September 17, 2026

The Honorable Linda McMahon
Secretary of Education
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

RE: 2026-17239 EDGAR NPRM

Dear Secretary McMahon:

On behalf of AASA, The School Superintendents Association and the Association of School Business Officials International (ASBO), representing thousands of school district leaders across the United States, and AESA, the Association of Education Service agencies, representing 470 regional education service organizations that work with those public schools, we submit these comments in response to the U.S. Department of Education's (ED's) proposed revisions to the Education Department General Administrative Regulations (EDGAR), published on August 24, 2026.

We are deeply concerned by some of ED's proposed changes to EDGAR due to the negative impact they will have on local educational agencies, including school districts and educational service agencies. The proposed changes of greatest concern to our members are outlined below.

34 CFR 75.100 – Eliminating the requirement to publish application notices in the Federal Register

We oppose the proposed amendment to eliminate the requirement for the Secretary to publish application notices and the content of the notices in the Federal Register from Section 75.100. While we understand that this information will continue to be published on Grants.gov, publication in the Federal Register provides an additional, longstanding source for prospective applicants to identify funding opportunities and understand the requirements and priorities associated with grant competitions. Federal grant opportunities should be as transparent and accessible as possible to encourage broad participation from eligible applicants. Sharing grant information through multiple established channels makes it easier for school districts and other prospective applicants to learn about and apply for available funding. We strongly encourage ED to retain the existing Federal Register publication requirement while continuing to use Grants.gov to broadly disseminate information about grant opportunities.

34 CFR 75.228 - What procedures does the Secretary use if the Secretary decides to give special consideration to applicants voluntarily electing to be more cost effective, including use of a lower indirect cost rate?

We are concerned that the proposed language offering a competitive preference to entities that elect to use a lower indirect cost rate could disadvantage LEAs and nonprofit organizations. LEAs generally have lower negotiated indirect cost rates (including unrestricted indirect rates at or below the *de minimis* rate of 15% modified total direct costs) and thus would not be able to meet the tiered reductions outlined in § 75.228(b)(1) or demonstrate a higher-than-*de minimis* negotiated indirect cost rate under § 75.228(b)(2) in order to receive the competitive preference. Similarly, many nonprofit organizations already operate with relatively low negotiated indirect cost rates or rely on the *de minimis* rate and therefore may have little or no ability to further reduce their rates to obtain a competitive advantage. As a result, the proposal could unintentionally favor applicants with higher negotiated indirect cost rates while disadvantaging entities that are already operating in a cost-effective manner.

34 CFR 75.252 – Clarifying the process for frontloading grant funds of a multi-year project

We request additional clarification regarding ED's proposed new authority under 34 CFR 75.252 to partially or fully frontload funds for multi-year projects. The proposal states that "A grantee may only draw down funds in accordance with its approved budget for that budget year and may not draw down funds in excess of that amount without prior approval." However, the proposal does not clearly explain the legal and accounting status of funds that have been frontloaded and obligated for a multi-year project but that the grantee has not yet been authorized to draw down. We request clarification regarding the circumstances under which frontloaded but undrawn funds may be withheld, restricted, or de-obligated; what notice a grantee would receive before such actions are taken; what opportunity there is to respond to or appeal those actions; and how ED expects grantees to account for financial commitments made in reasonable reliance on frontloaded funds.

We are also concerned about the administrative implications of frontloaded grants for grantees with limited capacity, including small and rural districts, which often have limited staff and bandwidth for federal grants administration. Receiving multiple years of funding at once could create additional responsibilities related to budgeting, accounting, grant reporting and accountability, internal controls, cash management, and tracking funds across multiple budget periods. ED should ensure that frontloading does not inadvertently increase administrative burdens or disadvantage districts with limited capacity. We request additional clarification regarding the criteria ED will use to determine which grants or grantees receive partial or full frontloaded funding; whether ED will consider a grantee's administrative capacity and preference when making that determination; whether grantees will have an opportunity to decline frontloading or request an alternative funding structure if frontloading would impose additional administrative challenges; and what technical assistance ED will provide to help grantees manage frontloaded grants.

