



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 52c

[Docket No. NIH-2025-0001]

RIN 0925-AA72

### **Terminating National Institutes of Health Minority Biomedical Research Support Program and Rescinding the Program's Related Regulation**

**AGENCY:** National Institutes of Health, Department of Health and Human Services.

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (HHS), in consultation with the National Institutes of Health (NIH), is repealing the regulation relating to the Minority Biomedical Research Support (MBRS) program in compliance with Executive Order (E.O.) 14173 (*Ending Illegal Discrimination and Restoring Merit-Based Opportunity*) and E.O. 14151 (*Ending Radical and Wasteful Government DEI Programs and Preferencing*), and to abide by Supreme Court precedent. HHS remains committed to ensuring equal treatment under the law throughout its grant programs.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Matthew Zorn, Deputy General Counsel, U.S. Department of Health and Human Services, Office of the General Counsel, 200 Independence Avenue SW, Washington, DC 20201. Telephone: (202) 795-7645. Email: [Matthew.Zorn@hhs.gov](mailto:Matthew.Zorn@hhs.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **I. General Discussion**

The MBRS program prioritizes racial classifications in awarding federal funding. The stated goal of the program is to “increase the numbers of ethnic minority faculty, students, and investigators

engaged in biomedical research and to broaden the opportunities for participants in biomedical research of ethnic minority faculty, students, and investigators”<sup>1</sup> and relies on “minority student enrollment” to determine applicant eligibility.<sup>2</sup>

The regulation and the MBRS program generally are contrary to the Supreme Court’s decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*,<sup>3</sup> which held that race-based affirmative action in college admissions violates the Equal Protection Clause of the 14<sup>th</sup> Amendment and Title VI of the Civil Rights Act of 1964. The goal of promoting diversity, even if commendable, cannot survive review under equal protection principles.<sup>4</sup>

The principles identified in *Students for Fair Admissions* also apply to the federal government<sup>5</sup> and require repeal of the MBRS program. Therefore, HHS is repealing the regulation codified at 42 C.F.R. § 52c and terminating the MBRS program.

## **II. Procedural Issues**

Under 5 U.S.C. § 553(b)(3)(B), an agency may dispense with the notice-and-comment procedures when it finds the notice-and-comment to be “impractical, unnecessary, or contrary to the public interest.” Because the MBRS regulations are contrary to Supreme Court precedent on their face, the NIH finds good cause that notice-and-comment on this final rule is impractical, unnecessary, and contrary to the public interest.

This final rule has been determined to be exempt from review for purposes of E.O. 12866.

This rule does not impose information collection and recordkeeping requirements and therefore does not need to be reviewed by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

List of Subjects in 42 CFR Part 52c

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<sup>1</sup> Part 52c—Minority Biomedical Research Support Program, 45 Fed. Reg. 12,246 (Feb. 25, 1980).

<sup>2</sup> 42 C.F.R. 52c.3(a).

<sup>3</sup> 600 U.S. 181 (2023).

<sup>4</sup> *Id.* at 214.

<sup>5</sup> See *Fullilove v. Klutznick*, 448 U.S. 448, 480 (1980).

Educational study programs, Grant programs-health, Medical research, Reporting and recordkeeping requirements.

PART 52c – [REMOVED AND RESERVED]

For the reasons stated in the preamble, under the authority of 42 U.S.C. 241, HHS amends Subchapter D of Chapter I of Title 42 of the Code of Federal Regulations by removing part 52c.

**Robert F. Kennedy, Jr.,**

*Secretary,*

*U.S. Department of Health and Human Services.*

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