March 30, 2026

General Services Administration
1800 F Street, NW
Washington, DC 20405

Re: FR Doc #2026-01676; Information Collection 3090-0290, System for Award Management Registration Requirements for Financial Assistance Recipients

To Whom It May Concern:

This comment is submitted on behalf of EdTrust, a national nonprofit organization dedicated to advancing policies and practices that dismantle racial and economic barriers in the American education system, in response to the General Services Administration's (GSA) proposed amendments to the System for Award Management (SAM) certification requirements for federal financial assistance recipients (Information Collection 3090-0290). We appreciate the opportunity to submit comment — our first real opportunity to do so with respect to the administration's unprecedented and substantive reinterpretation of federal civil rights law.[1]

We write to express deep concern about the GSA's proposed changes, which would undermine the ability of educators and institutions to ensure that every student — regardless of race, background, or socioeconomic status — can access the resources, mentorship, and opportunities they need to succeed.

Although this proposal would affect all SAM-registered grantees across a broad range of different sectors, the education community sees this for what it is: a revival of a policy previously attempted and struck down by the courts as unlawful. In February 2025, the U.S. Department of Education illegally sought to require state education agencies, school districts, and institutions of higher education to certify compliance with its reinterpretation of civil rights law to target diversity, equity, and inclusion (DEI) programs. This proposal appears to go even further, additionally targeting policies that support immigrant communities and protect lawful activism and protest. Concerningly, these new, substantive requirements are backed by the threat of contract breach punishable by loss of funds, civil and criminal liability, and even harassing litigation under the False Claims Act.

Repackaging policy already deemed illegal does not make it lawful. For this reason, and the issues outlined further below, we urge the GSA to withdraw these proposed amendments in full.

1. **The proposed amendments' vagueness makes it impossible for educators to know whether they are in compliance**

The proposal's failure to provide clear notice of what conduct is prohibited forces educators into an impossible choice: over-comply with the administration's vague and evolving views through self-censorship or risk potential criminal charges for upholding lawful practices that ensure every student has equal access to education.

To start, the anti-DEI provision (Certification #6) fails to define its core terms: "DEI" and "DEIA." Worse still, the provisions — along with the U.S. Department of Justice's Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination, with which the GSA seeks to "align" — misinterprets the law following the U.S. Supreme Court's 2023 decision, Students for Fair Admissions v. Harvard. Both declare a broad range of permissible conduct, such as "'cultural competence' requirements, 'overcoming obstacles' narratives, [and] 'diversity statements,'" as potentially unlawful, even though the Supreme Court explicitly characterized diversity-related mission interests as "commendable" and "plainly worthy." Further compounding the vagueness, the proposal requires compliance with unspecified "relevant executive orders" or "executive branch guidance," potentially compelling education institutions to certify compliance with standards not yet issued under threat of criminal prosecution if they guess wrong.

The anti-immigration provision (Certification #7) is also vague. It prohibits conduct that would "induce" a non-citizen "to enter or reside in the United States," yet fails to define what "induce" entails. Does this include lawful state policies that provide undocumented students with access to affordable higher education? Does this implicate Plyler v. Doe and the constitutional right of every child to a free public education, regardless of immigration status? The proposal offers no clear answers.

Absent clear notice of what is and is not lawful, educators and institutions are forced to gamble their careers and funding, guessing whether their curriculum, pedagogy, or student-support programs adhere to this administration's interpretation of the law — one that is divorced from established law. And across every permutation of this unlawful policy,

the costs to our nation's education system remain the same: scaled-back supports for the students who need them most.

2. The proposed amendments' restrictions on free speech and academic freedom harm student success

As applied in education, the GSA's proposed amendments would constitute viewpoint discrimination, curtail academic freedoms, and violate longstanding prohibitions on federal intrusion into curriculum and instruction. The anti-DEI provision, for example, warns recipients against taking action against individuals who "engage in protected activities related to opposing DEI practices," yet by omission, appears to permit action against individuals who promote DEI practices. One could understand this to mean that otherwise protected activities become unprotected when the subject is promoting DEI practices (which, again, remain undefined by the amendments); this is the epitome of unconstitutional viewpoint discrimination.[2] Moreover, the proposed penalties for breaching the certifications are coercive; the possibility of loss of funds, civil and criminal liability, and harassing litigation would likely compel institutions to censor viewpoints and prevent the teaching of anything remotely related to DEI — including the historical and current instances of systemic and individual racial discrimination.[3] The First Amendment prohibits both instances of viewpoint discrimination.

