



Bard



July 13, 2026

Director Russell T. Vought
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Andrew Reisig and Joel Savary
OMB Office of Federal Financial Management
725 17th Street, NW
Washington, DC 20503

Re: Campaign Legal Center, the Andrew Goodman Foundation, Bard College, Nonprofit VOTE, the Students Learn Students Vote Coalition, and Wesleyan University's Comment Opposing the Voter Registration Restrictions (2 C.F.R. § 200.450) in NPRM – Regulation for Federal Financial Assistance (Docket No. OMB-2026-0034)

Dear Director Vought, Mr. Reisig, and Mr. Savary:

Campaign Legal Center (“CLC”), the Andrew Goodman Foundation, Bard College, Nonprofit VOTE, the Students Learn Students Vote Coalition, and Wesleyan University submit this comment in opposition to provisions of the Office of Management and Budget’s (“the Office” or “OMB”) proposed rule that would amend 2 C.F.R. § 200.450 to restrict voter registration activities and issue advocacy by nonprofit organizations and institutions of higher education.

CLC is a nonpartisan, nonprofit organization dedicated to advancing democracy through law. Through its extensive work on voting rights and redistricting, CLC seeks to ensure that every United States resident has an opportunity to participate in American democracy and receives fair representation at the federal, state, and local levels. Consistent with that mission, CLC takes legal action to protect the right to vote and regularly engages with the public and civic leaders to ensure broad access to the franchise.

The Andrew Goodman Foundation’s mission is to make young voices and votes a powerful force in democracy by training the next generation of leaders, engaging young voters, and challenging restrictive voter suppression laws. Andrew Goodman Vote Everywhere is a national,

non-partisan, civic engagement movement of student leaders and university partners. The program provides extensive training, resources, and a peer network to support its Andrew Goodman Ambassadors while they work to register voters, bring down voting barriers, and tackle important social justice issues on their college campuses.

Bard College, a 165 year-old institution situated in the Hudson Valley, New York, has a mission to inspire curiosity, idealism, and a lifelong love of learning. Drawing on the American educational tradition, Bard emphasizes the vital link among higher education, civic participation and democracy. We consider supporting students' exercise of their right to vote, the most foundational of democratic rights, an important part of our efforts to foster informed and engaged citizenship. As such, Bard vigorously promotes a variety of non-partisan voting activities, including voter registration and voter education, and actively works to help students navigate the challenges of voting, whether in person or through absentee ballots. These efforts are led by our student group, Election@Bard, and Bard's Center for Civic Engagement. Bard is also proud to host a polling site on its main campus in Annandale-on-Hudson, New York.

Nonprofit VOTE is a national, nonpartisan resource organization that helps nonprofit organizations across the nation effectively integrate nonpartisan voter engagement into their client services and community outreach activities. Central to Nonprofit VOTE's work is an understanding that nonprofit organizations, including food pantries, housing clinics, health centers, and family service agencies, reach communities often overlooked in the democratic process. Nonprofit VOTE provides nonprofit organizations with guides, tools, and trainings on staying nonpartisan, complying with state voter registration rules, best practices, integrating voter engagement work seamlessly into client interactions, and more.

The Students Learn Students Vote ("SLSV") Coalition is a national, nonpartisan organization, network, and resource hub dedicated to increasing college student voter participation. The SLSV Coalition convenes and connects campuses, nonprofit partners, and students with each other and with resources and programming towards achieving the vision of ensuring that every eligible student has easy and equal access to participate in every election. The SLSV Coalition uses data, relationships, celebration, and easy-to-follow planning structures to help campus and local leaders register and support student voters every year.

Wesleyan University is dedicated to providing a strong liberal arts education that is characterized by boldness, rigor, and practical idealism. The University fosters a dynamic, engaged community of students, faculty, and staff who think critically and creatively, value independence of mind, and embody generosity of spirit. Consistent with that mission, the University supports nonpartisan, student-led voter registration, voter education, and civic participation initiatives.

OMB's proposed rule would, as relevant to this comment, impose new, unworkable restrictions on nonprofit organizations and institutions of higher education. Specifically, OMB proposes to expand the definition of lobbying under 2 C.F.R. § 200.450(c)(1) to add new "unallowable costs," expressly prohibiting covered entities from using federal grant dollars for

“[e]stablishing, administering, contributing to, or paying the expenses of a voter registration campaign, voter registration drive, or any similar activity, or paying the expenses of another entity engaged in such activities.”¹

Current regulations do not include any general restriction on the use of federal awards for voter registration activities, though some small number of federal grants do include such restrictions.² The proposed rule, however, would expand this prohibition to *all* nonprofit organizations and institutions of higher education that receive federal funding and give OMB broad discretion to terminate or restrict how grants are administered based on administration priorities, rather than congressional intent.³ While the proposed rule does not appear to prohibit nonprofit organizations and institutions of higher education from conducting lawful, nonpartisan voter registration activities using *non*-federal funds, the catch-all term “any similar activity” included in the new regulation is not defined, and the proposal includes no information about the precise activity that term is targeting.

Nor does OMB explain its rationale for including nonpartisan voter registration activities within lobbying regulations whose restrictions are focused on political activity and communication with elected officials. The proposed rule thus introduces significant confusion around what constitutes lawful activity and will, consequently, deter organizations from providing crucial voter registration services. This is particularly problematic given OMB’s proposed effective date for the final rule is October 1, 2026—just over one month before a major federal election and during the height of voter registration activities across the country.

CLC, the Andrew Goodman Foundation, Bard College, Nonprofit VOTE, the SLSV Coalition, and Wesleyan University strongly oppose the proposed rule for eight reasons. First, the proposed rule violates the fundamental separation of powers by intruding on Congress’s exclusive authority to spend and allocate federal funds. Second, the proposed rule’s voter registration-related restrictions violate the First Amendment in several distinct ways. Third, the proposed rule conflicts with multiple provisions of the National Voter Registration Act. Fourth, the proposed rule violates federal law requiring eligible institutions of higher education to make a good faith effort to facilitate voter registration. Fifth, the proposed rule conflicts with numerous state laws requiring

¹ Regul. for Fed. Fin. Assistance, 91 Fed. Reg. 32,198, 32,262 (proposed May 29, 2026) (to be codified at 2 C.F.R. § 200.450(c)(1)); *see also id.* at 32,231.

² *See* 2 C.F.R. § 200.450 (outlining current restrictions on use of federal awards). *But see, e.g.*, U.S. Election Assistance Comm’n, Help America Vote College Program Application Toolkit at 11, <https://www.eac.gov/sites/default/files/2024-03/Poll%20Worker%20Application%20Kit%20-%202011.17.23Revision.pdf> (last visited July 13, 2026) (explaining that the U.S. Election Assistance Commission’s Help America Vote College Program Poll Worker Grant restricts use of award funds for “voter registration, get out the vote (GOTV) drives, or other political activities,” and that “applications that propose voter registration or GOTV efforts will be considered non-responsive and will not be eligible”).

³ *See* 91 Fed. Reg. 32,211 (indicating that a purpose of the rule is to ensure alignment of grants with “administration policies and priorities,” including “ensuring that discretionary awards advance the President’s policy priorities”); *see also id.* at 32,204 (same); *id.* at 32,219 (describing a purpose of the rule as ensuring federal awards align with “core purposes authorized by law” but not defining this term).

institutions of higher education to provide opportunities for voter registration. Sixth, the proposed rule violates the Administrative Procedure Act because the voter registration restrictions exceed OMB’s statutory authority, burden constitutional rights, and are not supported by adequate reasoning. Seventh, the proposed rule will create significant confusion and irreparable harm for nonprofit organizations and institutions of higher education engaged in voter registration and seeking to comply with related federal rules. Eighth and finally, to the extent that OMB intends to or has used artificial intelligence for its proposal, it has not provided an opportunity to comment on its use.

