

of decision (ROD) was signed on September 18, 2018, initiating the next phase of the study, Preconstruction Engineering and Design (PED). In 2020, an Engineering Documentation Report (EDR) provided the technical basis for modifications necessary to the Authorized Project. Subsequent analysis found that the modifications in the 2020 EDR were not cost effective and lacked the economic justification necessary for continued federal involvement. Acknowledging the need to reduce the risk to life, safety and economic damages from flooding throughout the Ala Wai Watershed in Oahu, Hawaii, the Corps is currently reevaluating the previously completed Ala Wai Canal Flood Risk Management Study in a GRR, using current planning criteria and policies. Since the GRR is reevaluating alternatives and could result in a new recommendation, NEPA documentation for the Ala Wai Canal Flood Risk Management Project will be updated.

2. *Proposed Action:* The project is undergoing a GRR to (1) redefine the flood problems and risks in the Ala Wai Watershed by updating hydrology, physical, biological, and socioeconomic conditions; (2) reevaluate alternatives for reducing flood damages in the area; and (3) reaffirm the Federal interest by recommending a plan that is economically feasible. The results of this study will be presented in the GRR/SEIS. The formulation and evaluation of alternatives, benefits and costs, and implementation requirements will be presented in the GRR/SEIS.

3. *Alternatives:* A number of project alternatives will be evaluated in the GRR/SEIS. In addition to the No Action alternative, other potential alternatives to reduce flood damages include a combination of the following components: Makiki District Park detention basin, Manoa Valley District Park detention basin, Ala Wai Golf Course detention basin, Kaimuki High School berm/floodwall, Kanaha floodwall, Woodlawn Bridge floodwall, Koali Road floodwall, and Ala Wai Canal floodwall.

4. *Scoping/Public Participation:* The GRR/SEIS will be coordinated with Federal, State, and local government agencies; Native Hawaiian organizations; local stakeholders; special interest groups; and any other interested individuals and organizations. A 30-day scoping period for Federal, State, local agencies, and non-governmental organizations was held between August 9, 2021, through September 9, 2021, when the environmental document accompanying the GRR was anticipated to be a supplemental environmental

assessment. The Corps held a public meeting to discuss the scope of the draft GRR and accompanying environmental documentation on November 10 and November 13, 2021. The virtual meeting dates and times were advertised in advance on the City and County of Honolulu's Ala Wai Study Flood Risk Management website (<https://www.honolulu.gov/alawai/public-engagement.html>). The purpose of these meetings was to involve local stakeholders and the public early in the study process. The meetings collected public input regarding the study scope, historic and current problems, and potential opportunities. Based on public feedback, additional virtual workshops/meetings were incorporated into the public engagement strategy for the study. To date, additional public engagement opportunities have occurred via virtual and/or in-person workshops/meetings held on January 20, 2022, April 1, 2022, April 8, 2022, April 14, 2022, April 22, 2022, July 26, 2022, July 28, 2022, and December 13, 2022.

Based on feedback from the public and the non-Federal sponsor, the environmental document being prepared to accompany the GRR is now anticipated to be a SEIS. Therefore, this notice of intent to prepare a GRR/SEIS is initiating a new 30-day public scoping period. Due to public workshops and meetings that have already occurred, no additional scoping meetings are planned at this time. All public comments received to date regarding the GRR/SEIS, either verbally or in writing, during prior meetings, workshops, and scoping periods will be considered by the Corps in the GRR/SEIS.

5. *Anticipated Impacts, Permits, and Authorization:* The GRR/SEIS will analyze the full range of impacts, both beneficial and negative, of the alternatives. Potentially significant issues to be analyzed include impacts to water quality, biological resources, endangered and threatened species and their habitats, cultural resources, and visual resources. Other impacts that will be analyzed include geology, seismicity, and soils; surface water resources; hydrology and hydraulics; land use; recreation; hazardous and toxic waste; air quality; noise; traffic and transportation; public health and safety; public services and utilities; socioeconomic; and environmental justice. Anticipated permits and authorizations include water quality certification and Coastal Zone Consistency Determination. In addition, many other Federal, State, and local authorizations will be required for the

Project. Applicable Federal laws include NEPA, the Endangered Species Act, Fish and Wildlife Coordination Act, Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammal Protection Act, Coastal Zone Management Act, National Historic Preservation Act, and the Clean Water Act.