By enforcing viewpoint discrimination, this proposal strikes at the academic freedoms essential to student success. America's classrooms — whether in P-12 or postsecondary education — are where our nation's students develop critical thinking skills by engaging with diverse perspectives, identities, and cultures. An informed populace thrives on this diversity, not on enforced homogeneity. Furthermore, by potentially restricting the teaching of honest history, the proposal undermines civil rights and reverses social progress by reframing "equity" as a form of injustice, rather than a commitment to fairness and equal opportunity guaranteed by the Equal Protection Clause of the 14th Amendment.

Given its importance, Congress has repeatedly affirmed the need to protect academic freedom — through the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), the General Education Provisions Act (GEPA), and the Department of Education Organization Act (DEOA) — all of which explicitly prohibit the federal government from exercising control over the curriculum. By attempting to dictate

the boundaries of academic discourse, the GSA's proposal would violate these longstanding legislative protections.

3. The proposed amendments' aim of eliminating DEI programs in education is an educational and economic disaster in the making

The proposal's vague prohibitions on DEI are grounded in a false narrative that DEI initiatives are about exclusion. In reality, these programs advance a fundamental American principle — of expanding access to education — by increasing opportunity and strengthening institutions to ensure that *all* students, including those from underserved backgrounds, can learn and thrive. By using the threat of breach of contract to intimidate educators and institutions, this proposal undermines that principle and jeopardizes lawful programs that effectively advance success for all students.

Programs that support Black, Latino, and Native students — alongside veterans, rural communities, students with disabilities, and others who are traditionally under-represented — help identify and close equity gaps, increase graduation rates, and foster environments where all students can have a shot at the American Dream. In P-12, teachers regularly use pedagogical practices that recognize and value the diverse experiences and learning styles that their students bring to their classrooms. Schools also provide early, targeted, and differentiated interventions to students who require additional supports so they can participate in the most inclusive learning environment possible — including for multilingual learners and students with disabilities. In higher education, cultural centers and other campus affinity groups strengthen institutions and communities by creating spaces where students can engage in meaningful dialogue, find mentorship, and receive crucial academic and mental health support. If these proven initiatives are to be dismissed as "illegal DEI," does the GSA plan to provide guidance on alternatives? And if providing all students a shot at the American Dream is now classified as a prohibited DEI activity, what exactly is the new objective of these federal requirements?

As students of color now comprise a majority of K-12 students and nearly half of higher-education enrollment, silencing their voices, erasing their histories, and dismantling the programs that support their success will deepen racial and economic inequities, widen achievement gaps, and weaken the nation's workforce. Excluding them is the antithesis of what makes America great.

We urge the GSA to reverse course and stop these proposed changes.

Thank you.

Sincerely,

EdTrust

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[1] An invitation to mail or email comments, buried in a footnote, for anyone "interested in commenting" — as included in the February 14, 2025, Dear Colleague Letter from the U.S. Department of Education — does not satisfy notice-and-comment requirements.

[2] *See AFT v. Dep't of Educ.*, 796 F. Supp. 3d 66, 112 (D. Md. 2025) ("[T]he government does not dispute [that] 'a person who…opposes DEI or who opposes the concepts that are discussed in the Letter is perfectly free to use federal funds to exercise their expression and do so without the fear that they will be punished or have funds taken away as a result.' That is clear viewpoint discrimination." (citations omitted)).

[3] See *NEA v. Dep't of Educ.,* 779 F. Supp. 3d 149 (D. Nh. 2025) ("Ultimately, a government official violates the First Amendment through coercion of a third party when the official engages in 'conduct that, viewed in context, could be reasonably understood to convey a threat of adverse government action in order to punish or suppress the plaintiff's speech.'" (citations omitted)).