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Federal Government Transition Update - 5.23.25 [1]

May 23, 2025 by Riley Black [2]

Dear Colleagues,

Please find a federal government update from our teams.

Preliminary Injunction Halts DOE Indirect Cost Cap
A U.S. District Court judge issued [3] a nationwide preliminary injunction on May 15 that prevents the U.S. Department of Energy from implementing a standard 15 percent indirect cost reimbursement rate for grants to colleges and universities. The national higher education associations led a lawsuit [4] challenging the policy [5] and at their request CU Boulder provided a declaration of impact [6]. The injunction replaces a temporary restraining order in place since April. It will remain in effect until a final decision in the case or the injunction is overturned by a higher court.

NSF Pauses Indirect Cost Cap Implementation and Issues New Grant Conditions
The National Science Foundation (NSF) announced [7] it will pause implementation of a standard 15 percent indirect cost reimbursement rate for grants to colleges and universities until June 13. A U.S. District Court hearing to evaluate the legality of the policy is scheduled that day. The national higher education associations filed a lawsuit [8], supported by a declaration of impact [9] CU Boulder provided at their request, challenging the policy earlier in May. New awards issued during the pause are not subject to the policy, unless the courts permit its future implementation, in which case the 15 percent cap will apply “for the entirety of the award.”

NSF also issued a new Grants General Conditions [10] document on May 19, which says that the agency will not fund institutions that operate diversity, equity and inclusion programs, advance discriminatory equity ideology, or boycott Israel.

DoD Memo on Indirect Costs
The Department of Defense (DoD) released a memo [11] on May 14 outlining its intent to implement a 15 percent indirect cost rate cap on new awards to universities. The memo says the policy will go into effect 21 days from its publication, which is June 4. The memo also announces plans to renegotiate the rate of existing awards no later than June 13. CU is working with our national partners to monitor implementation of the DoD indirect cost cap and any lawsuits that may follow.

Justice Department Launches Civil Rights Fraud Initiative
The U.S. Department of Justice on May 19 announced [12] the creation of a new Civil Rights Fraud Initiative tasked with “vigorous enforcement of the False Claims Act.” The new unit will “aggressively pursue” claims against any recipient of federal funds that certifies compliance but “knowingly” violates federal civil rights laws. The two-page memorandum [13] from the

Deputy Attorney General says universities may violate the False Claims Act through diversity, equity and inclusion programs and antisemitic activities. CU General Counsel is evaluating potential implications for the university.

Court Halts Department of Education RIFs

A U.S. District Court judge blocked the U.S. Department of Education on May 22 from firing thousands of its employees and transferring its statutory functions to other federal agencies. An executive order entitled Improving Education Outcomes by Empowering Parents, States and Communities [14], issued in March, directs the Secretary of Education "to the maximum extent appropriate and permitted by law, take all necessary steps" to close the Department. Since the Department was created by Congress it cannot be abolished absent congressional approval. "The record abundantly reveals that Defendants' true intention is to effectively dismantle the Department without an authorizing statute," the judge wrote [15]. The preliminary injunction, which is effective immediately, requires the Department to reinstate all employees terminated since January 20 as part of the reduction in force announced [16] on March 11.

HHS Releases Make America Health Again Report

The White House released "The MAHA Report [17]" on May 22, outlining the administration's health care priorities. The report, produced by the Make America Healthy Again (MAHA) Commission, was led by the Secretary of Health and Human Services and leaders from the Departments of Education, Agriculture, Veterans Affairs, the Environmental Protection Agency, Food and Drug Administration, Centers for Disease Control and Prevention, and National Institutes of Health. Highlighted areas in the report include the impacts of ultra-processed foods, over-medication and chemical exposures on chronic diseases. The report calls for "more gold-standard science" research to address these areas. The MAHA Commission is expected to create a strategy over the next few months on how the federal government should respond to these priorities.

Colorado Department of Education Statement on ASSET

The Colorado Department of Education (CDHE) wrote to Colorado intuitions of higher education on May 21 to "reaffirm Colorado's current in-state tuition and financial aid policies are firmly grounded in both state and federal law and remain available to eligible students." This includes undocumented students who qualify for the state's *Advancing Students for a Stronger Tomorrow (ASSET)* law, which offers in-state tuition and in-state financial aid to any student who attends a Colorado high school for at least one year before graduation. The White House issued an executive order entitled Protecting American Communities From Criminal Aliens [18] on April 28, which implies that state laws that provide such benefits "may violate" federal law. CDHE writes, "We want to make clear that while federal executive orders shape federal enforcement priorities, they do not create new laws nor do they override existing federal statutes."

Federal Judge Temporarily Blocks DHS from Prohibiting International Student Enrollment at Harvard

A federal judge today issued a nationwide temporary injunction that prevents the federal administration from revoking Harvard's Student and Exchange Visitor Program (SEVP) certification, reports [19] the *New York Times*. SEVP certification is required for U.S. colleges and universities to enroll international students and exchange visitors (F and J visas). The Department of Homeland Security (DHS) wrote [20] to Harvard yesterday to inform the university that, effective immediately, it was "prohibited" from hosting any foreign students on campus for the 2025-26 academic year. DHS said the decision was the result of Harvard's

refusal to comply with the administration's requests for information and the university's perpetuation of "an unsafe campus environment." SEVP certification on CU's four campuses remains active and there is no indication it is at risk or under federal review.

We understand these potential changes are of concern to our campuses during this time of unpredictable change at the national level. The Federal Relations and General Counsel teams are actively monitoring developments and are committed to keeping you informed. In this time of change, all that you do and will continue to do for CU means more than ever. Our team is working closely with the President and Chancellors as well as the Colorado congressional delegation. We encourage you to contact your campus leadership with questions. Please visit the CU System Federal Transitions Update [21] page for up-to-date communications and federal memos.

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