6. *Public Comment Availability:* Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

7. *Study Schedule:* The Draft GRR/SEIS is currently estimated to be available to the public in Summer 2023, with a 45-day public review and comment period following release of the draft document.

Kimberly A. Peeples,

Brigadier General, U.S. Army, Commander, Great Lakes and Ohio River Division.

[FR Doc. 2023-03622 Filed 2-21-23; 8:45 am]

BILLING CODE 3720-58-P

DEPARTMENT OF EDUCATION

[Docket ID ED—2023—OPE—0029]

Request for Information Regarding First Amendment and Free Inquiry Related Grant Conditions

AGENCY: Office of Postsecondary Education, U.S. Department of Education

ACTION: Request for information.

SUMMARY: The U.S. Department of Education (Department) is requesting information in the form of written comments that may include information, research, and other input from the public on how regulations adding material conditions relating to First Amendment freedoms and free inquiry to Department grants have affected or are reasonably expected to affect decisions surrounding First Amendment and free speech-related litigation in Federal and State court and institutional policies on freedom of speech. The Office of Postsecondary

Education solicits these comments to inform its review of the current regulations and its implementation of applicable grant programs.

DATES: We must receive your comments on or before March 24, 2023.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at [regulations.gov](https://www.regulations.gov). However, if you require an accommodation or cannot otherwise submit your comments via [regulations.gov](https://www.regulations.gov), please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments by fax or by email, or comments submitted after the comment period closes. To ensure that the Department does not receive duplicate copies, please submit your comments only once. Additionally, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on [sing Regulations.gov](https://www.regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under “FAQ.”

Privacy Note: The Department’s policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

This is a request for information (RFI) only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice of proposed rulemaking. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, we are not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

FOR FURTHER INFORMATION CONTACT: Ashley Clark, U.S. Department of Education, 400 Maryland Ave. SW, Room 2C185, Washington, DC 20202. Telephone: (202) 453-7977. Email: ashley.clark@ed.gov.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

I. Background

In 2020, the Department proposed and issued final regulations to add material conditions relating to First Amendment freedoms and free inquiry to certain Department grants. These regulations, commonly referred to as the “Free Inquiry Rule,” added provisions related to free inquiry (§ 75.500(b) and (c) for Direct Grant Programs, and § 76.500(b) and (c) for State-Administered Formula Grant Programs), making it a material condition of these Department grants that public institutions of higher education (IHEs) that receive these grants comply with the First Amendment and private institutions that receive grants from the Department follow their stated institutional policies on freedom of speech, including academic freedom. As acknowledged in the 2020 final rule, public IHEs are already legally required to comply with the First Amendment and private IHEs are required to comply with their stated policies on freedom of speech. The intended effect of making compliance a material condition of receiving Department grants is to encourage IHEs to foster environments that promote open, intellectually engaging, and diverse debate.

The 2020 final rule states that an IHE will be determined to have violated the grant conditions in §§ 75.500(b) and (c) and 76.500(b) and (c) only if a State or Federal court issues a final, non-default judgment against a public IHE for violating the First Amendment or against a private IHE for violating stated institutional policies. In the 2020 NPRM and 2020 final rule, the Department stated that we believed State and Federal courts are the appropriate arbiters of alleged free speech violations. Under the 2020 final rule, the Department’s role is deciding whether and to what extent to impose additional penalties where such court judgments have been rendered, including, but not limited to, withholding Federal grant funding. The preamble to the 2020 final rule stated that if a court issues such a judgment against a public IHE for violating the First Amendment or a private IHE for violating stated institutional policies, the institution must submit to the Secretary a copy of the judgment within 45 days. The Department would then consider such a grantee to be in violation of a material condition and could pursue available remedies for noncompliance.

Furthermore, the 2020 final rule added a third provision (§ 75.500(d) for Direct Grant Programs and § 76.500(d) for State-Administered Formula Grant

Programs) prohibiting public IHEs from denying to a religious student organization at the public institution any right, benefit, or privilege that is otherwise afforded to other student organizations at the institution because of the religious student organization’s beliefs, practices, policies, speech, membership standards, or leadership standards informed by sincerely held religious beliefs. That provision is not part of this request for information and is instead being addressed separately in a notice of proposed rulemaking (see Docket ID ED–2022–OPE–0157).

