



White House Proposes Higher Ed Preferential Plan to Access Federal Grant Money: What Your Institution Should Consider

Insights

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The White House just delivered a proposal to nine institutions of higher education that would reportedly allow them to gain preferential access to federal grants and potentially other federal funding if they agree to certain terms. Although a confirmed version of the October 1 “Compact for Academic Excellence in Higher Education” has not yet been publicized, news reports lay out the terms pushed by the administration – including requiring single-sex bathrooms, capping enrollment of foreign students, and freezing tuition costs for five years. What do you need to know about the terms of these proposals and what should your institution do?

Proposed Terms of Agreement

One of the chief lawyers advising the Trump Administration on higher education issues signaled these agreements would be forthcoming in a recent New York Times [interview](#). According to reporting, colleges or universities would need to agree to a number of requirements, to be in line for preferential access to funding, including:

Societal Issues

- Banning the use of **race or sex in admissions and financial aid** as well as hiring, as well as political views, sexual orientation, gender identity, or religious associations, with the exception of certain single-sex or religious institutions.
- Implementing policies in which signatories agree to **revise governance structures** that purport to “purposefully punish, belittle, and even spark violence against conservative ideas” and to adopt measures protecting academic freedom.
- A requirement that all university employees, in their capacity as university representatives, will abstain from actions or speech relating to **societal and political events** except in cases in which external events have a direct impact upon the university.
- Maintaining **single-sex spaces**, such as bathrooms and locker rooms, and fair competition, such as in sports.
- **Defining and interpreting** “male,” “female,” “woman,” and “man” according to reproductive function and biological processes.

Foreign Student Issues

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- Capping **international undergraduate enrollment** at 15% in the Student Visa Exchange Program, with no more than 5% from any one country.
- **“Screening out” students** who demonstrate hostility to the United States, its allies, or its values, and providing instruction in American civics to all foreign students.
- **Sharing all known information** about foreign students, including disciplinary records, with the Department of Homeland Security and the Department of State, and disclosing all foreign funding.

Student Financial and Admissions Issues

- Freezing effective **tuition rates** for the next five years.
- Implementing **public accountability mechanisms** to demonstrate commitment to integrity of student grading system and grade inflation.
- Requiring **standardized testing** (SAT or similar) for applicants.
- Reducing **administrative costs and increasing transparency** about earnings after graduation.
- **Waiving tuition** for certain students in “hard science” programs at institutions with large endowments.
- Offering **tuition refunds** for students who drop out in the first semester.
- Agreeing to take all necessary steps to comply with **applicable anti-money laundering laws**, know-your-customer laws and related regulations, and foreign gift and contract disclosure requirements and putting programs in place to ensure this occurs.

Details About Preferences and Enforcement

The compact envisions various self-policing standards and requirements for institutions, external audits, and annual certifications, as well as Department of Justice oversight. The exact parameters of what institutions will earn in terms of federal funding preference by agreeing to the compact are currently unclear.

When asked to describe the higher education institutions of the future, in 2030 and beyond, Mailman responded by saying that the colleges and universities that sign on to these models “will be rewarded with a tighter, closer, and better federal relationship . . . with regard to the federal government.”

What Does This Mean for My Institution?

While the consideration of race and gender in admissions has been limited since the Supreme Court’s landmark 2023 decision, the exact scope and ramifications of the compact are still unclear. We’ll need to wait until a confirmed version of the full compact is released, and the White House indicates how many universities or colleges ultimately will be sent the proposed agreement.

However, at present, some of the proposed criteria will certainly present legal quandaries for institutions of higher education. Some questions include how the compact interacts with the First Amendment, federal laws such as the National Labor Relations Act (NLRA) and Titles VI and VII of the Civil Rights Act of 1964, and many state laws.

Beyond the legal quandaries, institutions will also have to determine how they would measure compliance for the more subjective criteria and any resulting consequences for not meeting certain standards – as well as the means of seeking redress. Once more, higher education institutions will have to grapple with balancing the benefits of priority in receiving federal funding versus ceding academic freedom, independence, and traditional institutional autonomy over their public opinions, grading standards, decisions about tuition rates, and admission criteria, etc. Colleges and universities should begin considering these issues ahead of time to be prepared upon receipt of a compact.

Conclusion

Please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Education Team](#) or [Higher Education Team](#) to obtain practical advice and guidance related to this new Initiative. Visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources, and make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.

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