September 22, 2026

The Honorable Linda McMahon
Secretary of Education
U.S. Department of Education
400 Maryland Ave SW, Washington, DC 20202-1200

In re: Comments on the Proposed Rule, Education Department General Administrative Regulations (Docket ID ED-2026-OPEPD-2542-0001; RIN 1875-AA14; 91 FR 54666)

Dear Secretary McMahon:

On behalf of Advance CTE, the nation's longest-standing not-for-profit representing State leaders responsible for secondary, postsecondary and adult Career and Technical Education (CTE) across all 50 states and U.S. territories and the Association for Career and Technical Education (ACTE), the nation's largest not-for-profit association committed to the advancement of education that prepares youth and adults for career success, we write in response to the Department's proposed revisions to the Education Department General Administrative Regulations (EDGAR), published in the *Federal Register* on August 24, 2026.

As you are aware, the Carl D. Perkins Career and Technical Education Act (Perkins V) is a State-administered formula grant program as defined under 34 CFR part 76. Perkins V funds flow by statutory formula to every State, territory, and outlying area. States distribute the substantial majority of those funds to local educational agencies, postsecondary institutions, and area technical centers. Changes to part 76 therefore impact every State and several thousands of local subrecipients, along with the roughly 12 million learners CTE programs serve each year. In addition, our members also often apply for and are responsible for administering a wide range of discretionary awards overseen by the U.S. Department of Education (ED) governed by part 75.

Taken together, the proposed revisions to both of these regulatory frameworks would have far-reaching consequences for our respective memberships and ***we therefore write to express strong opposition to several aspects of this proposal***. The Department characterizes the rulemaking as largely technical and as an "Executive Order 14192 deregulatory action," yet, it assigns no quantifiable cost to many of its most consequential provisions. As drafted, the proposal would attach an open-ended and continuously changing body of conditions to funds Congress lawfully allocates by statute, impose undefined substantive standards on State and local hiring and admissions decisions that sit in tension with Perkins V's own statutory design, and expand ED's discretion to withdraw funding already committed to projects serving learners.

These changes would increase the administrative burden on states and local recipients and decrease the state and local control over education that has been the stated goal of the Trump Administration.

In light of these significant concerns, we urge ED to reverse course and rescind this proposal. If the Department still endeavors to move forward with revisions to EDGAR, we offer the following recommendations that would substantially improve the proposal as currently envisioned:

1. Do not extend Executive Order compliance to formula programs (§ 76.700)

Proposed § 76.700 would add Executive Orders (EOs) to the list of authorities—including relevant statutes, regulations, approved State plans and applications—with which formula grantees must comply and against which their use of funds is measured. This is a significant change, not a technical correction as characterized in the proposal.

EOs are directives from the President to federal agencies. Notably, EOs do not go through notice-and-comment rulemaking. They may be issued, amended, or revoked without notice, and courts have repeatedly and historically held that certain EOs exceeded statutory or constitutional limits. Making them an enforceable condition on formula funds means a State eligible agency would be obligated to comply with an undefined set of directives that did not exist when it submitted its State plan, that may be revoked or enjoined before it can implement them, and that may later be held unlawful or unconstitutional. This is an untenable position for federal formula funding grantees tasked with responsibility over a State's Perkins allocation and its subrecipients' subawards who would be obligated to comply with these shifting and changing directives in the interim.

Incorporating EOs by reference in this section of EDGAR would attach future binding requirements to formula funds without the rulemaking process and Congressional review required by the General Education Provisions Act (GEPA). A standing obligation to comply with whatever Executive orders may be issued over the course of a Perkins V State plan cycle is a standard that formula grantees cannot realistically meet and remains inconsistent with the requirements of GEPA.

