

February 18, 2020

Jean-Didier Gaina  
U.S. Department of Education  
400 Maryland Avenue SW  
Mail Stop 294-20  
Washington, DC 20202

Submitted online: <http://www.regulations.gov>

RE: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Direct Grant Programs, State-Administered Formula Grant Programs, Developing Hispanic-Serving Institutions Program, and Strengthening Institutions Program (RIN 1840-AD45)

The Fenway Institute is the research arm of Fenway Health, a federally qualified health center and Ryan White Part C clinic in Boston, MA that serves 32,000 patients each year. About half of our patients are LGBTQIA+, 4,000 are transgender or nonbinary, and 2,200 are people living with HIV. The Fenway Institute works to make life healthier for LGBTQIA+ people, people living with HIV, and the larger community. We do this through research and evaluation, education and training, and policy analysis.

We are writing to strongly oppose the Department of Education's proposed rule "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Direct Grant Programs, State-Administered Formula Grant Programs, Developing Hispanic-Serving Institutions Program, and Strengthening Institutions Program (RIN 1840-AD45)." We are concerned that this proposed rule would unfairly favor taxpayer-funded religious organizations and expand religious exemptions that allow for discrimination against LGBTQ students in schools.

The proposed rule would eliminate religious freedom protections for college prep and work-study programs intended to help high school students from low-income families prepare for college. This would also impact federally-funded afterschool and summer learning programs for students in high-poverty, low-performing schools. The proposed rule also massively expands the limited exception for religious schools and strips away protections for many students who face discrimination and harassment. The rule, if finalized, would allow more schools, many that are not even religious, to claim a religious right to discriminate at the expense of LGBTQ students, women and girls, religious minority students, and many others.

This is especially concerning because LGBTQ students already report experiencing widespread discrimination in schools. According to the 2017 GLSEN School Climate Survey, 70.1% of LGBTQ students experienced verbal harassment and 28.9% experienced physical harassment based on sexual orientation. According to the same survey, 59.1% of LGBTQ students experienced verbal harassment and 24.4% experienced physical harassment based on gender expression. Transgender and gender nonconforming students especially were targets of discriminatory school policies, with 46.5% of transgender and gender nonconforming students

reporting being required to use restrooms in accordance with their sex assigned at birth rather than their gender identity. This type of discrimination can lead to increased absence or even dropping out of school, worse school performance, lower self-esteem, and higher levels of depression and other negative mental health outcomes.<sup>1</sup>

Although most public colleges and universities have non-discrimination rules for student organizations to maintain an open and welcoming campus environment, this rule would give religious organizations the special right to discriminate against students they disfavor -- while still being funded by student fees. This proposed rule is discriminatory and dangerous. In America, no one's ability to get an education should depend on whether they share the religious beliefs of government-funded organizations. We strongly urge the Department of Education to withdraw this proposed rule.

Sincerely,

Jane Powers, MSW, LICSW  
Acting Chief Executive Officer  
Fenway Health

Kenneth Mayer, MD, FACP  
Co-chair and Medical Research Director, The Fenway Institute  
Director of HIV Prevention Research, Beth Israel Deaconess Medical Center  
Professor of Medicine, Harvard Medical School

Jennifer Potter, MD  
Co-Chair and LGBT Population Health Program Director  
The Fenway Institute

Carl Sciortino, MPA  
Vice President of Government and Community relations  
Fenway Health

Sean Cahill, PhD  
Director of Health Policy Research  
The Fenway Institute

Tim Wang, MPH  
Senior Policy Analyst  
The Fenway Institute

---

<sup>1</sup> Kosciw J, Greytak E, Zongrone A, Clark C, Truong N. (2018). *The 2017 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer youth in Our Nation's Schools*. New York: GLSEN.