



THE NATIONAL CATHOLIC BIOETHICS CENTER

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July 13, 2026

Director Russell Vought
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

RE: Regulation for Federal Financial Assistance. 2 CFR Parts 1, 25, 170, 175, 176, 180, 182, 183, and 200, and respective Departments, e.g., Department of Health and Human Services, 2 CFR Parts 300, 376, and 382, RIN 0991-AC35

Dear Director Vought (and Secretaries of respective U.S. Departments):

The National Catholic Bioethics Center, the Catholic Medical Association, and the National Association of Catholic Nurses, USA write in response to the Call for Comment on the Proposed Rule, *Regulation for Federal Financial Assistance*.¹

The National Catholic Bioethics Center (NCBC) is a non-profit research and educational institute committed to applying the moral teachings of the Catholic Church to ethical issues arising in health care and the life sciences. NCBC provides consultations to institutions and individuals seeking its opinion on the appropriate application of Catholic moral teachings to these ethical issues. NCBC has a membership of over five hundred members, a number of whom are institutions representing thousands of healthcare professionals. Such institutions partner with the federal government for the common good, through programs that are recipients of federal grants. It is critical that these programs are allowed to exercise their First Amendment² rights in delivering their critically needed services to vulnerable persons.

The Catholic Medical Association (CMA) is a national, physician-led community that includes as members about 2500 physicians and healthcare professionals nationwide in all fields of practice. CMA represents faithful Catholics in the healthcare field so that its members can grow in faith, maintain ethical integrity, and provide excellent healthcare in accordance with the teachings of the Catholic Church. Many of our professionals not only practice in organizations that partner with the federal government in the delivery of federally funded care, but also are administrators of such programs. It is critical that these professionals are allowed to exercise their First Amendment rights in delivering their critically needed services to vulnerable persons.

The National Association of Catholic Nurses, USA (NACN-USA) is a non-profit organization of nurses from diverse backgrounds and specialties. NACN-USA shares the ministry of Catholic Nursing

¹ Regulation for Federal Financial Assistance. 2 CFR Parts 1, 25, 170, 175, 176, 180, 182, 183, and 200, and respective Departments, e.g., Department of Health and Human Services, 2 CFR Parts 300, 376, and 382, RIN 0991-AC35. [Federal Register :: Regulation for Federal Financial Assistance](#).

² US Const. amend. I.

which advocates for human rights, including the rights not only of organizations who partner with government through grant programs addressing the needs of vulnerable populations, but also nurses and other health care professionals whose deeply held moral and religious beliefs need to be protected. It is critical that nurses, who partner with other colleagues and employers in organizations that collaborate with the federal government in the delivery of federally funded care, are allowed to exercise their First Amendment rights in delivering their critically needed services to vulnerable persons.

In January 2025, President Trump announced the end of the discriminatory Diversity, Equity, and Inclusion (DEI) policies and requirements that had extended through virtually all aspects of the Federal Government in the prior administration.³ In the grantmaking context, the President's Executive orders released federal programs from the DEI mandates and other burdensome policy requirements imposed in previous years. Such mandates had the potential for violating the religious liberty and discriminating against faith-based providers' deeply held religious beliefs. Free of these constraints, the Proposal indicates that federal programs were able to restore focus on efficiently supporting core program purposes and public goods that serve all Americans, including ensuring that scarce public resources are best used in support of the essential public goods at which they aim. The Office of Management and Budget (OMB) proposes to revise the Guidance for Federal Financial Assistance to improve government-wide policies and requirements related to the management of grants, cooperative agreements, and other forms of assistance. The revisions aim to address federal programs and funding opportunities which at times advanced inequitable identity-based DEI policies and preferences across the country, which themselves perpetuated unlawful discrimination. The proposed revisions would make clear that such unlawful discrimination is no longer permitted. We support such an intent. Thus, we provide the following comments to the respective sections identified.

