



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 80, 84, and 86

RIN 0945-AA31

Rescinding Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs

AGENCY: Office for Civil Rights, Office of the Secretary, U.S. Department of Health and Human Services.

ACTION: Final rule; rescission.

SUMMARY: The U.S. Department of Health and Human Services (HHS or the Department) rescinds the *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs* (*Guidelines*). The Department also makes conforming amendments by removing cross-references to the *Guidelines* in its regulations. The *Guidelines* were developed and issued by HHS's predecessor, the Department of Health, Education, and Welfare (HEW), in 1979 in response to litigation concerning HEW's enforcement of Title VI of the Civil Rights Act of 1964 and a then-existing Federal vocational education program structure. Following the establishment of the U.S. Department of Education (ED) in 1980, administration of Federal vocational education programs, and the associated civil rights compliance framework for those programs detailed in the *Guidelines*, transferred to ED. HHS does not administer the vocational education program structure contemplated by the *Guidelines* and does not use the *Guidelines* as an ongoing compliance mechanism. The continued presence of the *Guidelines* in the Code of Federal Regulations creates a risk of confusion regarding HHS's current enforceable nondiscrimination obligations. Rescinding the *Guidelines* and removing the associated cross-references promotes regulatory clarity without altering any HHS funding recipient's substantive obligations under

Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, or section 504 of the Rehabilitation Act of 1973.

DATES: This final rule is effective on July 23, 2026.

FOR FURTHER INFORMATION CONTACT: Sarah Albrecht, Acting Deputy Director, Civil Rights Division, Office for Civil Rights, U.S. Department of Health and Human Services, at (202) 240-3110 or (800) 537-7697 (TDD), or OCRMail@hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Department of Health and Human Services (HHS or the Department) rescinds the *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap in Vocational Education Programs (Guidelines)*, codified as Appendix B to 45 CFR part 80, and removes the conforming cross-references in Appendix B to 45 CFR part 84 and Appendix A to 45 CFR part 86. The *Guidelines* were originally developed by the Department's predecessor, the Department of Health, Education, and Welfare (HEW), and published in the *Federal Register* on March 21, 1979, in response to district court orders originally arising from litigation concerning HEW's administration and enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* See 44 FR 17162 (citing *Adams v. Califano*, No. 3095-70 (D.D.C. Dec. 29, 1977) (consent order)); see also *Adams v. Richardson*, 351 F. Supp. 636 (D.D.C. 1972). The *Guidelines* were intended to address nondiscrimination in vocational education programs and established a proactive compliance framework (i.e., "methods of administration" (MOA) program) for State agency recipients responsible for administering those programs. 44 FR at 17164–65.

Title III of the Department of Education Organization Act of 1979, Pub. L. 96-88, 93 Stat. 668 (Oct. 17, 1979), transferred HEW's education functions, including the administration of the Vocational Education Act of 1963 and other education-related functions of HEW's Office for Civil Rights (OCR), to the new U.S. Department of Education (ED). See Pub. L. 96-88, sec. 301,

93 Stat. at 677 (codified at 20 U.S.C. 3441); *id.* sec. 203, 93 Stat. at 673 (codified at 20 U.S.C. 3413) (establishing ED's OCR). Section 509 of the Act redesignated HEW as the U.S. Department of Health and Human Services. *Id.* sec. 509, 93 Stat. at 695 (codified at 20 U.S.C. 3508). The Act's transfer and redesignation provisions took effect on May 4, 1980. *Id.* sec. 601, 93 Stat. at 696; Exec. Order No. 12212, 45 FR 29557 (May 5, 1980).

This statutory structure explains why the HEW-era *Guidelines* remained in HHS's regulations after the 1980 reorganization. Section 509(b) of the Department of Education Organization Act provides that references to HEW in any law, rule, regulation, directive, or other official paper in force on May 4, 1980, are deemed references to HHS, except to the extent that the reference is to a function or office transferred to ED. 20 U.S.C. 3508(b). The *Guidelines* remained codified in HHS's regulations as legacy HEW-era text, but the Federal vocational-education functions and associated MOA compliance framework to which the *Guidelines* were principally directed transferred to ED and, appropriately, are administered exclusively by the ED OCR. HHS therefore rescinds the *Guidelines* to align the CFR with HHS's current statutory and operational responsibilities.

