



March 24, 2023

Ms. Ashley Clark
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Re: Notice of Proposed Rulemaking 34 CFR Parts 75 and 76 [Docket ID ED—2022—OPE—0157]

Dear Ms. Clark,

Thank you for the opportunity to provide comments in response to the Department of Education’s (ED) Notice of Proposed Rulemaking (NPRM) to rescind Trump administration era regulations on the “Free Inquiry Rule” related to student organizations. I am pleased to share APLU’s enthusiastic support for the NPRM.

As you may know, APLU is a research, policy, and advocacy organization dedicated to strengthening and advancing the work of public universities. With a membership of more than 250 public research universities, land-grant institutions, state university systems, and affiliated organizations, APLU's agenda is built on the three pillars of increasing degree completion and academic success, advancing scientific research, and expanding engagement. Annually, our U.S. member campuses enroll 4.2 million undergraduates and 1.2 million graduate students, award 1.2 million degrees, employ 1.1 million faculty and staff, and conduct \$48.7 billion in university-based research.

The proposed rescission would rightfully return to public colleges and universities authority upheld by the U.S. Supreme Court, to set appropriate policies for student organizations. Many public universities consistent with both state law and Supreme Court precedent, have determined that “all-comer” nondiscrimination policies are appropriate for their campuses. APLU strongly believes the federal government should not intercede and override authority of public institutions to adopt and enforce such policies if determined by them to be beneficial to their campus communities.

In a blog posting announcing the proposed rescission, Assistant Secretary Nasser Paydar wrote, “the Department believes it is not necessary in order to protect the First Amendment right to free speech and free exercise of religion given existing legal protections, it has caused confusion about schools’ nondiscrimination requirements, and it prescribed a novel and unduly burdensome role for the Department in investigating allegations regarding public institutions’ treatment of religious student organizations... Where complex questions over the First Amendment arise, Federal and State courts are best equipped to resolve these matters.”¹ APLU strongly agrees with Dr. Paydar’s view and the Department’s proposed rescission. The regulations put public universities in an untenable situation in which a right granted by the U.S. Supreme Court was removed through ED regulations that ultimately conflicts with some states’ nondiscrimination laws.

¹ [Update on the Free Inquiry Rule - ED.gov Blog](#)

Thank you for consideration of APLU's views. Please do not hesitate to contact me if we can be a resource as ED considers its next action on this regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Becker". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Becker
President, Association of Public and Land-grant Universities