Disparate Impact and DEI (§ 200.218)

OMB proposes a new § 200.218 related to Executive Order 14281, "Restoring Equality of Opportunity and Meritocracy."⁴ Consistent with the Executive order, this section proposes to establish a government-wide policy regarding use of federal financial assistance to promote or support theories that impose disparate-impact liability based on federally protected characteristics such as race, sex, or age. There is lack of clarity to this provision. Does the provision merely bar using the grant funds in a disparate-impact way, or does it bar grant recipients from maintaining *any* DEI or "disparate-impact policies"⁵ in their own internal operations? We suggest broadening the expressed impact by adding its applicability to the organization's "programs or activities," not just those areas that receive federal grant funding, consistent with federal non-discrimination law, and First Amendment protections. If an entity promotes DEI, creating disparate impact, it should be ineligible for a federal grant. There are existing models which could be replicated here, e.g., the Mexico City Policy;⁶ and Title X funding.⁷

Disparate-impact theory does not just have the potential for negatively impacting persons by race or sex, but persons of faith easily can become victims of discrimination. We have recently seen this in terms

³ E.O. 14151; E.O. 14173 of January 21, 2025, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity;" E.O. 14281 of April 23, 2025, "Restoring Equality of Opportunity and Meritocracy."

⁴ Pres. Donald J. Trump, "Executive Order 14281, "Restoring Equality of Opportunity and Meritocracy" (April 23, 2025). <https://www.whitehouse.gov/presidential-actions/2025/04/restoring-equality-of-opportunity-and-meritocracy/>.

⁵ Disparate impact theory holds employers or housing providers liable for using facially neutral policies that disproportionately harm protected groups, regardless of intent. Originating in the 1971 Supreme Court case *Griggs v. Duke Power Co.*, it aims to eliminate arbitrary, unjustified barriers in employment, housing, and lending.

⁶ U.S. Department of State, "91 FR 3319 - Protecting Life in Foreign Assistance," *Federal Register* Volume 91, Issue 17 (January 27, 2026).

⁷ 42 U.S.C. § 300. Also, Family Planning Program Regulation's, 42CFR59 Grants for Family Planning Services. Regulations prohibit grant recipients from referring for abortion as a method of family planning (Last viewed, July 11, 2026).

of cases where health care professionals were discriminated against based on gender theory: *Chiles v. Salazar*;⁸ *Kloosterman v. Univ. of Michigan Health-West Hospital*;⁹ and *Dominican Sisters of Hawthorne, Inc., et al. v. Hochul, et al.*¹⁰ Religious liberty and conscience rights are assaulted in a number of areas, including abortion (*Cenzon-DeCarlo v Mount Sinai Hosp.*¹¹). They also need to be protected under this section. While existing law provides protection under Title VII, and restating that in the Proposal is helpful, we suggest deleting that there is an “automatic or near-insurmountable presumption” in disparate impact liability which could lead a grantee organization to justify discrimination.

Discriminatory Event Services (§ 200.219)

The proposed provision in this section would establish in the regulatory text that public entities that are recipients or subrecipients of federal financial assistance must not discriminate on the basis of the viewpoint, content, or subject matter of speech—including on the basis of political, ideological, or religious affiliation or perspective—in providing services for events, meetings, or other expressive activities. This requirement would further ensure that public entities receiving federal awards do not use their control over facilities or services to disadvantage disfavored groups, such as colleges and universities charging additional fees—sometimes referred to as “heckler’s fees”—to provide security for conservative speakers.

To ensure that federal funds are not used in a manner inconsistent with the First Amendment, OMB proposes to apply the requirements of paragraph (a) to non-public entities to the extent that the relevant activities are within the scope of a federal program under which the non-public entity accepts a federal award. Applying the prohibition to activities within the scope of a federal program does not present constitutional concerns under the First Amendment, provided that the federal agency does not seek to leverage funding to regulate speech outside the contours of the federal program.