HHS's operative nondiscrimination requirements applicable to recipients are set forth in its implementing regulations at 45 CFR parts 80, 84, and 86, promulgated under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794; and Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, respectively. Those regulations remain in effect and are unchanged by this action. Rescission of the *Guidelines* removes obsolete, unused material from HHS's regulations and does not alter any HHS funding recipient's substantive civil rights obligations.

The Department issues this action in furtherance of Executive Order (EO) 14192, *Unleashing Prosperity Through Deregulation*, 90 FR 9065 (Feb. 6, 2025), which directs agencies to identify and eliminate unnecessary regulatory burdens. The Department would rescind the *Guidelines* even absent EO 14192 because the *Guidelines* do not serve an operational

function at HHS, their continued presence in the CFR creates regulatory confusion, and HHS's applicable civil rights regulations at 45 CFR parts 80, 84, and 86 provide a fully adequate and effective legal framework for Federal civil rights compliance and enforcement in health and human services.

II. Discussion

A. Overview of the *Guidelines*

The *Guidelines* are codified as Appendix B to 45 CFR part 80. They were drafted as a set of detailed, program-specific criteria explaining nondiscrimination obligations in vocational education programs and were intended to generally supplement applicable civil rights regulations. *See* 44 FR 17162. The *Guidelines* address, among other areas: (i) administrative requirements and assurances; (ii) access to and admission to vocational programs; (iii) counseling and prevocational programs; (iv) comparable facilities and physical accessibility; (v) services and program modifications for students with disabilities; (vi) financial assistance to students; (vii) work-study, cooperative vocational education programs, apprentice training, and job placement; (viii) housing; and (ix) employment of faculty and staff. *See id.* at 17162–75.

In addition to those substantive provisions, the *Guidelines* established a proactive compliance framework, the MOA program, directed at State agency recipients responsible for administering vocational education programs. *Id.* at 17163–64 (section II.B). That framework requires State agencies to: (1) collect and analyze civil rights data and information; (2) conduct periodic compliance reviews of subrecipients operating vocational education programs; (3) provide technical assistance to subrecipients upon request; and (4) periodically report MOA activities and findings to OCR. *Id.* Section II.C of the *Guidelines* directed State agencies to submit “methods of administration and related procedures” for complying with the *Guidelines* “within one year from the publication of these *Guidelines* in final form.” *Id.* at 17165. Although the *Guidelines* were developed through notice and comment and placed in the CFR, they were framed as guidance explaining how certain civil rights requirements applied in the vocational

education context, rather than as stand-alone regulatory text establishing enforceable legal requirements. *See id.* at 17162. For HHS, the relevant point is not whether the *Guidelines* had operational effect during the HEW-era, but that HHS does not now administer the MOA framework contemplated by the *Guidelines*.

B. Origins in the *Adams* Litigation

The *Guidelines* resulted from litigation concerning HEW's administration and enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* *See* 44 FR at 17162 (citing *Adams v. Califano*); *Adams v. Richardson*, 356 F. Supp. 92 (D.D.C. 1973), *aff'd as modified*, 480 F.2d 1159 (D.C. Cir. 1973) (en banc) (per curiam); *see also Adams v. Richardson*, 351 F. Supp. 636 (D.D.C. 1972). The *Adams* litigation, originally filed on October 19, 1970, challenged HEW's alleged failure to administer and enforce Title VI against educational institutions receiving Federal financial assistance. *See Adams*, 351 F. Supp. at 637.