<u>34 CFR 75.253 – Continuation of a multiyear project after the first budget period</u>

We oppose the proposed removal of "regarding grantee performance" from the existing 34 CFR 75.253(b). ED proposes to allow the Secretary to consider "any relevant information" in making continuation awards, as opposed to the existing authority of "any relevant information *regarding grantee performance*" (emphasis added). We are concerned that this proposed change will be used to permit decisions to be based on factors outside of grant performance or program requirements. Under the proposed language, ED could discontinue grants to entities simply because they have policies the administration does not agree with. This creates an ambiguous standard, and it would be difficult for grantees to determine how to meet requirements for continuation. Further, if an administration were to issue new grant priorities or policies mid-grant cycle, we are concerned that grantees may be held to policies that they were not aware of when initially accepting a federal award. This will lead to uncertainty among grantees as to what requirements, priorities, or policies they need to comply with in order to receive continuation awards.

In addition, the new proposed language in 34 CFR 75.253(e)(5) would allow the Secretary, when making a continuation award, to "issue a partial award, providing funding in installments, or delay the release of funds." The proposed language does not outline under what circumstances the Secretary may take these actions, such as delaying the release of funds. This proposal will make it difficult for grantees to discern what actions they need to take or requirements they must follow to receive their full continuation award in a timely manner. Unexpected delays in funding result in significant challenges for grantees in making budgeting decisions.

<u>34 CFR 75.901 – Suspension and termination</u>

We are also concerned by the proposal to add new language under 34 CFR 75.901 to permit the Secretary of Education and pass-through entity to terminate discretionary grants "for convenience." This change would seemingly give the Secretary of Education broad authority to terminate a grant mid-cycle, without reasonable cause like noncompliance or failure to meet program goals. This change would introduce significant uncertainty into the discretionary grants process, as the proposed rule does not clearly outline under what types of circumstances the Secretary may use this new termination authority. This lack of clarity means that grantees may unfairly lose federal funding based on factors that are not made clear to them. Further, ED states that this change is similar to existing authority under 2 CFR 200.340(a)(4), but that authority is limited to when the award "no longer effectuates the program goals and agency priorities," which is not the same. Therefore, we request that ED remove this proposed authority.

<u>34 CFR 76.700 – Compliance with the U.S. Constitution, statutes, regulations, stated institutional policies, and applications</u>

We oppose the proposed addition of "Executive Orders" to the list of requirements that grantees under State-administered programs must comply with in exchange for receiving federal funds. We are concerned that this change will provide ED with greater enforcement authority over State-administered grants regarding policies that may be outlined in Executive Orders but not incorporated into law or regulations. Executive Orders are policy directives from the White House that do not have the force and effect of law. Federal agencies must take separate action, such as issuing or amending regulations, for Executive Order policies to be legally binding. Under this proposed change, Executive Orders would seemingly become legally binding to grantees immediately after issuance. This further raises concerns about policies changing in the middle of a grant cycle, when grantees had not agreed to such policies when funds were initially awarded. This proposed change would bring instability into the grants process over time as future administrations withdraw or issue new Executive Orders that may be contrary to existing policy, and will make it difficult for grantees to be certain of the policies that they are legally required to comply with in exchange for receiving federal funds.

34 CFR 75.500 and 76.500 – Constitutional rights, freedom of inquiry, and federal statutes and regulations on nondiscrimination

We oppose the proposed addition of paragraph (f) to both 34 CFR 75.500 and 76.500, which would require grantees to ensure compliance with broad and unclear standards. The proposed changes restate existing obligations under federal civil rights laws and other legal requirements and are, therefore, unnecessary. If ED believes a grantee is violating those laws, it has existing enforcement mechanisms available to use. In addition, the proposed changes would impose vague requirements that may extend beyond federal civil rights requirements. The proposed changes use terms such as "political views" and "proxies," but they provide no standards for determining when, for example, a facially neutral action becomes a proxy. Lack of adequately defined terms creates uncertainty for grantees. Grantees should be able to determine what standards govern their awards, what specific actions they must take to remain eligible for those awards, and what conduct ED believes will violate these rules.

Thank you for reviewing our feedback on the proposed rule. We are happy to explain any of these issues in more detail.

Sincerely,

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