



DEPARTMENT OF EDUCATION

34 CFR Chapter II

Proposed Priorities--American History and Civics Education

[Docket ID ED-2021-OESE-0033]

AGENCY: Office of Elementary and Secondary Education,
Department of Education.

ACTION: Proposed priorities.

SUMMARY: The Department of Education (Department) proposes two priorities for the American History and Civics Education programs, including the Presidential and Congressional Academies for American History and Civics (Academies) and National Activities programs, Assistance Listing Numbers 84.422A and 84.422B. We may use these priorities for competitions in fiscal year (FY) 2021 and later years. We propose these priorities to support the development of culturally responsive teaching and learning and the promotion of information literacy skills in grants under these programs.

DATES: We must receive your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment

period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, 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 using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "FAQ."

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about the proposed priorities, address them to Mia Howerton, U.S. Department of Education, 400 Maryland Avenue, SW, room 3C152, Washington, DC 20202.

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.

FOR FURTHER INFORMATION CONTACT: Mia Howerton, U.S. Department of Education, 400 Maryland Avenue, SW, room 3C152, Washington, DC 20202. Telephone: (202) 205-0147. Email: mia.howerton@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay

Service (FRS), toll-free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to clearly identify the specific section of the proposed priorities that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priorities. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of our programs.

During and after the comment period, you may inspect all public comments about the proposed priorities by accessing Regulations.gov. Due to the novel coronavirus 2019 (COVID-19) pandemic, the Department buildings are currently not open to the public. However, upon reopening you may also inspect the comments in person in room 3C152, 400 Maryland Avenue, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an

appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priorities. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Programs: The American History and Civics Education programs support efforts to improve: (1) the quality of American history, civics, and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights; and (2) the quality of the teaching of American history, civics, and government in elementary schools and secondary schools, including the teaching of traditional American history.

The Academies program supports the establishment of: (1) Presidential Academies for the Teaching of American History and Civics that offer workshops for both veteran and new teachers to strengthen their knowledge of American history, civics, and government education (Presidential Academies); and (2) Congressional Academies for Students of American History and Civics that provide high school students opportunities to enrich their understanding of these subjects (Congressional Academies).

The purpose of the National Activities program is to

promote new and existing evidence-based strategies to encourage innovative American history, civics and government, and geography instruction, learning strategies, and professional development activities and programs for teachers, principals, or other school leaders, particularly such instruction, strategies, activities, and programs that benefit low-income students and underserved populations.

Program Authority: Title II, part B, subpart 3 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), 20 U.S.C. 6662 and 6663.

PROPOSED PRIORITIES: The Department proposes two priorities to support the development of culturally responsive teaching and learning and the promotion of information literacy skills in grants under the American History and Civics Education programs.

Proposed Priority 1--Projects That Incorporate Racially, Ethnically, Culturally, and Linguistically Diverse Perspectives into Teaching and Learning.

Background: The Department recognizes that COVID-19--with its disproportionate impact on communities of color--and the ongoing national reckoning with systemic racism have highlighted the urgency of improving racial equity throughout our society, including in our education system. As Executive Order 13985 states: "Our country faces converging economic, health, and climate crises that have exposed and exacerbated inequities, while a historic

movement for justice has highlighted the unbearable human costs of systemic racism. Our Nation deserves an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face.”¹

American History and Civics Education programs can play an important role in this critical effort by supporting teaching and learning that reflects the breadth and depth of our Nation’s diverse history and the vital role of diversity in our Nation’s democracy. For example, there is growing acknowledgement of the importance of including, in the teaching and learning of our country’s history, both the consequences of slavery, and the significant contributions of Black Americans to our society. This acknowledgement is reflected, for example, in the New York Times’ landmark “1619 Project” and in the resources of the Smithsonian’s National Museum of African American History.²

Accordingly, schools across the country are working to incorporate anti-racist practices into teaching and learning. As the scholar Ibram X. Kendi has expressed, “[a]n antiracist idea is any idea that suggests the racial groups are equals in all their apparent differences--that there is nothing right or wrong with any racial group.

¹ 86 FR 7009 (Jan. 25, 2021), www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government.

² www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html

Antiracist ideas argue that racist policies are the cause of racial inequities.”³ It is critical that the teaching of American history and civics creates learning experiences that validate and reflect the diversity, identities, histories, contributions, and experiences of all students.

In turn, racially, ethnically, culturally, and linguistically responsive teaching and learning practices contribute to what has been called an “identity-safe” learning environment. According to the authors Dorothy Steele and Becki Cohn-Vargas, “Identity safe classrooms are those in which teachers strive to assure students that their social identities are an asset rather than a barrier to success in the classroom. And, through strong positive relationships and opportunities to learn, they feel they are welcomed, supported, and valued as members of the learning community.”⁴

The proposed priority would support projects that incorporate culturally and linguistically responsive learning environments.