I. The proposed rule violates the separation of powers because it intrudes on Congress’ exclusive authority to spend and allocate money.

First, the proposed rule takes over funding and policymaking decisions that belong to the legislative branch and runs afoul of Congress’s statutory requirements. The power to spend and allocate money is exclusively reserved to the legislative branch.⁴ The executive’s role in this process is limited to administering and implementing the decisions made by Congress.⁵ Indeed, “when it comes to spending, the President has none of ‘his own constitutional powers’ to ‘rely’ upon.”⁶ “Absent congressional authorization, the [Executive Branch] may not redistribute or withhold properly appropriated funds in order to effectuate its own policy goals.”⁷

Congress’s “power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people.”⁸ At the core of this power is Congress’s ability to designate an identifiable purpose for the expenditure of funds.⁹ This legislative supremacy in appropriations represents a shift from a system in which the monarchy exercised “financial independence” with “little parliamentary interference”—raising and spending revenues at will—to one where Parliament controlled revenue and appropriations and successfully limited the monarchy’s ability to defy that power.¹⁰

Congress’s ability to make funding and appropriation decisions regarding voter registration is well-established. Congress has repeatedly spoken on how money should be appropriated to support such efforts—including as carried out by nonpartisan nonprofit organizations and

⁴ Const. art. I, § 9, cl. 7.

⁵ See Kate Stith, *Congress’ Power of the Purse*, 97 YALE L.J. 1343, 1356 (1988).

⁶ *City & Cnty. of San Francisco v. Trump*, 897 F.3d 1225, 1233–34 (9th Cir. 2018) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637 (1952) (Jackson, J., concurring)).

⁷ *Id.* at 1235; see also, e.g., *City of Philadelphia v. Attorney Gen. of U.S.*, 916 F.3d 276, 284 (3rd Cir. 2019) (“Where, as here, the Executive Branch is not acting pursuant to a constitutional power, it ‘literally has no power to act . . . unless and until Congress confers power upon it.’”) (quoting *La. Pub. Serv. Com’n v. F.C.C.*, 476 U.S. 355, 374 (1986)).

⁸ The Federalist No. 58 (James Madison).

⁹ See *Consumer Fin. Prot. Bureau v. Cmty. Fin. Servs. Ass’n of Am., Ltd.*, 601 U.S. 416, 434 (2024).

¹⁰ *Id.* at 453–57 (Alito, J., dissenting).

institutions of higher education.¹¹ Likewise, to the extent some federal grants do limit or ban use of federal funds for voter registration activities, such prohibitions have been enacted through statutory acts of Congress, *not* administrative rulemaking.¹² In short, Congress has clearly designated how appropriated money should be spent—and when it should not—in this arena.

The proposed rule, however, hijacks congressional appropriations so that executive agencies, rather than Congress, direct the “purposes” behind federal grants. It does so by investing agencies with broad authority and discretion in evaluating the initial approval and continued allotment of federal grants. The proposed rule also expressly imposes ideological instructions for evaluating whether a program is eligible for federal grants, notwithstanding whether Congress—the appropriating authority—has seen fit to impose such requirements.¹³

This violation of the fundamental separation of powers is especially egregious given the narrowness of OMB’s role. OMB, like any other federal agency, is a “creature[] of statute . . . subject to the limitations prescribed by Congress.”¹⁴ By statute, OMB is authorized only to “[p]rovide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements.”¹⁵ This falls far short of imposing new limitations on how federal grants are distributed and what policy and ideological priorities those grants serve. Such sweeping authority should not be lightly found in a general managerial statutory provision and, absent an express statutory authorization—which the proposed rule never once claims—is beyond OMB’s authority.¹⁶

¹¹ See, e.g., 52 U.S.C. §§ 21121–21123 (establishing the Help America Vote College Program, authorizing Election Assistance Commission (“EAC”) grants and student-focused election-administration activities, and authorizing appropriations); 52 U.S.C. §§ 21071–21072 (authorizing EAC grants to a nonpartisan nonprofit organization to promote voter participation and voter education through the National Student and Parent Mock Election, and authorizing appropriations); 20 U.S.C. § 1094(a)(23) (conditioning participation in federal student-aid programs on the good faith effort of institutions of higher education to distribute voter-registration forms to students); 26 U.S.C. § 4945(d)(2), (f) (taxing private-foundation expenditures for voter-registration drives unless statutory nonpartisan, multi-state requirements are satisfied).

¹² See, e.g., 42 U.S.C. § 9851(b)(2) (prohibiting use of Head Start funding “to conduct voter registration activities”); *id.* § 9918(b)(2)(C) (prohibiting use of Community Service Block Grant funds for “any voter registration activity”); *id.* § 12584a(a)(10) (AmeriCorps and other National Service Trust Act positions may not be used for “[c]onducting a voter registration drive or using Corporation funds to conduct a voter registration drive”); *id.* § 5043(a), (b)(1)(C) (funds appropriated under the Domestic Volunteer Service Act may not “be used to finance, directly or indirectly . . . any voter registration activity” and programs assisted under the Act “shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with . . . any voter registration activity”).

¹³ But see *City of Chicago v. Barr*, 961 F.3d 882, 892 (7th Cir. 2020) (“The executive branch has significant powers of its own . . . but the power to wield the purse to alter behavior rests squarely with the legislative branch.”).

¹⁴ *Nat’l Fed’n of Indep. Bus. v. Dep’t of Lab., Occupational Safety & Health Admin.*, 595 U.S. 109, 117 (2022).

¹⁵ 31 U.S.C. § 503(a)(2).

¹⁶ See, e.g., *W. Va. v. E.P.A.*, 597 U.S. 697, 723 (2022) (“[S]omething more than a merely plausible textual basis for the agency action is necessary. The agency instead must point to ‘clear congressional authorization’ for the power it claims.”) (citation omitted); *Biden v. Neb.*, 600 U.S. 477, 496 (2023) (administrative agencies cannot alter federal spending programs to create “novel and fundamentally different” programs without clear congressional authorization);

II. The proposed rule violates the First Amendment of the United States Constitution.

Second, the proposed rule’s voter registration restrictions are unconstitutional because they violate the First Amendment in several distinct ways.

A. The proposed rule’s voter registration restrictions amount to unconstitutional funding conditions.

By prohibiting nonprofit organizations and institutions of higher education from using federal funds to conduct or support voter registration drives or campaigns, or similar activities, the proposed rule amounts to an unconstitutional funding condition. In particular, the proposed rule seeks to use federal grantmaking power to target and suppress disfavored political speech—namely, promotion of voter registration and civic participation among college and university students, individuals interacting with nonprofit organizations that receive federal funding, and voters registering for certain public-assistance benefits at nonprofit organizations and institutions of higher education subject to the NVRA. The First Amendment, however, prohibits the government from “us[ing] government power—including the power of the purse—‘to punish or suppress disfavored expression’ by others.”¹⁷ In a similar vein, the government “may not deny a benefit to a person on a basis that infringes his constitutionally protected . . . freedom of speech even if he has no entitlement to that benefit.”¹⁸

As explained *supra* Part I, OMB lacks, and the proposed rule does not once claim, any statutory authority to impose a general restriction on the use of federal awards for voter registration activities. Thus, to enact such a sweeping prohibition through administrative rulemaking—let alone a prohibition that expressly targets protected expression—amounts to an unconstitutional grant condition.¹⁹ Moreover, beyond lacking authority to impose such restrictions, imposing such

Util. Air Regul. Grp. v. E.P.A., 573 U.S. 302, 324 (2014) (“When an agency claims to discover in a long-extant statute an unheralded power to regulate a significant portion of the American economy, we typically greet its announcement with a measure of skepticism.”) (citation modified).