The Department's stated rationale for this new regulatory requirement is that the omission of EOs from § 76.700 in an earlier 2024 revision of EDGAR was an "oversight." That account is incomplete. In the same 2024 rulemaking in which ED added Executive orders to § 75.700, it also removed them from § 75.708, the parallel provision governing subgrantees of direct grant recipients. The Department's own recent practice therefore points in the opposite direction from the one the preamble describes. If the Department's goal is internal consistency across §§ 75.700, 75.708, and 76.700, a more coherent resolution is to remove the reference included in § 75.700, not to extend it further to every State and local recipient of formula funds. This aspect of the proposal creates a new and significant administrative burden for state and local Perkins V grantees, one that is wholly at odds with the Trump Administration's stated goals of “returning education to the states” and “reducing Federal burden on states.”[1]

The operational consequences of this element in the proposed regulation are also largely unaddressed. For instance, the proposal does not articulate a process for grantees to determine which EOs apply, how a State would know when a new one attaches to an existing award, what compliance looks like for an order addressed on its face to federal agencies, or how a State eligible agency is expected to monitor thousands of subrecipients for compliance with a body of requirements that has no fixed content. Each of these questions and more would fall to State staff to

[1] https://www.ed.gov/about/news/press-release/us-department-of-education-announces-additional-measures-reduce-federal-burden-states and https://www.ed.gov/about/initiatives/returning-education-states.

resolve, under threat of noncompliance, at a time when ED's administrative capacity has been significantly reduced.[2]

Given the significantly diminished capacity of ED since last year, the practical effect of this proposal would be to greatly increase the administrative burden shouldered by States. In addition, the uncertainty regarding this aspect of the rulemaking would lead States and local grant recipients to greatly reduce support for activities that are authorized in statute but could conceivably run afoul of a current or future EO. We further note that the Department proposes a new *blanket* severability provision at § 76.3 in the rulemaking, which suggests some awareness that these and many other provisions contained in the proposal may not survive future judicial review.

We recommend that the Department withdraw the proposed addition of Executive Orders to § 76.700 and instead resolve the inconsistency it identifies by removing the corresponding reference from § 75.700. If the Department declines to do so, any final rule should apply only to Executive orders that have been implemented through duly promulgated regulation, should identify the applicable orders in writing in the award terms, and should apply prospectively to subsequent award periods only with a clearly delineated and reasonable time to come into compliance.

2. Withdraw the proposed staffing and selection-related provisions (§§ 76.500, 75.500, 75.210)

Proposed §§ 75.500(f) and 76.500(f) would require grantees to base hiring, admissions, promotion, compensation, and participant selection decisions under the grant on "merit and high standards," without regard to enumerated characteristics "or proxies thereof," subject to an unspecified set of "appropriate exceptions." Parallel language appears as scoring factors at proposed §§ 75.210(c)(2)(xxi) and (e)(2)(vi). None of these terms—including "merit," "high standards," "proxies thereof," "political views," "appropriate exception"—is defined anywhere in the proposal.
On their face, these provisions are unnecessary given the extensive obligations that already exist under Title VI, Title IX, Section 504, and the Age Discrimination Act and for which all federal grantees are already subject to. In fact, existing EDGAR regulations (§§ 75.500(a) and 76.500(a)) already require compliance with those statutes making these proposed changes unnecessary.

Including these undefined terms in this proposal potentially places Perkins V grantees in conflict with the statute they are tasked with administering. Congress authorized Perkins V around identified learner populations. The legislation defines "special populations" and requires eligible agencies and local recipients to serve them. The law's accountability framework requires performance data disaggregated by special population status and it also requires States to identify and address disparities and gaps in performance that are subsequently identified. The legislation's comprehensive local needs assessment further requires every local recipient to evaluate performance for special populations through this lens. Most directly, Perkins V defines "nontraditional fields" by reference to gender composition, requiring every eligible agency to reserve a portion of its leadership funds for services preparing individuals for nontraditional fields and even measures State and local grantees progress on these activities via the law's accountability framework.

A regulation prohibiting consideration of sex "or proxies thereof" in participant selection under the grant cannot be reconciled with a statute that requires States to spend portions of the federal grant

[2] https://www.ed.gov/about/news/press-release/us-department-of-education-initiates-reduction-force

recruiting learners into fields precisely because of the wider gender composition of those fields and legislatively builds these efforts into the law's accountability framework.