Proposed Priority:

Under this priority, the applicants propose projects that incorporate teaching and learning practices that reflect the diversity, identities, histories, contributions, and experiences of all students create

³ Kendi, Ibram X, *How to Be an Antiracist* (New York, One World, 2019).

⁴ Steele, Dorothy M., and Becki Cohn-Vargas, *Identify Safe Classrooms* (Thousand Oaks, Corwin, 2013).

inclusive, supportive, and identity-safe learning environments.

In its application, an applicant addressing this priority must describe how its proposed project incorporates teaching and learning practices that--

(a) Take into account systemic marginalization, biases, inequities, and discriminatory policy and practice in American history;

(b) Incorporate racially, ethnically, culturally, and linguistically diverse perspectives and perspectives on the experience of individuals with disabilities;

(c) Encourage students to critically analyze the diverse perspectives of historical and contemporary media and its impacts;

(d) Support the creation of learning environments that validate and reflect the diversity, identities, and experiences of all students; and

(e) Contribute to inclusive, supportive, and identity-safe learning environments.

Proposed Priority 2--Promoting Information Literacy Skills.

Background:

Effective civics education is vital to protecting the Nation's democracy--especially at a time when its core institutions and values are threatened by misinformation.

As *The Power of Active Citizenship* notes: "Teaching civics

should be more than just understanding the structures and functions of government...[It] is crucial that students learn how to gather and evaluate sources of information, and then use evidence from that information to develop and support their ideas and advocacy positions. No polity can make wise decisions if its citizens do not know how to separate fact from opinion, and how to gather and weigh relevant evidence.”⁵

Ensuring that students have strong information literacy skills is especially important in an age of digital media consumption. According to a 2019 survey from Common Sense Media and Survey Monkey: “Teens get their news more frequently from social media sites (e.g., Facebook and Twitter) or from YouTube than directly from news organizations. More than half of teens (54%) get news from social media, and 50% get news from YouTube at least a few times a week. Fewer than half, 41%, get news reported by news organizations in print or online at least a few times a week, and only 37% get news on TV at least a few times a week.” Among teens who got their news from YouTube, two-thirds reported learning about the news from celebrities and influencers, rather than news organizations.⁶

5 https://www.aft.org/ae/summer2018/graham_weingarten

6 <https://www.common Sense Media.org/about-us/news/press-releases/new-survey-reveals-teens-get-their-news-from-social-media-and-youtube>

In a 2017 report, the Brookings Institution concluded that, "Funding efforts to enhance news literacy should be a high priority for governments. This is especially the case with people who are going online for the first time. For those individuals, it is hard to distinguish false from real news, and they need to learn how to evaluate news sources, not accept at face value everything they see on social media or digital news sites. Helping people become better consumers of online information is crucial as the world moves towards digital immersion."⁷

Civics education can be an opportunity to help students develop the skills necessary to meaningfully participate in our democracy and distinguish fact from misinformation. Well-designed programs can fuel student engagement in our democracy and provide students with the knowledge and skills to critically evaluate the materials they encounter by developing their information literacy.

Proposed Priority:

In its application, the applicants propose projects that describe how they will foster critical thinking and promote student engagement in civics education through professional development or other activities designed to support students in--

- (a) Evaluating sources and evidence using standards

⁷ Brookings Institution, 12/18/2017, <https://www.brookings.edu/research/how-to-combat-fake-news-and-disinformation/>

of proof;

(b) Understanding their own biases when reviewing information, as well as uncovering and recognizing bias in primary and secondary sources;

(c) Synthesizing information into cogent communications; and

(d) Understanding how inaccurate information may be used to manipulate individuals, and developing strategies to recognize accurate and inaccurate information.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priorities:

We will announce the final priorities in a document published in the *Federal Register*. We will determine the final priorities after considering responses to the proposed priorities and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use the priorities, we invite applications through a notice inviting applications in the *Federal Register*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action

likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only on a reasoned

determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that

might result from technological innovation or anticipated behavioral changes.”

We are issuing the proposed priorities only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that the proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with the Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

Potential Costs and Benefits

The Department believes that this proposed regulatory action would not impose significant costs on eligible entities, whose participation in our programs is voluntary, and costs can generally be covered with grant funds. As a

result, the proposed priorities would not impose any particular burden except when an entity voluntarily elects to apply for a grant. The proposed priorities would help ensure that the American History and Civics Education programs support the development of culturally responsive teaching and learning practices and promote students' acquisition of critical information literacy skills. We believe these benefits would outweigh any associated costs.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priorities easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in

the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make the proposed priorities easier to understand, see the instructions in the ADDRESSES section.

Intergovernmental Review: These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if

they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this proposed regulatory action would affect are institutions of higher education and nonprofit organizations. Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the proposed priorities would significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Paperwork Reduction Act

The proposed priorities contain information collection requirements that are approved by OMB under OMB control number 1894-0006; the proposed priorities do not affect the currently approved data collection.

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, audiotape, 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 the 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.

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