While we support this provision which bars discrimination based on viewpoint, content, or subject matter (including religious affiliation or perspective), it raises concerns for religious entities and pure issue-advocacy organizations, potentially forcing a church or religious organization to host speech or activity, including speakers contrary to its beliefs: must a church-hosted event admit someone wearing a blasphemous or pornographic shirt intended to insult the congregation, or someone demanding to use the opposite sex’s bathroom? We recommend adding an explicit disclaimer that nothing in the provision requires a religious organization to violate its religious beliefs so that that free-exercise right, not just pertaining to speech, but also to religious exercise under the First Amendment is protected (Incorporate the charitable-choice/equal-treatment language: See Trump Equal Treatment/Charitable Choice Rule¹²). This

⁸ U.S. Supreme Court, *Chiles v. Salazar* 607 U.S. ____ (March 31, 2026). SCOTUS ruled that Colorado’s ban on “conversion therapy” for minors, as applied to a licensed therapist’s talk therapy, regulates speech based on viewpoint and violates the First Amendment.

⁹ *Kloosterman v. Univ. of Michigan Health-West Hospital*, No. 24-1398 (6th Cir. Aug. 27, 2025) is a major religious freedom and employment lawsuit involving Valerie Kloosterman, a physician assistant fired by University of Michigan Health-West (Metropolitan Hospital) in 2021. She was terminated after declining to use patients’ preferred pronouns or provide referrals for gender-transition procedures due to her Christian faith and medical judgment.

¹⁰ *Dominican Sisters of Hawthorne, Inc., et al. v. Hochul, et al.*: The state of New York attempting to mandate the Hawthorne Dominican Sister who sponsor Rosary Hill, a long-term care facility to assign rooms and restrooms based on gender identity rather than biological sex and requires the use of preferred names and pronouns.

¹¹ *Cenzon-DeCarlo v Mount Sinai Hosp.* (Dec. 7, 2010). Catholic operating room nurse Cathy Cenzon-DeCarlo filed a lawsuit against The Mount Sinai Hospital in New York City, alleging she was coerced into assisting with a late-term abortion procedure despite having a documented, longstanding religious objection.

¹² 85 FR 82037. Education Department, the Homeland Security Department, the Agriculture Department, the Agency for International Development, the Housing and Urban Development Department, the Justice Department, the Labor Department, the Veterans Affairs Department, and the Health and Human Services Department, “Equal Participation of Faith-Based Organizations in the Federal Agencies’ Programs and Activities,” *Federal Register* (Dec. 17, 2020).

rule amends the regulations of the agencies listed to implement Executive Order 13831 of May 3, 2018 (Establishment of a White House Faith and Opportunity Initiative).¹³ This rule provides clarity about the rights and obligations of faith-based organizations participating in the Agencies' Federal financial assistance programs and activities. This rulemaking is intended to ensure that the Agencies' Federal financial assistance programs and activities are implemented in a manner consistent with the requirements of federal law, including the First Amendment to the Constitution and the Religious Freedom Restoration Act (mandating that the government may not substantially burden a person's exercise of religion unless it proves the burden furthers a "compelling governmental interest" and is the "least restrictive means" of doing so).¹⁴ We suggest that any such provisions also need to be applicable to non-faith-based but issue-based organizations. Furthermore, "services" must be defined to include not just those specific to the event, but those supporting the event and its content. Furthermore, there needs to be a differentiation of "purpose" of the event and its "effect" pertaining to suppressing lawful expression. Controlling the "effect" is arbitrary and could be interpreted as disparate impact, meaning it is prohibited, which would be difficult to regulate.

Statutory and National Policy Requirements (§ 200.300)

The proposals within this section rely upon recent Executive Orders¹⁵ of President Trump intended to ensure that recipients of federal funding do not engage in unlawful discrimination in administration, inconsistent with Guidance from the Department of Justice, which now would become mandatory.¹⁶ The proposed revised language in § 200.300(a) clarifies that, in managing and administering Federal awards, no person otherwise eligible will be excluded from participation in, unlawfully denied the benefits of, or otherwise subject to unlawful discrimination in the administration of federal programs, activities, projects, assistance, and services. Such non-discrimination language would encompass requirements, as applicable, not to discriminate on various bases, including race, color, national origin, disability, sex, religion, or conscience. We support these proposals with the following recommendations.