¹⁷ *Nat’l Pub. Radio, Inc. v. Trump*, No. 25-1674, 2026 WL 877434, at *1 (D.D.C. Mar. 31, 2026) (quoting *Nat’l Rifle Ass’n v. Vullo*, 602 U.S. 175, 188 (2024); see also *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 828–29 (1995) (“the government offends the First Amendment when it imposes financial burdens on certain speakers based on the content of their expression”) (citing *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 115 (1991))).

¹⁸ *Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc.*, 570 U.S. 205, 214 (2013) (citation modified); cf. *Speiser v. Randall*, 357 U.S. 513, 518 (1958) (“To deny [a tax] exemption to claimants who engage in certain forms of speech is in effect to penalize them for such speech.”).

¹⁹ See, e.g., *City of Chicago v. Sessions*, 888 F.3d 272, 283–87 (7th Cir. 2018) (invalidating DOJ grant conditions where Congress authorized the grant program but did not authorize the Attorney General to impose the challenged substantive conditions); *City & Cnty. of San Francisco*, 897 F.3d 1225, 1231–35 (holding that, because the Spending Clause vests Congress with the power to impose conditions on federal grants, the Executive Branch may not withhold federal grants absent congressional authorization); *City of Philadelphia*, 916 F.3d 276, 284–87 (holding that limited statutory authority to administer a grant program did not authorize the Attorney General to impose broad policy conditions on all grant funds); *R.I. Latino Arts v. Nat’l Endowment for the Arts*, 800 F. Supp. 3d 351, 367–70 (D.R.I. 2025) (vacating and enjoining agency funding restriction where the agency lacked statutory authority to categorically

a prohibition on *all* nonprofit organizations and institutions of higher education that receive federal grants is wholly unrelated to the purpose of many federal programs; the proposed rule thus further amounts to an impermissible funding condition designed to regulate speech unrelated to many federal programs themselves.²⁰ Such impermissible regulation is all the more egregious given that there are already significant administrative checks to ensure federal grant dollars are used for their stated purpose. Adding additional rules and complexity to an already cumbersome process irrationally burdens nonprofit organizations and institutions of higher education in conducting lawful activities that they otherwise can do, including nonpartisan voter registration.

The proposed rule's restrictions are incompatible with the First Amendment. When institutions of higher education and nonprofit organizations speak to and encourage individuals to register to vote, they engage in activities "where 'the First Amendment 'has its fullest and most urgent application.'"²¹ Engaging with and assisting persons in registering to vote is "core political speech" where First Amendment protections are at their "zenith."²²

Cutting off the ability of institutions of higher education and certain nonprofits to reach and encourage individuals to register to vote thus impedes "pure speech."²³ By prohibiting such institutions and organizations from using federal funds to engage in voter registration assistance, the proposed rule prevents them from engaging in speech and expressive conduct that communicates their belief that democracy works best when all citizens are engaged and encouraged to exercise their right to vote.²⁴

disfavor grant applications based on viewpoint and where the restriction imposed an unconstitutional condition on protected expression).

²⁰ See *Agency for Int'l Dev.*, 570 U.S. at 214–15 ("a funding condition can result in an unconstitutional burden on First Amendment rights" if the condition "seek[s] to leverage funding to regulate speech outside the contours of the program itself").

²¹ *League of Women Voters v. Hargett*, 400 F. Supp. 3d 706, 722 (M.D. Tenn. 2019) (quoting *Eu v. S.F. Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 223 (1989)).

²² *Meyer v. Grant*, 486 U.S. 414, 422, 425 (1988); *Buckley v. Am. Const. L. Found., Inc.*, 525 U.S. 182, 183 (1999); see also *Tenn. State Conf. of NAACP v. Hargett*, 420 F. Supp. 3d 683, 704 (M.D. Tenn. 2019) (finding voter registration assistance regulations must be "substantially related to important governmental interests" to survive "exacting scrutiny"); *League of Women Voters of Fla. v. Cobb*, 447 F. Supp. 2d 1314, 1334 (S.D. Fla. 2006) ("[T]he collection and submission of voter registration drives is intertwined with speech and association" and therefore "comes within the protections of the First Amendment."); *Project Vote v. Blackwell*, 455 F. Supp. 2d 694, 698, 700 (N.D. Ohio 2006) ("[P]articipation in voter registration implicates a number of both expressive and associational rights which are protected by the First Amendment. These rights . . . may be invoked by . . . third parties who encourage participation in the political process through increasing voter registration rolls.").

²³ *Tenn. State Conf. of N.A.A.C.P.*, 420 F. Supp. 3d at 699.

²⁴ See *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 223 (M.D.N.C. 2020) ("[E]ndeavors to assist people with voter registration are intended to convey a message that voting is important, that the Plaintiffs believe in civic participation, and that the Plaintiffs are willing to expend the resources to broaden the electorate to include allegedly under-served communities, and thus is expressive conduct which implicates the First Amendment.") (internal quotation and citation omitted).

The proposed rule further unlawfully prohibits institutions of higher education and certain nonprofits from associating through voter registration activities with their own students and the public assistance applicants they serve. The First Amendment “[a]ccord[s] protection to collective effort on behalf of shared goals” and recognizes a “right to associate with others in pursuit of a wide variety of political, social, economic, educational, religious, and cultural ends.”²⁵ This right to associate applies when “plaintiffs wish to speak and act collectively with others,” particularly when plaintiffs seek “to associate with others for political ends.”²⁶

Restrictions on distributing voter registration applications or engaging in any form of voter registration drive or campaign “bear[] directly on the expressive and associational aspects” at the core of civic engagement work.²⁷ This is because “[a]n organization’s attempt to broaden the base of public participation in and support for its activities is conduct undeniably central to the exercise of the right of association.”²⁸ “Organized voter-registration activities necessarily involve political association, both within the voter-registration organizations and with the citizens they seek to register.”²⁹ Indeed, efforts that “expend resources ‘to broaden the electorate to include allegedly under-served communities[]’” qualify as “expressive conduct which implicates the First Amendment” freedom of association.”³⁰

The proposed rule, however, targets the associational rights of institutions of higher education and certain nonprofits by coercing them to terminate any federally-funded support for or efforts to provide voter registration assistance encouraging students and applicants for public-assistance benefits to register and to vote. The proposed rule thus disrupts such groups’ ability to associate with the students and public assistance applicants they serve. Indeed, the proposed rule complicates, if not stymies altogether, institutions of higher education and certain nonprofit public assistance providers’ ability to encourage voting. The proposed rule thus demonstrates the administration’s hostility to the exact type of nonpartisan civic engagement that has long been the domain of colleges and universities and required of NVRA-designated public assistance agencies, often with assistance from nonpartisan, nonprofit organizations.

