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New Grant Rule on Federal Financial Assistance Could Expand Government Surveillance

At the end of May, the Office of Management and Budget (OMB) released a sprawling Proposed Rule that would effectively redefine the relationship between the federal government and recipients of federal funds. Through an amendment to Title 2 of the Code of Federal Regulations—a broad framework that governs federal grants, cooperative agreements, and other federal financial assistance—the Proposed Rule seeks to substantially expand the powers of federal political appointees to monitor the speech and conduct of funding recipients.

Seemingly on a fast track, with an expected implementation date of October 1, 2026 and only a narrow 45 day comment period, the Proposed Rule is expected to be finalized before the upcoming fall. In its own words, the Proposed Rule is meant to implement "strong internal controls at Federal agencies and enhanced oversight regarding how Federal dollars are spent." The practical impact of these changes is that federal awards, including grants that many HIV organizations and providers rely upon, would become significantly politicized. Agencies would have new expansive powers to guide financial assistance to political allies, and funding recipients would be pressured to forego virtually all work that appears counter to federal policy priorities to maintain funding. Read on for more about the scope of the Proposed Rule, how it could impact access to healthcare, and how to take action against it.

Why Are We Discussing OMB?

Previous editions of Health Care in Motion (see here, here, and here) have discussed federal funding as a key tool in the weaponization of federal authority over healthcare access, public health, and efforts to improve health equity. Our past analysis has focused largely on the Department of Health and Human Services (HHS), which includes many agencies that oversee key health-focused grants. The OMB ule is important for health advocates to understand because the Proposed Rule seeks to implement a grant framework that would apply to all federal agencies and their grantmaking operations. While some of the policies in the Proposed Rule were previously included in OMB guidance, the Proposed Rule would elevate the text of Title 2 from guidance to binding regulation, forcing all federal grant programs to comply.

The Quiet Part Out Loud: Advancing Administrative Priorities

The Proposed Rule would introduce and revise several regulatory provisions that would impact (1) the kinds of work that can be federally funded and (2) the processes involved in obtaining and keeping federal grant funding. The Proposed Rule employs a number of mechanisms to advance and enforce a broad range of the

Trump Administration's legal interpretations and policy priorities. Several areas of the Proposed Rule are particularly impactful for public health and community service providers. Some of these are further discussed below.

Prohibition of Funding for Specific Subject Areas

The Proposed Rule would, if finalized, prohibit agencies from administering and grantees from using federal grant funds for specific subject areas. These prohibitions seek to codify the Administration's policy priorities on issues such as efforts to address racial inequities, gender affirming care, immigration, and reproductive choice, and to enshrine those positions in regulations that will cut off funding for grantees that in any way oppose these priorities.

"Disparate-Impact Liability" and DEI. Provisions in the Proposed Rule would require agencies to ensure that Federal awards are not used "in support of disparate-impact studies, disparate-impact litigation, or other related activities" or "to fund, promote, encourage, subsidize, or facilitate [Diversity, Equity, Inclusion and Accessibility (DEI or DEIA)] policies, principles, or practices that violate any applicable Federal anti-discrimination laws." The Proposed Rule includes in the definition of DEI those projects that are related to race and "intentional proxies for race," "including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation."

"Gender Ideology" and Gender-Affirming Care. The Proposed Rule would also require that federal grant funds not be "used to fund, promote, encourage, subsidize, or facilitate" "gender ideology," or "the so-called 'transition' of a child under 19 years of age from one sex to another." The Proposed Rule would codify into regulation the Administration's broad definition of "gender ideology," which is defined to "include[] the idea" that gender identity differs from sex. Moreover, the Proposed Rule notes that "gender ideology" includes "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."

Immigration. In a different section of the Proposed Rule focused on Political Appointee approvals of grant applications (discussed below), agency Appointees would be required to ensure that federal discretionary awards not be used to "fund, promote, encourage, subsidize, or facilitate . . . illegal immigration."

Abortion. The Proposed Rule includes a new provision that states "[c]osts associated with elective abortions are unallowable, except as expressly authorized by Federal law." This provision would incorporate and expand upon the principles of the Hyde Amendment, which prohibits the use of Federal funds for abortion except in limited circumstances, into regulations applicable across agencies.

These broadly defined prohibitions will have a significant impact on wide swaths of federal grantees, including many recipients of federal grants working in public health. For instance, for organizations that work to end HIV and to support people living with HIV, acknowledging, evaluating, and addressing racial disparities in HIV outcomes, or the healthcare needs of transgender people living with HIV, are foundational aspects of the work. The Proposed Rule can also be read so as to not allow any federal grant funds (1) to be used to directly fund or indirectly support or advocate for gender-affirming care, and (2) to be used in any way that would support or affirm the existence of transgender people.

If the Rule is finalized, legal challenges to these prohibitions are likely, including claims that these prohibitions violate the First Amendment and conflict with the statutory requirements of the Ryan White Act and various other federal statutes.

Politicization of Grant Approval Processes

The Proposed Rule would also change who has the power to review and approve federal funding awards. At present, discretionary grant applications are reviewed by peer reviewers. For instance, as the Substance Abuse and Mental Health Services Administration (SAMHSA) describes, "SAMHSA uses peer reviewers who have specific knowledge, skills, and expertise related to each Notice of Funding Opportunity Announcement." As such, grant applications are reviewed and scored by experts in the relevant field.