In Subsection (a), there is a need to specifically reference existing federal conscience protection (from discrimination) laws,¹⁷ not just those addressing existing First Amendment religious liberty and free speech. Subsection (b) proposes to remove the commentary embracing gender theory in the U.S. Supreme

¹³ President Donald J. Trump, "Establishment of a White House Faith and Opportunity Initiative," Executive Order 13831 (May 3, 2018) 2018-09895 (83 FR 20715).

¹⁴ 42 U.S.C. §§ 2000bb to 2000bb-4.

¹⁵ Executive Order 14151 of January 20, 2025, "Ending Radical and Wasteful Government DEI Programs and Preferencing" (DEI Executive Order); Executive Order 14173 of January 21, 2025, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" (Ending Discrimination Executive Order); Executive Order 14168 of January 20, 2025, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" (Gender Ideology Executive Order); and Executive Order 14187 of January 28, 2025, "Protecting Children from Chemical and Surgical Mutilation" (Protecting Children Executive Order). The President later issued Executive Order 14281 of April 23, 2025, "Restoring Equality of Opportunity and Meritocracy" (Restoring Equality Executive Order).

¹⁶ On March 21, 2025, the Department of Justice (DOJ) issued guidance to all Federal agencies regarding implementation of EOs 14151 and 14173 (March 2025 DOJ Guidance). Subsequently, on July 29, 2025, DOJ issued additional guidance regarding unlawful discrimination (July 2025 DOJ Guidance).

On September 12, 2025, OMB issued Memorandum M-25-33, which instructed agencies to follow the July 2025 DOJ Guidance when managing Federal programs and overseeing recipients of Federal funding. Most recently, on December 2, 2025, DOJ's Office of Legal Counsel released an opinion finding that certain race-based grant programs administered by the Department of Education violate the Fifth Amendment's equal-protection component.

¹⁷ U.S. Dept. of Health and Human Services, "Fact Sheet: Safeguarding the Rights of Conscience as Protected by Federal Statutes," implementing *Protecting Statutory Conscience Rights in Health Care; Delegations of Authority*, 84 Fed. Reg. 23,170 (May 21, 2019).

Court's decision in *Bostock v. Clayton County*.¹⁸ In this case, the Supreme Court ruled that Title VII of the *Civil Rights Act of 1964* protects employees against workplace discrimination based on sexual orientation or gender identity. The implications go beyond discrimination against persons refusing to cooperate in sex-rejecting procedures/interventions. Grant recipients also must not be discriminated against for refusing to endorse or cooperate in the social transitions involved in gender theory.¹⁹

The proposed Subsection (c) provides that federal agencies and pass-through entities may not discriminate against or in favor of a grant applicant on the basis of the organization's religious character, affiliation, exercise, or lack thereof, nor on the basis of conduct that would not be considered ground to favor or disfavor a similarly situated secular organization. While we are pleased that in Section (c) discrimination against faith-based organizations is addressed, there needs to be specifically contained in the regulatory text the *Religious Freedom Restoration Act* (RFRA)²⁰ (not just in the Executive Summary). We suggest requiring each agency to conduct an RFRA analysis during rulemaking — analogous to a federalism analysis, tribal consultation, or small-business impact review. RFRA is an affirmative “government shall not” obligation, so agencies should consider known substantial burdens on religion at the outset, with a robust RFRA preview (not just review) before a rule goes out. Language from the *World Vision* decisions should be explicitly referenced.²¹ Also, consider requiring a sign-off from the Department of Health and Human Services’ (HHS) Faith Center²² or Office for Civil Rights where conscience/religious freedom is monitored.²³