In sum, the proposed rule’s voter registration restrictions amount to impermissible grant conditions that strike at the core of protected First Amendment speech and associational rights.

²⁵ *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984).

²⁶ *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1158–59 (N.D. Fla. 2012).

²⁷ *League of Women Voters v. Hargett*, 400 F. Supp. 3d at 720.

²⁸ *VoteAmerica v. Schwab*, 576 F. Supp. 3d 862, 875 (D. Kan. 2021) (citation omitted); see also *Am. Ass’n of People with Disabilities v. Herrera*, 690 F. Supp. 2d 1183, 1202 (D.N.M. 2010) (citing *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 214–15 (1986)).

²⁹ *Am. Ass’n of People with Disabilities v. Herrera*, 580 F. Supp. 2d 1195, 1229 (D.N.M. 2008).

³⁰ *Democracy N.C. v. N.C. State Bd. of Elections*, 476 F. Supp. 3d 158, 223 (M.D.N.C. 2020).

B. The proposed rule’s voter registration restrictions confer impermissible unbridled discretion over funding decisions.

The proposed rule’s voter registration restrictions further violate the First Amendment by affording the government unbridled discretion over federal funding decisions.

A rule is “not reasonable under the First Amendment if it provides the decisionmaker with unbridled discretion to suppress expression—that is, when the rule is so broad as to provide no meaningful constraint upon the government’s exercise of the power to squelch speech.”³¹ “[W]hen a [funding regulation] vests unbridled discretion in a government official over whether to permit or deny [funds related to] expressive activity, one who is subject to the law may challenge it facially without the necessity of first applying [] for, and being denied, [funding].”³² In particular, “the success of a facial challenge on the grounds that an ordinance delegates overly broad discretion to the decisionmaker rests not on whether the administrator has exercised his discretion in a content-based manner, but whether there is anything in the ordinance preventing him from doing so.”³³

Here, the proposed rule’s voter registration restrictions unquestionably afford the federal government unbridled discretion to predicate federal funding on restriction of its use by certain speakers—nonprofit organizations and institutions of higher education as to First Amendment-protected speech and expressive conduct regarding voter registration and democratic participation.³⁴ The rule does so in two ways. First, while the proposed rule’s limitations on use of federal funds for voter registration campaigns or drives are clear, inclusion of the catch-all term “any similar activity” renders the prior, specific restrictions meaningless. The “any similar activity” catchall is undefined and throws the door wide open to variable and expansive interpretations by federal officials of what qualifies as “similar activity” that is thus prohibited. Second, and compounding the vagueness of this catch-all term, the proposed rule gives OMB broad discretion to terminate or restrict how grants are administered based solely on administration and presidential priorities, rather than based on congressional mandates.³⁵ The rule nowhere specifies what such priorities are with respect to voter registration, further affording federal

³¹ *Ateba v. Leavitt*, 133 F.4th 114, 124–25 (D.C. Cir. 2025) (citation modified).

³² *Apodaca v. White*, 401 F. Supp. 3d 1040, 1049 (S.D. Cal. 2019) (quoting *City of Lakewood v. Plain Dealer Pub. Co.*, 486 U.S. 750, 755–56 (1988)) (modifications in the original).

³³ *Forsyth Cnty. v. Nationalist Movement*, 505 U.S. 123, 133 n.10 (1992).

³⁴ Indeed, the Supreme Court has recognized, in particular, that:

[T]he university is a traditional sphere of free expression so fundamental to the functioning of our society that the Government’s ability to control speech within that sphere by means of conditions attached to the expenditure of Government funds is restricted by the vagueness and overbreadth doctrines of the First Amendment.

Rust v. Sullivan, 500 U.S. 173, 200 (1991).

³⁵ See 91 Fed. Reg. 32,211 (indicating that a purpose of the rule is to ensure alignment of grants with “administration policies and priorities”); see also *id.* at 32,219 (describing a purpose of the rule as ensuring federal awards align with “core purposes authorized by law” but not defining this term).

officials impermissible discretion to suppress constitutionally protected First Amendment expression.

C. The proposed rule’s voter registration restrictions will have a chilling effect on nonprofit organizations and institutions of higher education.

Finally, the proposed rule, if enacted, will chill the speech of nonprofit organizations and institutions of higher education. Fear and confusion over how exactly to comply with the rule and the possible loss of federal funding or other sanctions will lead many such institutions and organizations—when not otherwise required by law to engage in voter registration activities, *see infra* Parts III-V—to refrain from doing so rather than risk their funding or legal liability.

This is so because, while seemingly restricting only the use of federal funds for voter registration-related activities, the proposed rule is not clear in its scope. As explained *supra* Part II.B, the voter registration restriction’s catch-all term “any similar activity” is not defined, leaving the scope of activity for which use of federal funds is prohibited ambiguous. Accordingly, as discussed more *infra* Part VII, it is reasonable to expect—given the quantity of federal grant money at issue³⁶—that some nonprofit organizations and institutions of higher education will be chilled in their constitutionally protected speech more broadly, foregoing any activities even remotely related to voter registration for fear that, under the proposed rule, engaging in such activities using federal funds would jeopardize that funding.³⁷

III. The proposed rule violates the National Voter Registration Act.

Third, the proposed rule conflicts with multiple provisions of the National Voter Registration Act (“NVRA”). The NVRA requires states to designate as voter registration agencies “all offices in the State that provide public assistance” and “all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.”³⁸ States may further designate public schools—including colleges and universities—and other offices that provide services to persons with disabilities as voter registration agencies.³⁹ All designated voter registration agencies *must* (1) distribute mail voter registration applications; (2) assist applicants in completing those applications; and (3) accept completed voter registration applications for transmittal to appropriate state election officials.⁴⁰

³⁶ See, e.g., *Nat’l Educ. Ass’n v. U.S. Dep’t of Educ.*, 779 F. Supp. 3d 149, 178 (D.N.H. 2025) (“For many schools, loss of federal funding would be crippling.”).

³⁷ See, e.g., *Vill. of Hoffman Ests. v. Flipside, Hoffman Ests.*, 455 U.S. 489, 494 n.6 (1982) (the Supreme Court “has long recognized that ambiguous meanings cause citizens to ‘steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked’”) (cleaned up).

³⁸ 52 U.S.C. § 20506(a)(2)(A)–(B).

³⁹ *Id.* § 20506(a)(3)(B).

⁴⁰ *Id.* § 20506(4)(A); *see also id.* § 20506(a)(6).

The proposed rule’s prohibition on institutions of higher education and nonprofit organizations using any federal funds to conduct or support voter registration drives or campaigns, or similar activities, runs headlong into the NVRA’s requirements of certain of these institutions to do the exact opposite.