The *Adams* court found that HEW had concluded ten states (Louisiana, Mississippi, Oklahoma, North Carolina, Florida, Arkansas, Pennsylvania, Georgia, Maryland, and Virginia) were "operating segregated systems of higher education in violation of Title VI." *Id.* at 637–38. HEW requested desegregation plans from those ten states. *Id.* Five states (Arkansas, Pennsylvania, Georgia, Maryland, and Virginia) submitted plans that HEW found "unacceptable." *Id.* at 638. The remaining five states (Louisiana, Mississippi, Oklahoma, North Carolina, and Florida) failed to respond. *Id.* HEW continued to disburse Federal financial assistance to those states without taking enforcement action. *Id.* at 637–38.

With respect to vocational education programs specifically, HEW lacked student-enrollment and faculty data by race for many of the recipients subject to the litigation, did not have a comprehensive Title VI enforcement program prior to the lawsuit, and, after the suit was filed, had not scheduled any on-site reviews of segregated vocational schools in the South. *See Adams v. Richardson*, 356 F. Supp. at 94–95. The *Adams* litigation continued, resulting in several injunctive orders and eventually a consent order, entered December 29, 1977, which

applied beyond the States originally involved. *See* 43 FR 7048, 7049 (Feb. 17, 1978) (describing some of the history of the *Adams* litigation). The consent order directed HEW to develop and implement specific procedures to ensure civil rights compliance in vocational education programs. Order at 27, ¶ 38(b), *Adams v. Califano*, No. 3095-70 (D.D.C. Dec. 29, 1977) (consent order). The court ordered, in pertinent part:

By September 1, 1978, defendants shall . . . publicly issue criteria or guidelines which shall define the ingredients of a violation of Title VI by vocational schools. The statement or regulation shall include a description of how current Title VI regulations applicable generally to all recipients of HEW funds apply specifically to the operation of vocational schools.

Id. In response to that order, HEW proposed *Guidelines* at 43 FR 59105 (Dec. 19, 1978) and issued them for publication in the Federal Register on March 21, 1979. 44 FR 17162. The 1979 *Federal Register* preamble stated that the *Guidelines* were “a result of injunctive orders entered by the United States District Court for the District of Columbia in [the *Adams* litigation]” and reflected HEW’s finding of “evidence of continuing unlawful discrimination in vocational education programs.” *Id.* The *Guidelines* were codified in the CFR and cross-referenced in HEW’s implementing regulations for Title VI, Title IX, and Section 504.

In August 1982, the government defendants (no longer HEW) moved to vacate the 1977 consent order, and when that motion was denied, they appealed. *See Adams v. Bennett*, 675 F. Supp. 668, 673-74 (D.D.C. 1987) (describing the procedural history of the litigation). On appeal, the court vacated the denial but remanded the case for consideration of standing in light of *Allen v. Wright*, 468 U.S. 737 (1984). *See Adams*, 675 F. Supp. at 670 (citing *Women’s Equity Action League v. Bell*, 743 F.2d 42, 43, 44 (D.C. Cir. 1984)). On remand, the district court held that plaintiffs lacked Article III standing and that continued judicial oversight of the agencies’ Title VI enforcement would intrude on Executive branch functions and conflict with separation-of-powers principles. *Id.* at 676–80. On appeal of that order, the D.C. Circuit reversed the standing dismissal, holding that plaintiffs had Article III standing to sue and directed further briefing on

the remaining statutory and merits questions. *Women's Equity Action League v. Cavazos*, 879 F.2d 880, 885–88 (D.C. Cir. 1989) (Ginsburg, J.).

On further briefing, the D.C. Circuit affirmed the dismissal on the ground that plaintiffs lacked a legally authorized cause of action to obtain “across-the-board continuing Federal court supervision of the process by which the agencies ensure compliance with the antidiscrimination mandates” that they sought. *Women's Equity Action League v. Cavazos*, 906 F.2d 742, 748 (D.C. Cir. 1990) (Ginsburg, J.). The court emphasized that the “generalized action . . . against Federal executive agencies” that plaintiffs pursued lacked “the requisite green light from the legislative branch.” *Id.* at 748-52. The court’s 1990 decision essentially terminated the *Adams* litigation; no petition for certiorari was granted, and no further substantive proceedings ensued.

