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Federal Government Update - 8.8.25 [1]

August 8, 2025 by Riley Black [2]

Dear Colleagues,

Please find a federal government update from our teams.

ED Directs NCES to Collect Enhanced Admissions Data
The White House released a memorandum on August 7, directing the Department of Education (ED) to work with other federal agencies to ensure “transparency in higher education admissions.” The memo calls for revamping of the Integrated Postsecondary Education Data System (IPEDS) and for enhanced reporting to “provide adequate transparency into admissions, as determined by the Secretary of Education, consistent with applicable laws” within 120 days of the memorandum, to be initiated this 2025-2026 school year in coordination with the National Center for Education Statistics (NCES). The Secretary of Education shall make public the enhanced reporting requirements.

Shortly after the memo was released, ED Secretary McMahon directed NCES to collect admissions data from higher education institutions to ensure race-based preferences were not occurring in the admissions process. The ED press release says that during the regular data reporting process, “higher education institutions will now have to report disaggregated data by race and sex for the applicant pool, and those of the admitted and enrolled cohort at undergraduate and specific graduate and professional programs. The data will include quantitative measures of applicants and admitted students' academic achievements, such as standardized test scores, GPAs, and other application characteristics.”

Lastly, Secretary McMahon directed NCES to develop a rigorous audit process to ensure the data being collected is accurate and reported consistently across institutions.

Read More: White House Memo [3], White House Fact Sheet [4], ED Press Release [5]

New Executive Order on Federal Grantmaking Oversight
The White House issued an executive order (EO), *Improving Oversight of Federal Grantmaking* [6], on August 7. The order requires political appointees to review all federal grant opportunity announcements and grant awards and make changes to the grantmaking process: “Award decisions will undergo more rigorous evaluation by political appointees and subject matter experts to ensure they benefit the American public, align with Administration priorities, and are coordinated across agencies to avoid duplication.”

The EO directs each federal agency to designate a senior appointee to create a process to review grant opportunities announcements and discretionary grants to ensure consistency with “agency priorities and the national interest.” Discretionary awards cannot be used to fund, promote or subsidize racial preferences or have race as a selection criterion for employment

of program participation. And these awards cannot be used to support illegal immigration and initiatives that compromise public safety or promote “anti-American values." Also included in the EO, "all else being equal, preference for discretionary awards should be given to institutions with lower indirect cost rates.”

The EO also directs agencies to make grant announcements in plain language, and seek out new applicants for funds, stating “research grants should be awarded to a mix of recipients likely to produce immediately demonstrable results and recipients with the potential for potentially longer-term, breakthrough results, in a manner consistent with the funding opportunity announcement.” Institutions that implemented Gold Standard Science guidance would be prioritized. The EO highlights that this order does not discourage or prevent the use of peer review process, “provided that peer review recommendations remain advisory and are not ministerially ratified, routinely deferred to, or otherwise treated as de facto binding by senior appointees or their designees.”

The EO instructs each agency to review grant terms and conditions and submit reports to the Office of Management and Budget (OMB) within 30 days regarding whether grants can be terminated if the award no longer lines up with program goals or agency priorities, if foreign assistance grants can be terminated “based on national interest,” as well as data on the number of grants active at the agencies and the percentage that would include termination provisions.

For more information: Executive Order [6], Fact Sheet [7].

NSF Grant Cancellation Lawsuit

A district court judge declined [8] to issue a preliminary injunction in a lawsuit regarding the cancellation of National Science Foundation (NSF) grants, brought by a coalition of 16 states, including Colorado. The court concluded that it did not have jurisdiction over the case, as the grants were already terminated and that the case belongs in the Court of Federal Claims under the Tucker Act [9]. The Court differentiated that claims such as future grants do not fall under the Tucker Act.

GAO Says Pocket Recissions are Illegal

The independent U.S. Government Accountability Office (GAO) posted [10] on August 6 that pocket rescissions are illegal.

A pocket recession would occur when the president asks Congress to cancel previously approved federal funding close to the end of the fiscal year. Usually, Congress has 45 days to take action on a rescissions request, but a pocket recission would hold the funds, allowing the administration to run out the clock (of the fiscal year) when the funding would then expire and allowing the administration to bypass Congress.

The GAO post explains that Congress holds the power to approve budgets and appropriate funds. This responsibility does not fall to the executive branch, and the Impoundment Control Act of 1974 (ICA [11]), does not give this authority. To have this authority, Congress would need to change the law.

GAO Report Finds NIH Violated the Law in Withholding Grant Funding

GAO issued a report [12] on August 5 regarding the cancellation of existing National Institute of Health (NIH) grants and a reduction in awarding new grants. The report, which Congress

requested, finds that these actions were in violation of ICA, which ensures congressional appropriations are faithfully executed.

The report, which acknowledges both the rescheduling of study sections and advisory councils as well as ongoing litigation over the terminations, concludes that “if the executive branch wishes to make changes to the appropriation provided to NIH, it must propose funds for rescission or otherwise propose legislation to make changes to the law for consideration by Congress.”

Senate Confirms ED Under Secretary

The Senate confirmed Nicholas Kent as the Under Secretary of the Department of Education (ED) on August 1 with a vote of 50-45. [13] He will oversee postsecondary education in his new role. Before his confirmation, Kent served as the Deputy Secretary of Education for the State of Virginia and as the CEO of Career Education Colleges and Universities, a trade association representing for-profit colleges.

Civil Rights Investigations & Frozen Funds at UCLA and Duke University

UCLA officials announced on August 6 that $584 million in federal funds have been frozen by the Trump administration, reports [14] *The Washington Post.* The funds were frozen after the DOJ’s Civil Rights Division released a letter [15] on July 29 announcing the conclusion of an investigation into antisemitism and finding UCLA in violation of Title VI of the Civil Rights Act.

Additionally, the *New York Times* reported [16] that Duke University had $108 million in federal funds frozen on July 29. The funds were frozen after the Department of Health and Human Services (HHS) and ED sent a joint letter [17] on July 28 demanding that Duke cooperate with the Federal government to investigate and address serious allegations of systemic racial discrimination, the HHS and ED [18] agencies Offices of Civil Rights (OCRs) also opened investigations.

The Federal Relations and General Counsel teams are actively monitoring developments. We are working closely with the President and Chancellors as well as the Colorado congressional delegation to champion CU priorities. We are committed to keeping you informed. Please visit the CU System Federal Updates and Actions page (previously titled Federal Transition Updates) for up-to-date communications and federal memos.

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