First, numerous institutions of higher education provide public assistance—including, for example, having campus offices to administer or help process SNAP, Medicaid, TANF, WIC, housing assistance, and other public-benefit applications—such that these institutions fall within the NVRA’s purview of mandatory voter registration assistance agencies.⁴¹ Second, virtually all institutions of higher education are legally required to provide services to persons with disabilities,⁴² with many services being state-funded such that those institutions, or offices within them, fall within the NVRA’s orbit of mandatory voter registration agencies.⁴³ Finally, a number

⁴¹ See, e.g., Cal. Sec’y of State, Cal. NVRA Manual, ch. 3, at 1, <https://elections.cdn.sos.ca.gov/nvra/nvra-manual/chap-3.pdf> (last visited July 13, 2026) (indicating that “[p]rivate entities under contract with Public Assistance Agencies” are designated voter registration agencies under the NVRA); Cal. Cmty. Colls. CalWORKs Ass’n, *About Us*, <https://calworksassociation.org/about/> (last visited July 13, 2026) (CalWORKs is California’s TANF public-welfare program and “[e]ach community college in California has a CalWORKs Program on campus,” administered by the colleges.); City Univ. of New York, *CUNY’s Single Stop Program Offers Prompt Help to Needy Students to Continue Their Education* (Dec. 5, 2018), <https://www.cuny.edu/news/cunys-single-stop-program-offers-prompt-help-to-needy-students-to-continue-their-education/> (CUNY’s campus-based Single Stop program helps students obtain “nutrition benefits” and “health insurance” on campus, is available at every CUNY community college and John Jay College, and provides benefit screening for SNAP, TANF, and WIC, as well as healthcare enrollment); Univ. of Ill. Chicago Wellness Ctr., *SNAP*, <https://wellnesscenter.uic.edu/resources-and-services/snap/> (last visited July 13, 2026) (campus resource helps identify eligibility, complete and submit applications, handle redetermination status and application changes, manage cases, and request SNAP, cash assistance, Medicaid, Medicare Savings Programs, and TANF); N. Va. Cmty. Coll., *Government Benefits*, <https://www.nvcc.edu/student-resources/financial-education/financial-stability/government-benefits.html> (last visited July 13, 2026) (college staff assist with Virginia’s CommonHelp application for TANF, SNAP, health-care coverage, emergency assistance, and child care; provide help completing SNAP and Medicaid applications; and direct students to WIC and Housing Choice Voucher resources); Utah Sys. of Higher Educ., *Basic Needs Landscape Analysis* (Aug. 2022), https://ushe.edu/wp-content/uploads/pdf/reports/2022/202208_Basic_Needs_Landscape_Analysis.pdf (reporting that Utah higher education institutions educate students about SNAP, TANF, and WIC, with some institutions helping students apply; identifying Davis Technical College staff as helping students apply for SNAP, TANF, and WIC, and Salt Lake Community College staff as educating students about housing resources, SNAP, TANF, and WIC); see also Lindsay Daugherty, William R. Johnston & Tiffany Tsai, *Connecting College Students to Alternative Sources of Support: The Single Stop Community College Initiative and Postsecondary Outcomes*, RAND Corp. (2016), <https://tacc.org/sites/default/files/documents/2018-08/rand-connecting-college-students.pdf> (explaining that Single Stop offices on community-college campuses provide screenings and applications for public-benefit programs, including TANF, SNAP, Medicare, and housing assistance, and that the study examined Single Stop programs at Bunker Hill Community College, CUNY, Delgado Community College, and Miami Dade College).

⁴² See 29 U.S.C. § 794(a); 34 C.F.R. §§ 104.41–104.47, 104.44(a), (d); 42 U.S.C. §§ 12131–12134, 12132; 28 C.F.R. §§ 35.107, 35.130, 35.160; 42 U.S.C. §§ 12181(7)(J), 12182(a); 28 C.F.R. §§ 36.104, 36.201, 36.302, 36.303.

⁴³ See, e.g., Cal. Sec’y of State, Cal. NVRA Manual, ch. 3, at 2, <https://elections.cdn.sos.ca.gov/nvra/nvra-manual/chap-3.pdf> (last visited July 13, 2026) (indicating that “University of California (UC), California State University (CSU), and California Community College (CCC) offices providing services to students with disabilities” are designated voter registration agencies under the NVRA); Colo. Sec’y of State, *NVRA Agency-Based Voter Registration in Colorado: 2011 Annual Report* at 4 (May 2012), <https://spl.cde.state.co.us/artemis/sserials/s123internet/s1232011internet.pdf> (reporting on NVRA § 7 compliance efforts involving publicly funded colleges and universities with offices primarily serving students with disabilities); Fla. Div. of Elections, *Voter Registration Agencies*, <https://dos.fl.gov/elections/for-voters/voter-registration/voter-registration-agencies-and-nvra/>

of public institutions of higher education across the country have, in accordance with the NVRA, been designated by their state as voter registration agencies.⁴⁴

The proposed rule presents a direct conflict for those institutions of higher education that are NVRA-designated voter registration agencies: the NVRA requires these entities to affirmatively provide voter registration opportunities and assistance, while the proposed rule threatens loss of federal funding if those operations intersect with federal grant administration in any manner.

The proposed rule also contradicts the NVRA as applied to nonprofit organizations. While nonprofit organizations are not specifically named as voter registration agencies under the NVRA, they are designated accordingly if the nonprofit is administering covered public assistance services—such as Women, Infants, and Children (“WIC”), the Supplemental Nutrition Assistance Program (“SNAP”), the Children’s Health Insurance Program (“CHIP”), or Temporary Assistance for Needy Families (“TANF”)—on the state’s behalf or if the nonprofit enters an agreement with the state to be designated as a voter registration agency.⁴⁵

(last visited July 13, 2026) (noting that “[d]isability offices at public colleges and universities” are voter registration agencies under the NVRA); Md. Code Regs. § 33.05.03.02(A)(6) (designating “offices for students with disabilities at private and public colleges and universities” as voter registration agencies); Md. State Bd. of Elections, *National Voter Registration Act*, https://results.elections.maryland.gov/voter_registration/nvra.html (last visited July 13, 2026) (same); 950 CMR 57.02 (Massachusetts regulation defining “Registration Agency” to include “offices that primarily provide disability services at public institutions of higher education”); Pa. Dep’t of State, *Administration of Voter Registration in Pennsylvania: 2024 Annual Report to the Pennsylvania General Assembly* at 31 (June 30, 2025), https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/reports/voter-registration/dos_voter_registration_report_2024_final.pdf (indicating that “Student Disability Services Offices at Universities within the State System of Higher Education” are NVRA-designated voter registration agencies in Pennsylvania); Ohio Sec’y of State, *Voter Registration at the Bureau of Motor Vehicles* at 16 (Sep. 2024), <https://www.ohiosos.gov/assets/nvra-bmv-manual.pdf> (noting that individuals may register to vote at “each office that provides assistance to disabled students of a state-supported college or university”); Univ. of Montevallo, *Voter Registration*, <https://www.montevallo.edu/campus-life/student-services/disability-support-services/accommodations/voter-registration/> (last visited July 13, 2026) (noting that “[t]he Alabama Secretary of State has stated that disability service offices in public institutions of higher education fall within the agency-based voter registration provisions of the” NVRA); see also *Nat’l Coal. For Students with Disabilities Educ. & Legal Def. Fund v. Allen*, 152 F.3d 283, 285, 290–92 (4th Cir. 1998) (confirming that offices serving students with disabilities at public colleges are “offices” under the NVRA and rejecting the argument that the NVRA does not apply to colleges); *United States v. New York*, 700 F. Supp. 2d 186, (N.D.N.Y. 2010) (holding that SUNY and CUNY campus disability-services offices, including community-college offices, had to be designated as mandatory voter registration agencies under the NVRA).