The Department cites Section 427 of GEPA as support. Yet, Section 427 is an equitable-access provision. It requires applicants to describe the steps they will take to overcome barriers to participation, including barriers based on gender, race, color, national origin, disability, and age. It is not a grant of authority to impose a new, substantive, and undefined merit standard on State-administered formula programs nor does it make use of the terms "merit," "high standards," or "proxies." We also note that the § 76.500 preamble discussion addresses only "hiring practices," while the parallel § 75.500(f) text reaches admissions, promotion, compensation, participant selection, and compelled statements of belief. Grantees cannot comment meaningfully on a provision whose scope the preamble and the regulatory text describe differently.

We recommend that the Department withdraw proposed §§ 75.500(f) and 76.500(f) and the corresponding factors at § 75.210.

3. Do not establish a competitive preference for below-negotiated indirect cost rates (§ 75.228)

Proposed § 75.228 would allow the Secretary to award competitive preference points to applicants that agree to charge less than their negotiated indirect cost rate. Indirect costs are *real* costs. A preference of this kind does not eliminate them. Instead, it shifts them onto State and local budgets and it advantages applicants with the institutional capacity to absorb that shift. State agencies, community and technical colleges, area technical centers, and rural districts are the least able to do so.

The disparity is particularly acute for education agencies. Under 34 CFR 76.563 through 76.569, State and local recipients of supplement-not-supplant programs, including Perkins V, already operate under restricted indirect cost rates that are typically in the low single digits. The Regulatory Impact Analysis establishes a 25 percent baseline drawn from 172 discretionary awards and assumes an average reduction to 15 percent. That baseline bears no relationship to the rates under which the State and local education agencies most affected by this rule actually operate and the analysis makes no attempt to identify which applicants would face the preference or what it would cost them.

The analysis also treats the resulting $45 million annual movement from indirect to direct cost categories as an unambiguous benefit that will "significantly improve educational outcomes." No support is offered for this broad assertion. This aspect of the proposal can be more accurately described as an annual $45 million unfunded mandate shifted onto State and local budgets, with no corresponding reduction in the facilities, financial management, audit, and compliance functions those funds support (several of which this very rule would expand).

We strongly recommend that the Department withdraw proposed § 75.228. At minimum, it should exclude programs operating under restricted indirect cost rates and should re-propose the Regulatory Impact Analysis using a baseline that reflects the rates applicable to State and local education agencies.

4. Do not codify termination for convenience or unbounded continuation discretion (§ 75.901, 75.253, 75.230, 75.251)

Proposed § 75.901 would establish ED's ability to terminate discretionary awards "for convenience." Proposed § 75.253 would remove the limitation confining continuation determinations to information regarding grantee performance, remove the priority for continuing existing multiyear awards before making new ones, and endeavors to claim that GEPA procedures do not apply to reductions in or denials of continuation awards. Proposed §§ 75.230 and 75.251 further reinforce these positions.

Taken together, these provisions would allow a grantee performing exactly as promised to lose funding mid-project or even mid-year for reasons unrelated to performance, with no due process or procedural recourse. For CTE, the costs of that instability would be felt most acutely by learners. Multiyear CTE projects purchase equipment on multiyear schedules, hire instructors in a market already facing severe talent shortages, secure employer commitments for work-based learning placements, and enroll cohorts of students into programs of study that often take multiple years to complete.

We recommend that the Department withdraw the "for convenience" termination authority in § 75.901 and retain the existing limitation in § 75.253 confining continuation determinations to grantee performance, along with the priority for continuation of existing multiyear awards.