C. Subsequent Changes in Law and Fact

The *Guidelines* were promulgated by HEW at a time when HEW administered both education and health and human services functions under a single departmental structure. That unified structure changed fundamentally in 1980. In 1979, as noted, Congress enacted the Department of Education Organization Act, which established the U.S. Department of Education as a separate Executive department and transferred to it specified HEW education functions, including administration of the Vocational Education Act of 1963, together with the education-related civil rights responsibilities of HEW OCR. *Id.*, sec. 301, 93 Stat. at 677. HEW was simultaneously redesignated as the U.S. Department of Health and Human Services. *Id.* sec. 509. And the U.S. Department of Education opened on May 4, 1980. *See* 45 FR at 29557.

With that reorganization, administration of the Federal vocational education program structure that gave rise to the *Guidelines*, and administration of the MOA civil rights compliance framework that the *Guidelines* established for State vocational education agencies, transferred to ED. ED OCR assumed operational responsibility for the MOA program, and HHS’s OCR ceased administering that framework. HHS retained the *Guidelines*’ text in its regulations for continuity

but has not administered the *Guidelines*' proactive MOA compliance structure since the 1980 reorganization.

The MOA program has been administered by ED OCR in the intervening four and a half decades. *See* ED OCR and OCTAE Program Memorandum, Updated Procedures for Preparing the Methods of Administration (MOA) Described in the Vocational/Career and Technical Education Guidelines (Feb. 6, 2020) (superseding the original Memorandum of Procedures issued by the Office of the Secretary, HEW, in July 1979, and all subsequent guidance).¹ HHS does not receive MOA biennial reports from State agencies under the *Guidelines*, does not conduct the associated MOA training conferences, and does not provide the associated MOA technical assistance. As explained in section II.D of this rule, HHS OCR instead enforces civil rights compliance through its civil rights regulatory requirements and case-specific tools under 45 CFR parts 80, 84, and 86, including complaint investigations, compliance reviews, and voluntary resolution mechanisms.

D. Adequacy of Existing Regulatory Enforcement Mechanisms

Rescinding the *Guidelines* does not reduce or limit HHS's enforceable nondiscrimination obligations applicable to HHS recipients under Title VI, Section 504, or Title IX, as implemented respectively by 45 CFR parts 80, 84, and 86. Those regulations remain fully in effect and continue to provide the operative legal framework for all HHS civil rights compliance and enforcement activities under the relevant statutes.

HHS OCR retains the full enforcement architecture provided by its operative civil-rights regulations: it may initiate periodic compliance reviews under 45 CFR 80.7(a), investigate complaints under 45 CFR 80.7(b), and take enforcement action (including, under appropriate circumstances, proceedings to suspend or terminate Federal financial assistance) under 45 CFR 80.8. *See also* 45 CFR 84.98 (incorporating 45 CFR 80.6 through 80.10 and 45 CFR part 81 for Section 504 enforcement); 45 CFR 86.71 (incorporating 45 CFR 80.6 through 80.11 and 45 CFR

part 81 for Title IX enforcement). These proactive and reactive enforcement tools exist independently of the *Guidelines* and will continue to be available in their full scope following its rescission. To the extent that any vocational education program currently receives funds, directly or indirectly, from HHS, these enforcement tools are sufficient for HHS OCR to ensure compliance with applicable civil rights laws. Recipients of HHS financial assistance also remain subject to other applicable Federal and State nondiscrimination requirements. Accordingly, rescission of the *Guidelines* does not impair HHS OCR's ability to enforce applicable civil rights requirements in any HHS-funded program or activity, including any program or activity involving vocational education.

E. Alternatives Considered

The Department considered alternatives to full rescission of the *Guidelines*, including revising to reflect current program structures, or retaining with additional language clarifying its non-operational status at HHS. Revision of the *Guidelines* would require extensive substantive rewrites that would, in effect, replace HEW-era program-specific guidance with new program-specific guidance. Because HHS does not administer a vocational education oversight structure analogous to the one contemplated by the *Guidelines*, revised guidance purporting to address such a structure would have no operational function at HHS. Such a revision would also risk creating confusion about HHS's legal and administrative role in vocational education programs. Additionally, to the extent that portions of the *Guidelines* overlap with obligations already reflected in HHS's operative regulatory requirements, retaining those provisions in an appendix would unnecessarily duplicate rather than clarify the operative law.