⁴⁴ See, e.g., La. Admin. Code tit. 31, pt. II, ch. 5 § 503 (indicating that all public colleges and universities are designated as voter registration agencies, as are all private colleges and universities with their permission); Md. Code Ann., Elec. Law § 3-204(a)(2)(iii) (designating “all public institutions of higher education in the State” as voter registration agencies); Md. Code Regs. 33.05.03.02(A)(8) (same); Ohio Sec’y of State, *Ohio Election Official Manual* at 4-102 (June 2026), <https://www.ohiosos.gov/assets/dir2026-06-ch04.pdf> (indicating that “Ohio’s four-year state-supported colleges and universities” are NVRA-designated voter registration agencies); Or. Admin. R. 165-005-0055(1)(k) (defining “Voter Registration Agency” to include public universities); State of Utah, *Designate Voter Registration Agencies*, <https://vote.utah.gov/designated-voter-registration-agencies/> (last visited July 13, 2026) (designating all Utah public universities as mandatory voter registration agencies under the NVRA).

⁴⁵ See 52 U.S.C. § 20506(a)(2)(A), (a)(3)(A), (a)(3)(B)(ii); see also U.S. Dep’t of Justice Civil Rights Division, *The National Voter Registration Act Of 1993 (NVRA)*, <https://www.justice.gov/crt/national-voter-registration-act-1993->

Nonprofit organizations in states across the country serve as contractors providing covered public assistance services or otherwise have entered into agreements that render them voter registration agencies.⁴⁶ Indeed, some states explicitly name nonprofit organizations as official voter registration agencies under the NVRA. California law, for example, defines “voter registration agency” to include “[a] private entity under contract with a designated voter registration agency to provide services or assistance on behalf of the designated voter registration agency.”⁴⁷ Florida law likewise makes clear that private providers of public benefits, including nonprofit organizations, are voter registration agencies under the NVRA.⁴⁸

The proposed rule thus precipitates the same conflict for such nonprofit organizations as for institutions of higher education, forcing them to interpret unclear restrictions around voter registration in the proposed rule at the risk of losing any federal funding if used for voter registration or similar activities or fulfilling their federal requirement to provide voter registration services as NVRA-designated voter registration agencies.

IV. The proposed rule violates federal law requiring eligible institutions of higher education to make a good faith effort to facilitate voter registration.

Fourth, the proposed rule’s categorical prohibition on institutions of higher education using federal funds to establish, administer, contribute to, or pay the expenses of voter registration campaigns, drives, or any similar activity contradicts existing federal law, which has long required college and universities to make a good faith effort to facilitate voter registration among students.

Originally passed in 1965, the Higher Education Act (“HEA”) was reauthorized and amended in 1998 to include a requirement that institutions of higher education engage in certain voter registration activities during years with elections for federal office, governor, or other chief

[nvra](#) (last visited July 13, 2026) (“When a state contracts with a private entity to administer services in an agency that is required to offer voter registration, . . . the voter registration requirements under the NVRA remain the same.”); *Action NC v. Strach*, 216 F. Supp. 3d 597, 624 (M.D.N.C. 2016) (A state agency’s responsibility to adhere to the NVRA “does not cease because [the state agency] delegates to non-governmental agencies the authority to conduct transactions which are covered under the NVRA.”).

⁴⁶ See, e.g., Or. Rev. Stat. § 247.208(1)–(2) (authorizing Oregon’s Secretary of State to designate nongovernmental offices, by agreement, as voter registration agencies and requiring NVRA services at those agencies); 26 Tex. Admin. Code § 366.19(a) (noting the qualifications for a nonprofit health agency to become a WIC Program services provider).

⁴⁷ Cal. Elec. Code § 2401(2); see also Cal. Sec’y of State Decl., National Voter Registration Act Voter Registration Agencies at 2–3 (May 15, 2020), <https://elections.cdn.sos.ca.gov/nvra/laws-standards/pdf/nvra-designated-agencies.pdf> (declaring as designated NVRA agencies “private entities under contract with . . . county welfare department offices” that accept applications and administer a wide variety of public benefits, as well as any “community based non-profit organizations under contract with the Department of Public Health . . . which accept applications and administer benefits for the Women, Infants and Children (WIC) nutrition program”).

⁴⁸ Fla. Stat. § 97.058(10) (“Each state agency which contracts with a private provider that is also a voter registration agency as defined in s. 97.021 is responsible for contracting for voter registration services with that provider and for ensuring that the private provider complies with the provisions of this section.”).

executives within a state.⁴⁹ In particular, eligible post-secondary institutions must “make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.”⁵⁰ In the Higher Education Opportunity Act of 2008, Congress revised the HEA’s voter registration provision to allow institutions of higher education to comply by electronically distributing a state voter registration form to students or, alternatively, sharing a website that contains a downloadable registration form, provided that the electronic message is exclusively devoted to the voter registration communication.⁵¹ Moreover, the HEA’s enacting history indicates that Congress intended to allow institutions—not officers of the executive branch—to determine how to comply with the good faith effort requirement.⁵²

Federal law makes clear that a good faith effort to facilitate voter registration by institutions of higher education is a requirement for Title IV program participation, such that an institution’s initial and continuing eligibility to participate in Title IV programs is conditioned on complying with listed Program Participation Agreement requirements—including the voter registration provision.⁵³ Institutions of higher education, in turn, have consistently understood the good faith effort requirement as a condition for their receipt of federal Title IV funding.⁵⁴ Consequently,

⁴⁹ Higher Education Act of 1965, as amended, Section 487(a)(23); 20 U.S.C. § 1094(a)(23). Notably, Congress included in its 1998 amendments to the good faith effort requirement, though did not ultimately codify, a provision expressly stating that “[n]o officer of the executive branch is authorized to instruct the institution in the manner in which the amendment made by this subsection is carried out.” Pub. L. 105-244, 112 Stat. 1581, Section 487(b)(2).

⁵⁰ 20 U.S.C. § 1094(a)(23)(A); 34 C.F.R. § 668.14(d)(1).

⁵¹ 20 U.S.C. § 1094(a)(23)(D).

⁵² See Pub. L. 105-244, 112 Stat. 1581, Section 487(b)(2) (1998) (“No officer of the executive branch is authorized to instruct the institution in the manner in which the amendment [requiring good faith effort] made by this subsection is carried out.”).

⁵³ See 20 U.S.C. § 1094(a)(23); 34 C.F.R. § 668.14(a), 14(b)(1).

⁵⁴ See, e.g., Am. Council on Educ., *Voting and College Political Campaign-Related Activities in America’s 250th Year* at 4, <https://www.acenet.edu/Documents/Student-voting-and-college-political-campaign-activities-issue-brief.pdf> (last visited July 13, 2026) (“Since 1998, to remain eligible to participate in federal programs under the Higher Education Act (HEA), colleges and universities in most states have been required to help students register to vote.”); Nat’l Assoc. of Indep. Colls. and Univs., Colleges & Elections, <https://www.naicu.edu/policy-advocacy/your-vote-your-voice/colleges-elections/> (last visited July 13, 2026) (referencing the HEA good faith effort requirement in relation to Program Participation Agreements); see also, e.g., Marquette Univ., Voter Information <https://www.marquette.edu/vote/> (last visited July 13, 2026) (“According to the Federal Student Aid Program, this information is posted to comply with Section 487(a)(23) of the Higher Education Act of 1965 that references the National Voter Registration Act of 1993 (NVRA) and requires higher education institutes to distribute voter registration forms to their students.”); Yale Univ., Student Civic Engagement <https://vote.yale.edu/> (last visited July 13, 2026) (“Yale Votes is a good faith effort to make voter registration widely available to students and help students register and vote themselves.”); Univ. of Cal., Los Angeles, BruinsVote, FAQs <https://bruinsvote.ucla.edu/faq> (last visited July 13, 2026) (“The 1998 reauthorization of the federal Higher Education Act and the State of California Donahoe Higher Education Act include a requirement that higher education institutions make a ‘good faith effort’ to make mail voter registration forms available to all enrolled students.”).