The religious character of faith-based providers is protected by allowing them to retain control over the definition, development, practice, and expression of their religious beliefs. Neither federal nor state government can require a religious provider to alter its form of internal governance. This Subsection (c) fails to recognize that religious organizations have special considerations and protections because of their very nature grounded in the First Amendment, e.g., religious employers can make hiring and other

¹⁸ *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

¹⁹ André Van Mol, MD, “Social Transitioning is Neither Neutral nor Benign,” CMDA (January 9, 2025). <https://cmda.org/social-transitioning-is-neither-neutral-nor-benign/#:~:text=The%20pro%2Dtransition%20Endocrine%20Society%20guidelines,a%20child%20progresses%20into%20adolescence>.

²⁰ [42 U.S.C. §§ 2000bb–2000bb-4](#).

²¹ U.S. Dept. of Justice, “Application of the Religious Freedom Restoration Act to the Award of a Grant Pursuant to the Juvenile Justice and Delinquency Prevention Act,” Memorandum Opinion for the General Counsel Office of Justice Programs (June 29, 2007). www.justice.gov/sites/default/files/olc/opinions/2007/06/31/worldvision_0.pdf: The 2007 Department of Justice Office of Legal Counsel (OLC) World Vision Opinion determined that the *Religious Freedom Restoration Act* (RFRA) required the government to exempt the religious charity World Vision from the religious nondiscrimination provisions stipulated in the *Juvenile Justice and Delinquency Prevention Act* (JJDPa).

²² The HHS Center for Faith (known hereafter as “The Faith Center”) is the Department’s liaison to faith-based entities, community organizations, and houses of worship. <https://www.hhs.gov/about/agencies/iea/faith/about-the-faith-center/index.html>.

²³ HHS Office for Civil Rights (OCR), enforces federal civil rights laws, conscience and religious freedom laws, the *Health Insurance Portability and Accountability Act* (HIPAA) Privacy, Security, and Breach Notification Rules, the Confidentiality of Substance Use Disorder Patient Records, and the *Patient Safety Act* and Rule, which together protect your fundamental rights of nondiscrimination, conscience, religious freedom, and health information privacy. <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>.

employment decisions based on religious tenets. More clarity would be achieved by incorporating language from the *Charitable Choice* provisions,²⁴ as well as from *Guidance* from the U.S. Department of Justice.²⁵

Exemptions and accommodations exist for faith-based organizations and explicit, clear, transparent processes need to be specified into the regulations including provisions for: evaluation by experts in religious-liberty law; written explanations of any denial, with expedited review and appeal provisions; the ability to appeal before an award is finalized; avoidance of an amorphous case-by-case approach that provides no clarity and discourages participation.

The Abortion Provision (§ 200.477)

This Section provides that costs associated with elective abortions are unallowable under federal awards except as expressly authorized by federal law enforcing the Hyde Amendment and reflects longstanding appropriations restrictions prohibiting the use of Federal funds for elective abortion except in limited circumstances.

While we support the funding prohibition, no other federal abortion provision uses “elective.” Such a provision does not exist in federal law and should be deleted. It will allow for virtually unrestricted exceptions, such as nebulous “health of the mother,” including more than physical health. Other language such as clarifying that funds cannot be used for “a deliberate and direct abortion,” which excludes such things as procedures that directly address a pathology of the reproductive system such as ectopic pregnancy or hemorrhage, should be used: “Every intervention, whether surgical or chemical, whose sole immediate effect is the destruction of a living human embryo or fetus or the removal of a living embryo or fetus from the uterus before viability is an abortion, which, in its moral context, includes the interval between conception and implantation of the embryo; removal after viability with the intent for it to result in the death of a living fetus is also an abortion.”²⁶ Furthermore, existing federal law does not provide an exception for the “health of the mother,” and a “life” exception is unnecessary with an accurate definition of abortion, as we have defined it.²⁷ The possible full exclusion appears to be contained in the Department of Veterans Affairs (VA) amended policy, which would appear to have the potential to exclude all deliberate and direct abortions and abortion counseling from the medical benefits package.²⁸ Much would depend on how this policy is applied. Congress has a longstanding policy of restricting abortion funding and the legal history of abortion funding restrictions (e.g., *Harris v. McRae*,²⁹ which upheld favoring childbirth over abortion even under *Roe v. Wade*).³⁰