Similarly, retaining the *Guidelines* with clarifying language would leave lengthy, substantively obsolete program-specific material in the CFR. Even with clarifying language, the risk that recipients would misread the *Guidelines* as imposing HHS-administered obligations would persist. That approach would perpetuate the risk of recipient confusion while providing no corresponding enforcement benefit. The Department therefore determines that full rescission is

the most administratively sound approach consistent with the goal of regulatory clarity. Full rescission removes obsolete appendix material while preserving, unchanged, the operative statutory and regulatory requirements that govern HHS recipients.

F. Reliance Interests

The Department has considered whether any reliance interests counsel against rescission of the *Guidelines*. See *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–33 (2020) (holding that an agency is required to assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) (“an agency must be cognizant. . . [of] ‘serious reliance interests’” (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009))); see also *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42–43 (1983). The Department concludes that reliance interests are limited and do not outweigh the regulatory clarity benefits of rescission, for the following reasons.

First, HHS has not administered Appendix B’s MOA framework since the 1980 reorganization. Second, rescission does not alter any HHS funding recipient’s substantive nondiscrimination obligations under Title VI, Section 504, or Title IX, at 45 CFR parts 80, 84, and 86. HHS OCR’s full complement of enforcement tools, see 45 CFR 80.7; 45 CFR 84.98; 45 CFR 86.71, remains fully available. Accordingly, any cognizable reliance interests are outweighed by the Department’s interest in removing legacy HEW-era appendix material that no longer corresponds to an HHS-administered compliance framework, while leaving intact the statutes, regulations, assurances, compliance information requirements, complaint investigation procedures, compliance review authority, voluntary resolution mechanisms, and enforcement procedures that govern HHS recipients.

III. Amendments to the Regulations

This final rule amends title 45 of the Code of Federal Regulations as follows:

- (1) Removes Appendix B to 45 CFR part 80 in its entirety;

(2) Removes Appendix B to 45 CFR part 84 (which cross-references Appendix B to part 80);

and

(3) Removes Appendix A to 45 CFR part 86 (which cross-references Appendix B to part 80).

No other provisions of 45 CFR parts 80, 84, or 86 are affected by this action.

IV. Regulatory Certifications

A. Administrative Procedure Act

The Department issues this final rule without prior public notice and comment or a delayed effective date pursuant to the Administrative Procedure Act (APA) exception for rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.” 5 U.S.C. 553(a)(2). The Department’s rescission of the Richardson waiver on March 3, 2025 (*Policy on Adhering to the Text of the Administrative Procedure Act*, 90 FR 11029) restores the Department’s discretion to invoke 5 U.S.C. 553(a)(2) in accordance with its terms. Specifically, this action rescinds the program-specific *Guidelines* and associated cross-references relating to Federal civil rights compliance conditions applicable to programs receiving HHS Federal financial assistance, including any recipients that offer or administer vocational education programs or activities.

Federal financial assistance disbursed under programs subject to Title VI, Title IX, and Section 504 is provided subject to assurances of compliance that have long been analogized to contracts. *See, e.g., Cummings v. Premier Rehab Keller, P.L.L.C.*, 596 U.S. 212, 219–20 (2022) (explaining that Title VI and related Spending Clause statutes “operate[] based on consent” in “what amounts essentially to a contract between the government and the recipient of funds” (quoting *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274, 286 (1998))). Although the Department does not rely on this analogy as an independent basis for the 5 U.S.C. 553(a)(2) exemption, it reinforces that the regulatory framework being amended “relates to. . . grants [and] contracts” within the plain language of that provision.

The Department's definition of "Federal financial assistance" for purposes of Title VI is set forth at 45 CFR 80.13(f), which includes five categories of assistance: (1) grants and loans of Federal funds; (2) the grant or donation of Federal property and interests in property; (3) the detail of Federal personnel; (4) the sale and lease of, and the permission to use Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. *See also* 45 CFR 80.4 (requiring funding recipients to sign a contractual assurance of compliance with Title VI as a condition of receiving such assistance).