failure to comply with the good faith effort provision would jeopardize an institution's federal funding.⁵⁵

In recent years, the United States Department of Education has repeatedly reiterated the good faith effort requirement for all covered institutions.⁵⁶ Indeed, it did so as recently as August 25, 2025, confirming that covered institutions must comply with the good faith effort requirement and that implementation of the requirement occurs as part of the Program Participation Agreement between covered, eligible institutions and the Department of Education.⁵⁷

Nevertheless, OMB's proposed rule prohibiting institutions of higher education from using any federal funds to conduct or support voter registration drives or campaigns, or similar activities, contradicts the Higher Education Act's good faith effort requirement. If enacted, the proposed rule would create a bizarre and unworkable scenario where institutions of higher education, on the one hand, would be denied federal funding if it were used for voter registration activities, while on the other hand, would be required to make a good faith effort to engage in those very same voter registration activities in order to be eligible for federal Title IV funding. These two conflicting conditions simply cannot be squared, rendering the proposed rule, if enacted, violative of existing federal law.

V. The proposed rule conflicts with numerous state laws requiring institutions of higher education to provide opportunities for voter registration.

Fifth, in addition to violating federal law, the proposed rule conflicts with numerous state laws that require institutions of higher education to provide opportunities for students to register to vote. At least 15 states require public institutions of higher education, including vocational schools in some states, to engage in some form of voter registration assistance, from providing voter registration information to students, to making voter registration forms available, to actually

⁵⁵ Of particular note, the proposed rule's impact on federal work-study ("FWS") funding is unclear and may preclude institutions of higher education from using such funding to hire students—with the institution as the FWS employer, see 20 U.S.C. §§ 1087-52(a)–(b), 1087-53(a); 2 C.F.R. § 200.1—to conduct voter registration drives and related activities. This uncertainty is itself legally problematic. Moreover, if the proposed rule does apply to FWS funding, it would, if enacted, foreclose a critical means by which some institutions of higher education comply with their good faith effort obligation: using FWS funding to compensate students for work facilitating on-campus voter registration and education drives.

⁵⁶ See U.S. Dep't of Educ., *Requirement for distribution of voter registration forms*, Dear Colleague Letter GEN-13-17 (Jul. 1, 2013), <https://fsapartners.ed.gov/sites/default/files/attachments/dpcletters/GEN1317.pdf>; U.S. Dep't of Educ., *Requirements for Distribution of Voter Registration Forms*, Dear Colleague Letter GEN-22-05 (Apr. 21, 2022), <https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2022-04-21/requirements-distribution-voter-registration-forms>.

⁵⁷ U.S. Dep't of Educ., *Updated Requirements for Distribution of Voter Registration Forms and Federal Work Study Allowable Uses of Funds*, Dear Colleague Letter GEN-25-05, at 2–3 (Aug. 19, 2025), <https://fsapartners.ed.gov/sites/default/files/2025-08/DearColleagueLtrGEN2505.pdf>.

distributing applications and assisting students in completing them, to offering automated programs for students to apply to register to vote as part of the school's class registration process.⁵⁸

The proposed rule here again presents an insuperable conflict, this time with state laws, leaving institutions of higher education across the country with the impossible choice between losing federal funding if such funding is used for voter registration drives or any similar activity, or violating state law requirements to provide precisely such voter registration opportunities and assistance.

VI. The proposed rule violates the Administrative Procedure Act because the proposed rule's voter registration restrictions exceed OMB's statutory authority, burden fundamental constitutional rights, and are not supported by adequate reasoning.

Sixth, the proposed rule violates the Administrative Procedure Act ("APA") in multiple ways. For the reasons discussed *supra* in Parts I and II, the proposed rule's voter registration restrictions exceed OMB's statutory authority and contravene the First Amendment.⁵⁹

In addition to these statutory and constitutional problems, the proposed rule substantively violates the APA because the reasoning behind it is arbitrary and capricious.⁶⁰ Arbitrary and capricious review is "narrow," evaluating whether the defendants "examine the relevant data and articulate a satisfactory explanation for [their] action including a 'rational connection between the facts found and the choice made.'"⁶¹ Notably, an agency changing its policy "must show that there are good reasons for the new policy," including a "more detailed justification" for the change if the new policy "rests upon factual findings that contradict those which underlay its prior policy[]" or when its prior policy has engendered serious reliance interests that must be taken into account."⁶² Here, there is no question that the proposed rule violates the APA as it is entirely devoid of *any* reasoning to justify or even attempt to explain why the voter registration restrictions are necessary. This complete dearth of justification alone renders the proposed rule, if enacted, arbitrary and capricious.

The proposed rule is further arbitrary and capricious because it would increase burdens on nonprofit organizations and institutions of higher education that receive federal grants. Subjecting

⁵⁸ See, e.g., Cal. Election Code §§ 2146(c)(1), 2148; Colo. Rev. Stat. § 1-2-213.5; Conn. Gen. Stat. § 9-23p; Fla. Admin. Code r. 1S-2.033(3)(b); Ga. Code Ann. § 20-2-310(c); 10 ILCS 5/1A-17; Iowa Code § 48A.23(b); Md. Elec. Law §§ 3-204(a)(2)(iii), (c), 3-204.2(f)(2); Mass. Gen. Laws ch. 51, § 42E; Minn. Stat. § 201.1611, subds. 1(a), 3; N.J. Stat. Ann. § 18A:62-1.1; N.Y. Elec. Law § 5-211(18); Or. Rev. Stat. § 350.245(3); 25 Pa. Code §§ 1322(d), 1327(c)(2); Wash. Rev. Code § 29A.08.310(5).

⁵⁹ See 5 U.S.C. § 706(2)(B)–(C) (requiring courts to "hold unlawful and set aside" agency actions that are "contrary to constitutional right, power, privilege, or immunity," or "in excess of statutory jurisdiction, authority, or limitations").

⁶⁰ See *id.* § 706(2)(A) (requiring courts to "hold unlawful and set aside" agency actions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law").

⁶¹ *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

⁶² *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

grant applications to the review of political appointees rather than qualified experts in the field would create a process that is less transparent and less predictable, shifting the burdens of that uncertainty and compliance with opaque requirements onto applicants. This requirement of review by political appointees is particularly problematic in the context of voter registration-related activities, which are by their nature politically sensitive, even when nonpartisan. The decision to expand consideration beyond the confines of the grant application to include an applicant’s “[h]istory of questionable practices” further obscures what considerations are relevant to the acceptance of grant applications.⁶³ These vague and uncertain criteria will increase costs for grant applicants to draft their applications and demonstrate compliance—considerations the proposed rule does not contemplate at all.⁶⁴

VII. The proposed rule and the timeline for its enactment will create confusion and irreparable harm for nonprofit organizations and institutions of higher education engaged in voter registration activities.

Seventh, the proposed rule will create significant confusion and irreparable harm for nonprofit organizations and institutions of higher education that are engaged in voter registration and seeking to comply with related federal rules. Such confusion and harm derive both from the scope of the rule and its proposed timeline for enactment.