II. Review of 34 CFR 75.500 and 76.500, Paragraphs (b) and (c)

On August 19, 2021, the Department issued a blog post announcing that we were conducting a review of these regulations while keeping in mind the importance of several key elements, including First Amendment protections, nondiscrimination requirements, and the promotion of inclusive learning environments for all students.¹ We stated in our blog post that the First Amendment requires that public colleges and universities not infringe upon students’ rights to engage in protected free speech and religious exercise and emphasized our long-held and continuing view that “[p]rotecting First Amendment freedoms on public university and college campuses is essential.” The Department further recognized that IHEs, their students, and the courts have historically been responsible for resolving disputes relating to these complex matters where these important principles intersect.

As part of the review, the Department conducted outreach and held meetings with higher education and institutional stakeholders, including organizations representing minority-serving institutions and other under-resourced institutions; faith-based organizations, including organizations representing religious IHEs; and organizations that advocate for civil rights and civil liberties. The purpose of the meetings was to hear from impacted groups that had diverging perspectives in their comments on the proposed provisions in the 2020 NPRM. Some institutional stakeholders raised on-going concerns that the provisions added by the 2020 final rule in paragraphs (b) and (c) of 34 CFR 75.500 and 76.500 unnecessarily go beyond what is required by the courts, encourage campus community members to pursue litigation more frequently, and

¹ Cooper, Michelle Asha. “Update on the Free Inquiry Rule,” Department of Education Homeroom Blog (Aug. 19, 2021), <https://blog.ed.gov/2021/08/update-on-the-free-inquiry-rule/>.

undermine existing campus processes. Stakeholders also stated that these provisions could increase institutional costs as a result of increased litigation and prompt institutions to change their approach to litigation, such as being more likely to settle. In the case of private institutions, the Department has heard concerns that the regulations may incentivize private colleges to limit, eliminate, or reconsider their policies on free speech for fear of losing grant funds. Some stakeholders indicated support for these provisions and stated that the regulation helps secure crucial civil liberties under the First Amendment.

III. Solicitation of Comments: Impact of 34 CFR 75.500 and 76.500, Paragraphs (b) and (c)

The Biden-Harris Administration deeply values the First Amendment, including its guarantees of free speech and free exercise. The Department is seeking input from the public on how the regulations have affected or are reasonably expected to affect decisions surrounding First Amendment and free speech-related litigation in Federal and State court and institutional policies on freedom of speech. The Department is interested in this public input to inform its review of the current regulations and its implementation of applicable grant programs. This effort is separate from any ongoing regulatory work. The deadline for these submissions is March 24, 2023.

The Department encourages comments from impacted institutions of higher education; researchers, academics, policy experts, and other individuals familiar with First Amendment rights and institutional policies; organizations that work on First Amendment issues, including those that work directly with institutions and students; students and other members of the public.

The Department seeks responses to the specific questions below, as well as the general concepts and topics identified as they relate to First Amendment rights and free speech policies on campus.

The Department invites comments as to:

1. Whether and how the current regulations have affected or are reasonably expected to affect decisions surrounding First Amendment and free speech-related litigation in Federal and State court;

2. How these regulations have affected or are reasonably expected to affect public IHEs' approach to designing institutional policies related to First Amendment protections, including on-

campuses processes used to address alleged free speech and academic freedom violations;

3. How these regulations have affected or are reasonably expected to affect private IHEs' approach to designing institutional policies related to free speech and academic freedom, including on-campus processes used to address alleged free speech and academic freedom violations;

4. Whether and how these grant conditions have provided additional protections of First Amendment rights in the case of public colleges, or promotion of free speech and free inquiry policies in the case of private institutions;

5. Whether these regulations affect or could be expected to affect how aggrieved campus community members seek resolution to alleged free speech and academic freedom policy violations;

6. Whether these regulations have resulted in additional quantifiable costs beyond what was considered in the 2020 final rule;

7. Any other information that the public believes would inform the Department's understanding of the impact of these regulations.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotope, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit

your search to documents published by the Department.

Nasser H. Paydar,

Assistant Secretary, Office of Postsecondary Education.

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DEPARTMENT OF EDUCATION

[Docket No. ED-2023-SCC-0034]

Agency Information Collection Activities; Comment Request; Measuring Educational Gain in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before April 24, 2023.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2023-SCC-0034. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W203, Washington, DC 20202-8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact John LeMaster, (202) 245-6218.