²⁴ Created in 1996, “Charitable Choice” allows government officials to purchase services from religious providers using Temporary Assistance for Needy Families (TANF), Welfare-to-Work, and Community Services Block Grant (CSBG) funds. In late 2000, charitable choice was included in the Substance Abuse and Mental Health Services Administration’s (SAMHSA) block grant. See:

[https://en.wikipedia.org/wiki/Charitable_choice#:~:text=Created%20in%201996%2C%20charitable%20choice,Services%20Block%20Grant%20\(CSBG\)%20funds.](https://en.wikipedia.org/wiki/Charitable_choice#:~:text=Created%20in%201996%2C%20charitable%20choice,Services%20Block%20Grant%20(CSBG)%20funds.)

²⁵ Office of the U.S. Attorney General, “Federal Law Protections for Religious Liberty,” Memorandum for all Executive Departments and Agencies (October 6, 2017). [Memorandum for all Executive Departments and Agencies.](#)

²⁶ U.S. Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services* 7th Ed. (Washington, DC: USCCB, Nov. 2025) N. 45.

²⁷ See Hyde Amendment: H.R.719 — 119th Congress (2025-2026).

²⁸ Dept. of Veterans Affairs, Under Secretary for Health, “Provision of Abortion Counseling and Services,” Memorandum to Veterans Integrated Service Network Directors (10N1-23: December 22, 2025). “The exclusion on abortion does not bar care necessary to save a Veteran’s life when a Veteran’s clinician determines that the care is necessary to save the Veteran’s life, even if this requires an intervention that would end the pregnancy.”

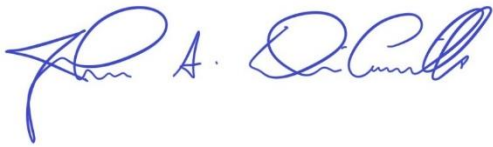
²⁹ 448 U.S. 297 (1980). In this landmark ruling, the Court held that the Hyde Amendment—which restricted the use of federal Medicaid funds for abortions—did not violate the U.S. Constitution, meaning states are not required to fund medically necessary abortions.

³⁰ 410 U.S. 113 (1973).

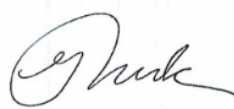
Cost associated with a deliberate and direct abortion should not be funded, including but not limited to travel, infrastructure, counseling, and referrals, etc. If the Final Rule provides for any coverage of a grantee that provides abortions there must be a physical and financial separation requirement for any grant recipient who provides abortions, similar to provisions for Title X.³¹ This averts the cost/overhead subsidy problem.

The National Catholic Bioethics Center, the Catholic Medical Association, and the National Association of Catholic Nurses, USA welcome provisions within the Proposed Rule which would remove discriminatory DEI provisions for those participating with the federal government in serving the common good through the grant process. However, we ask that the provisions that we have identified above, that need to be addressed be included in the Final Rule. Thank you for the opportunity to address this critical issue impacting individuals and organizations committed to serving vulnerable populations in the delivery of critically needed services that are dependent on this partnership with the federal government.

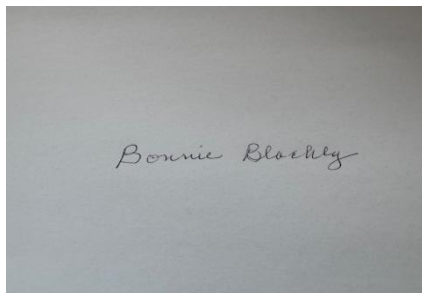
Respectfully yours,



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³¹ Family Planning Program Regulation's, 42CFR59, Supra note, 7.