5. Retain Federal Register publication of application notices and priorities (§§ 75.100, 75.104, 75.105, 75.222, 75.224, 79.3, 79.6, 79.8)

The proposal would eliminate *Federal Register* publication of application notices, maximum award amounts, annual priorities, and the list of programs subject to intergovernmental review. Instead, the proposal would centralize all of these critical notifications to Grants.gov. Federal Register publication provides something Grants.gov does not– a dated, permanently archived, citable record of what the Department required, when it required it, and what changed. State agencies and local educational institutions, along with the wider public, rely on that record to track priorities across competitions and program years, to prepare applications, and to document their own compliance decisions after the fact.

The change to part 79 is a specific concern for State leaders. Intergovernmental review exists so that States can review and comment on proposed federal financial assistance affecting them. Moving the list of covered programs and the applicable comment deadlines out of the Federal Register and into individual application notices removes the single consolidated source States use to determine what is subject to review at all. The Department should not reduce State visibility into a process designed for State benefit while describing the change as a burden reduction for applicants.

We recommend that the Department retain Federal Register publication of application notices, annual priorities, and the § 79.3 program list. If the Department proceeds, it should at minimum maintain a consolidated, permanently archived, publicly accessible index of all notices and priorities with dated version history.

6. The Regulatory Impact Analysis does not support the Department's characterization of this rule

The Department states that proposed § 76.700 is "unlikely to generate any quantifiable costs," that §§ 75.500 and 76.500 are "unlikely to generate any quantifiable costs," and that §§ 75.253 and 75.901 are likewise cost-free improvements in clarity. The entire analysis rests on staff time and printing fees associated with Federal Register publication, yielding an annualized benefit of $586,064.

That is not a serious accounting of the costs associated with this rulemaking. Extending EO compliance to formula grantees creates a continuing legal-review obligation for every State eligible agency; requires revision of State plan assurances, local application templates, and subaward terms; and creates a new subrecipient monitoring obligation across thousands of entities. The merit provisions require policy review, legal review, and staff training for every federal grant recipient and subrecipient. The termination provisions impose a real cost in the form of funding risk that grantees must price into staffing and multiyear commitments. None of this is quantified or even estimated.

The Regulatory Flexibility Act certification is similarly unsupported. ED certifies no substantial economic impact on a substantial number of small entities without analysis. Yet, rural districts and small community colleges—public entities serving populations under 50,000, by the Department's own standard—are precisely the recipients least equipped to absorb new compliance obligations, indirect cost reductions, or mid-project funding loss.

Finally, we urge the Department to consider sequencing. OMB's government-wide rewrite of 2 CFR part 200 remains pending and, under the continuing resolution enacted September 2, 2026, cannot be finalized before December 11, 2026. Finalizing EDGAR in late 2026 as the Department intends risks producing agency-specific requirements that conflict with or duplicate a government-wide framework that is far from settled.

We recommend that the Department re-propose this rule with a Regulatory Impact Analysis that quantifies the compliance costs identified above and that it defer finalizing any provision until OMB's government-wide rule is final. Any final rule should take effect no earlier than one full program year after promulgation and should align to the July 1 Perkins V program year, with implementing guidance for formula programs issued well in advance of that date.

Conclusion

State and local CTE leaders have long records of clean audits, rigorous accountability under Perkins V's performance framework, and responsible stewardship of federal funds. We support transparency, oversight, and the Department's interest in administering programs efficiently. However, this proposal would have the opposite effect, conditioning formula funds on an undefined and continuously changing set of executive directives, imposing substantive standards that conflict with the statutes grantees are required to implement, and expanding the Department's authority to withdraw funding from projects already serving students. We urge the Department to reverse course on this rulemaking or, at the very least, withdraw the provisions identified in this comment. We appreciate your time and consideration of our comments and recommendations.

Should you have any questions or would like to discuss the issues raised in this letter further, please do not hesitate to contact ACTE's Chief Policy, Research and Content Officer Alisha Hyslop (ahyslop@acteonline.org) or Advance CTE's Senior Federal Policy Advisor Steve Voytek (svoytek@careertech.org).

Sincerely,

LeAnn Curry
Executive Director
ACTE

Kate Kreamer
Executive Director
Advance CTE