As discussed *supra* Part II.B–C, the proposed rule includes ambiguous language that will sow uncertainty and confusion over how nonprofit organizations and institutions of higher education can comply with the rule without jeopardizing their federal funding. The voter registration restriction’s catch-all term “any similar activity” is nowhere defined and thus provides nonprofit organizations and institutions of higher education no guidance on how to comply with the proposed rule’s funding restrictions. Considering the quantity of federal grant money at issue, lack of clarity on this point will drive many grantees to abandon voter registration-related activities altogether out of fear that engaging in such activities will precipitate the loss of substantial federal funding. This, in turn, will cause irreparable harm not only to those impacted nonprofit organizations and institutions of higher education that forego constitutionally protected speech and expression, but also to the prospective voters they otherwise would serve.

The proposed timeline for enactment of the rule will likewise cause chaos among nonprofit organizations and institutions of higher education conducting voter registration activities—and the voters they assist—in advance of the November 3, 2026 federal midterm elections. OMB proposes to issue a final version of the rule with an effective date of October 1, 2026, less than five weeks before the November 3 elections.⁶⁵ By October 1, however, voter registration for the midterm

⁶³ See 91 Fed. Reg. 32,249–50.

⁶⁴ But see *Michigan v. E.P.A.*, 576 U.S. 743, 759 (2015) (agency must consider “cost—including, most importantly, cost of compliance—before deciding whether regulation is appropriate and necessary”).

⁶⁵ See 91 Fed. Reg. 32,235.

elections will already be well underway⁶⁶ and, indeed, in many states, on the verge of *closing*.⁶⁷ The rule’s ill-timed proposed effective date thus falls squarely in the period of greatest voter registration activity in advance of the midterm elections.

This timing, in turn, will cause significant confusion and harm for nonprofit organizations and institutions of higher education, which must decide whether to forego voter registration-related activities altogether pending the final rule or risk having to restructure their entire voter registration operations just weeks before the election and days before registration closes in many states. Compounding this timing issue still further, while agencies generally publish rules 30 days in advance of their effective date,⁶⁸ OMB has offered no indication here that it intends to do so. This only heightens still more the concern that nonprofit organizations and institutions of higher education will lack sufficient information and time to prepare to comply with the final rule and, consequently, may forego voter registration-related activities altogether before the November election. Any abandonment of critical voter registration activities wrought by the rule and timing of its enactment will yield disastrous results for civic participation among college and university students, clients at nonprofit agencies that receive federal funding, and applicants for public-assistance benefits at both nonprofit organizations and institutions of higher education that are subject to the NVRA.

The rule’s proposed effective date, lastly, contravenes well-established federal precedent making clear that rules governing election administration, including voter registration, should not be disturbed in the run-up to an election in order to avoid causing confusion over compliance.⁶⁹

VIII. If OMB plans to rely upon artificial intelligence, it must disclose that use for additional public comment.

Finally, the notice of proposed rulemaking does not disclose whether OMB relied on artificial intelligence⁷⁰ (“AI”) to draft the proposed regulation or if it plans to use artificial

⁶⁶ For example, National Voter Registration Day—the country’s single largest day of voter registration each year—is scheduled for September 15, 2026. On that day, thousands of partner organizations, including nonprofit organizations and institutions of higher education, will participate in a nonpartisan civic holiday to kick off voter registration drives and programs for the November election. See National Voter Registration Day, *About National Voter Registration Day*, <https://nationalvoterregistrationday.org/about/> (last visited July 13, 2026).

⁶⁷ At least 19 states have voter registration deadlines for at least some methods of registration between October 2 and 7, 2026 alone. See, e.g., U.S. Vote Found., *Absentee Ballot Request for US-based and Overseas Voters Abroad, Election Dates / Deadlines, and How to Vote in your State*, <https://www.usvotefoundation.org/> (last visited July 13, 2026) (noting relevant voter registration deadlines in Alaska, Arizona, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Mexico, Ohio, Rhode Island, South Carolina, Tennessee, and Texas).

⁶⁸ See 5 U.S.C. § 553(d).

⁶⁹ See generally *Purcell v. Gonzalez*, 549 U.S. 1 (2006); see also, e.g., *Tenn. Conference of the NAACP v. Lee*, 105 F.4th 888, 898 (6th Cir. 2024) (staying injunction against voter-registration documentation policy under *Purcell* where injunction issued less than a month before registration deadline).

⁷⁰ See Pub. L. No. 115-232, § 238(g), 132 Stat. 1636, 1697–98 (2018) (defining artificial intelligence).

intelligence to review public comments submitted in response to its proposal. Consistent with Executive Order 13960, *Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government*,⁷¹ however, several federal agencies have indicated their intention to use AI to draft regulations or review comments, as well as for other administrative tasks.⁷²

The APA requires agencies that use computer models to “explain the assumptions and methodology used in preparing th[os]e model[s].”⁷³ The APA also requires agencies to provide the public with notice of, and the opportunity to comment on, its use of models and data in proposed regulations.⁷⁴ To the extent OMB may be integrating AI models into the rulemaking process, the notice of proposed rulemaking does not disclose where the Office plans to use AI here. We request that OMB and those federal agencies implicated by the proposed rule disclose information related to any use of AI as part of this rulemaking—including to review, analyze, and respond to submitted comments—as well as provide an additional opportunity for public comment on that use.

* * *

For all the reasons stated above, CLC, the Andrew Goodman Foundation, Bard College, Nonprofit VOTE, the SLSV Coalition, and Wesleyan University demand that OMB abandon this ill-conceived rule. Its unlawful and poorly explained proposal will chill protected speech and fundamentally weaken legally required opportunities for voter registration on college and university campuses and among applicants for public-assistance benefits that nonprofit organizations would otherwise assist.

Considering the identified failures, we ask the Office not to finalize this proposed rule. Thank you for your attention to these important issues. For more information, please contact CLC’s Senior Legal Counsel, Alexandra Copper, at acopper@campaignlegalcenter.org.

Sincerely,

Campaign Legal Center

The Andrew Goodman Foundation

⁷¹ Exec. Order No. 13960, 85 Fed. Reg. 78,939 (Dec. 3, 2020).

⁷² Jesse Coburn, *Government by AI? Trump Administration Plans to Write Regulations Using Artificial Intelligence*, PROPUBLICA (Jan. 26, 2026), <https://www.propublica.org/article/trump-artificial-intelligence-google-gemini-transportation-regulations>; Press Release, Pub. Emps. for Envtl. Resp., *PEER Opens Investigation into EPA’s Use of Artificial Intelligence* (Mar. 5, 2026), <https://peer.org/peer-opens-investigation-into-epas-use-of-artificial-intelligence/>; Hannah Natanson et al., *DOGE builds AI tool to cut 50 percent of federal regulations*, WASH. POST (July 26, 2025), <https://www.washingtonpost.com/business/2025/07/26/doge-ai-tool-cut-regulations-trump/>.

⁷³ *Owner-Operator Indep. Drivers Ass’n, Inc. v. Fed. Motor Carrier Safety Admin.*, 494 F.3d 188, 204 (D.C. Cir. 2007) (quoting *U.S. Air Tour Ass’n v. FAA*, 298 F.3d 997, 1008 (D.C. Cir. 2002) (citation modified)).

⁷⁴ See *Am. Radio Relay League, Inc. v. FCC*, 524 F.3d 227, 236 (D.C. Cir. 2008); *Air Transp. Ass’n v. FAA*, 169 F.3d 1, 7–8 (D.C. Cir. 1999).

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