intrude on the autonomy of colleges and universities:

Conditioning access to federal grants on broad certifications that reach into matters of curriculum, campus governance, student supports, speech, and protest activity will pressure institutions to align internal policies with ideology unrelated to the specific purposes of the funded programs. This is an unnecessary intrusion of politics into federal grantmaking. In addition, for the Department of Education funding, these new conditions exceed statutory authority. The Department of Education Organization Act¹ and the General Education and Provisions Act² prohibit the federal government from exercising “any direction, supervision, or control over the curriculum, program of institution, administration, or personnel of any educational institution.”

The proposed certifications violate the First Amendment protections of students and faculty and are unconstitutionally vague:

The proposed certifications attempt to regulate activities that occur on college campuses based on content and viewpoint. The certification states that federal antidiscrimination laws apply to programs or initiatives that “involve discriminatory practices, including those labeled as Diversity, Equity, and Inclusion (DEI) or ‘diversity, equity, inclusion, and accessibility’ (DEIA) programs,” and states that “entities that

¹ 20 U.S. 3403(a)

² 20 U.S. 1232a

receive federal funds, like all other entities subject to federal antidiscrimination laws, must ensure that their programs and activities comply with federal law and do not discriminate on the basis of race or color.” By citing the DOJ Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination and Executive Order 14173, the certifications seem to go beyond compliance with current law. The fear of severe penalties, such as False Claims Act liability and loss of federal funds, will cause the chilling of speech and conduct. Furthermore, both by providing examples that “may” violate the law and including mention of programs or initiatives that are labeled a certain way, regardless of the specific conduct, the certifications will cause uncertainty for institutions about what activities and practices are permitted and will lead to arbitrary enforcement.

The proposed certifications are overbroad: Several of the certifications go beyond the use of the federal funds and would apply institution wide. In addition, the terms and conditions being added to federal grant programs apply to all grant programs, regardless of requirements imposed by Congress when the funds were appropriated, which may be in conflict with, and therefore may violate, Congress’ Spending Power.

The proposed certifications are overly burdensome for program recipients: The notice estimates that an average of 2.75 hours will be required for these new certifications. This is a gross underestimate of what it will take for colleges and universities to ensure understanding of the new requirements and to audit every activity and practice throughout their institution, beyond the use of the financial assistance they receive. This will lead to a significant increase in administrative burden for federal program recipients which, along with the threat of civil and criminal penalties, may make it unfeasible for grantees to accept the federal funds. In addition, it will require a surveillance-like campus culture at all higher learning institutions, which undermines the mission of colleges and universities as democratic institutions and places to facilitate independent thought and open inquiry, and instead requires them to align their practices with a specific ideology. Finally, these additional certifications are not necessary as the current certifications already require all recipients of federal funds to comply with federal laws, including federal antidiscrimination laws, and the Constitution.

Conclusion:

The proposed certifications intrude on the autonomy of all colleges and universities and go beyond the federal government’s statutory and constitutional authority. For these reasons, we respectfully urge the agency to withdraw these proposed SAM registration changes.

Thank you for the opportunity to comment on this important matter.

Sincerely,

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AAUP - University of Iowa Chapter

AAUP BHSNJ



AAUP - UW Madison

AFT, the American Federation of Teachers



American Association of University Women



American Historical Association



American Society for Emergency

Contraception



Association of Governing Boards of Universities and Colleges



Bunker Hill Community College



Columbia Gorge Community College



Concerned Jewish Faculty & Staff



Crimson Courage



Critical Legal Collective



Emergency Campaign to Support Higher Education



Executive Committee, Purdue West Lafayette
AAUP

Executive Committee of the UMN Twin Cities
AAUP

Long Island Strong School Alliance



Massachusetts Action for Justice

Monroe County Community College



National Association of Diversity Officers in
Higher Education



National Campus Jewish Alliance

National Center for Science and Civic
Engagement



National Coalition Against Censorship



Northern Essex Community College



Office for Civil Rights/U.S. Dept of Education
alumni group

PEN America



RIC/AFT Local 1819



Rutgers AAUP



Rutgers Adjunct Faculty Union, AAUP/AFT



Stand Together for Higher Education



University of Michigan Ann Arbor AAUP
Chapter Executive Committee



The OSU Chapter of AAUP



University of Southern California AAUP



Trinity Washington University



We The Hoosiers



UMN Twin Cities AAUP

United Academics of Maryland-UMD College
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Wesleyan University