The Proposed Rule would change this, requiring instead that senior political appointees in the agency be the ones to review grant applications. These reviews are to be explicitly political. The proposed regulation would require that senior appointees, in reviewing grant proposals, apply the principle that "discretionary awards must, where applicable, demonstrably advance the President's policy priorities." The proposed regulation would also require appointees to ensure that discretionary grant awards not be used to fund specific subjects, which, in addition to the prohibitions discussed above, also includes "any other initiatives that compromise public safety or promote anti-American values."

Restraints on Collaboration with Other Groups

The Proposed Rule would also disincentivize entities that seek to receive *any* grant funds from engaging in or affiliating with organizations engaged in activities contrary to the Administration's policy priorities. Specifically, the Proposed Rule would require that agencies conduct a risk assessment to evaluate applicants prior to issuing Federal awards, which would include consideration of whether the applicant has a "history of . . . engaging in activities or initiatives that are inconsistent with Federal civil rights laws" or "religious liberty laws", has a record of publishing "discredited or non-replicable studies," or has an "affiliation with organizations engaged in activities that violate Federal law, undermine public safety or national security, or advocate for the overthrow of the United States Government."

This provision could significantly chill federally-funded organizations' abilities to engage in myriad kinds of work even when that work isn't itself federally funded, such as work regarding race or gender equity (which could be tagged as activities "inconsistent with Federal civil rights laws") or gender-affirming care work (about which the Administration has asserted a number of claims, including rejecting studies that support the medical benefits of gender-affirming care).

Other Key Changes

The Proposed Rule also makes a number of changes that would impact public health research and direct services, as well as the basic science and medical research that are essential to develop new treatments and scientific breakthroughs. In particular, the Proposed Rule would allow grants to be terminated at any point, without warning. The Proposed Rule also sets limitations on publishing, presenting on, or communicating research findings—limiting the ability of federally funded science to be shared, replicated, and built upon.

The Proposed Rule would also limit language accessibility in the federal grant process, requiring that all Federal announcements, applications, and award information must be in English "to highlight the importance of recipients being able to understand Federal award requirements and program information in English."

What to Expect and How to Get Involved

The government is soliciting comments on the Proposed Rule, to be submitted by **July 13, 2026.**

Advocates and organizations should consider submitting comments, which, as explained in a recent Health Care in Motion, both provide decisionmakers an opportunity to hear stakeholder perspectives and bolster an administrative record that can be used in litigation challenging the finalized Rule.

For this Rule in particular, consider writing about the following issues:

- Whether and how the Proposed Rule would interfere with an organization's ability to fulfill its mission;
- Whether and how the Proposed Rule imposes burdens on an organization, including through the need to change existing programs, materials, trainings, etc. that the organization has invested time and resources to create;
- Whether and how the Proposed Rule would interfere with an organization's ability to meet other legal obligations, such as data collection or assessment regarding particular populations;
- Whether and how the Proposed Rule would create uncertainty or pressure around how the organization communicates in the course of its work; and
- Whether the length of the comment period (45 days) impacts an organization's ability to review the Proposed Rule and provide more thorough comments.

Want to Submit a Comment and Don't Know Where to Start?

Consider reaching out to organizations that reflect your interests—many are writing comments and may have comment templates to use. Organizations and individuals across many disciplines have created resources, including the American Public Health Association, National Council of Nonprofits, the Solve ME/CFS Initiative, the American Astronomical Society, the American Sociological Association, the Consortium of Social Science Associations, the Association of Public & Land-Grant Universities, the American Alliance of Museums, the School Superintendents Association, and Elizabeth Ginexi, former NIH Scientific Program Official (see more analysis from Dr. Ginexi here).

If you are an HIV organization or provider, or just want to focus your comment on the impact the Proposed Rule will have on people living with or at risk of HIV, consider using this comment template.

Organizations are also hosting webinars to describe the Proposed Rule and provide instructions about how to write and submit comments. For instance, Lawyers for Good Government is hosting one such webinar on **June 23, 2026.** Learn more and register here.

The Administration has expressed a plan to have a finalized Rule for implementation on October 1, 2026. Typically, final rules are substantially similar to proposed rules, even if comments are submitted to the agency. If the Rule is finalized in similar form to the proposed version, it is almost certain to be challenged in one or

more lawsuits. Whether the Rule would go into effect during the pendency of litigation will depend on whether federal courts elect to halt implementation of the Rule and retain the status quo for grant funding until the litigation is decided.

And, even if the Rule is eventually paused or struck down by courts, it is likely to command compliance in the interim and chill work done by organizations reliant on federal grant funding. As one recent article describes, some entities abolished DEI programs after the White House issued Executive Orders regarding DEI, before facing a formal threat of enforcement. It will be important for federal grant recipients to be aware of legal developments and in touch with legal counsel to determine what changes, if any, are required by federal law.

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Health Care in Motion is written by Carmel Shachar, Health Law and Policy Clinic Faculty Director; Kevin Costello, Litigation Director; Elizabeth Kaplan, Director of Health Care Access; Maryanne Tomazic, Clinical Instructor; John Card, Staff Attorney; and Rachel Zacharias, Clinical Fellow.

*For further questions or inquiries please contact us at **chlpi@law.harvard.edu**.*