Each of those five categories falls within or relates to the scope of the 5 U.S.C. 553(a)(2) exception. First, the reference in 45 CFR 80.13(f)(1) to "grants and loans of Federal funds" is directly covered by the APA exception for matters "relating to . . . loans [and] grants." 5 U.S.C. 553(a)(2). Second, the grant or donation of Federal property and interests in property under 45 CFR 80.13(f)(2) is covered by the exception for matters "relating to . . . public property [or] grants." *Id.* Third, the detail of Federal personnel under 45 CFR 80.13(f)(3) is covered by the exception for matters "relating to agency management or personnel"; furthermore, the detailing of Federal personnel occurs within the context of, or in lieu of, funds disbursed under grants, which are independently covered by the exception. *Id.* Fourth, the sale, lease, and permission to use Federal property under 45 CFR 80.13(f)(4) is encompassed by the exception for matters "relating to . . . public property." *Id.* Fifth, "any Federal agreement, arrangement, or other contract having as one of its purposes the provision of assistance" under 45 CFR 80.13(f)(5) falls within the exception for matters "relating to . . . contracts." *Id.* This action relates to the conditions imposed on the receipt of all such forms of Federal financial assistance from HHS and, therefore, satisfies the exception. *See Humana of S.C., Inc. v. Califano*, 590 F.2d 1070, 1082

(D.C. Cir. 1978) (“[E]ven construed narrowly, Section 553(a)(2) cuts a wide swath through the safeguards generally imposed on agency action.” (footnotes omitted)).

It is worth noting that the original HEW Title VI regulations were finalized in December 1964 without prior notice and comment. *See Nondiscrimination in Federally-Assisted Programs of the Department of Health, Education, and Welfare—Effectuation of Title VI of the Civil Rights Act of 1964*, 29 FR 16298 (Dec. 4, 1964). That original rulemaking, which established the foundational structure of the civil rights compliance conditions now codified in 45 CFR part 80, was conducted without notice and comment on the same grounds that support this action. In 1964 and 1966, numerous other Federal agencies similarly published their implementing Title VI regulations without notice and comment. *See, e.g.*, 29 FR 16274 (U.S. Department of Agriculture); 29 FR 16287 (General Services Administration); 29 FR 16280 (Housing and Home Finance Agency); 29 FR 16293 (U.S. Department of Interior); 29 FR 16284 (U.S. Department of Labor); 29 FR 16305 (National Science Foundation); 31 FR 10265 (U.S. Department of Justice (DOJ)). Those contemporaneous agency decisions to invoke the exception to issue the foundational Title VI funding-conditions regulations confirm that the 5 U.S.C. 553(a)(2) exception applies with full force to an action rescinding program-specific supplemental guidance relating to those same funding conditions.

Other federal agencies have similarly invoked the 5 U.S.C. 553(a)(2) exception in analogous circumstances. *See, e.g., Education Programs or Activities Receiving or Benefitting From Federal Financial Assistance*, 82 FR 46655, 46655–56 (Oct. 6, 2017) (invoking the exception to amend Title IX regulations to “promote consistency in the enforcement of Title IX for [U.S. Department of Agriculture] financial assistance recipients”); *Preserving Community and Neighborhood Choice*, 85 FR 47899, 47904 (Aug. 7, 2020) (invoking the exception to repeal a U.S. Department of Housing and Urban Development rule regarding Federal grantees); *Participation by Minority Business Enterprise in Department of Transportation Programs*, 53 FR 18285, 18286 (May 23, 1988) (invoking the exception to expand coverage of a U.S.

Department of Transportation regulation regarding Federal Aviation Administration airport financial assistance programs); *Nondiscrimination on the Basis of Handicap in Federally Assisted Programs—Suspension of Guidelines With Respect to Mass Transportation*, 46 FR 40687, 40688 (Aug. 11, 1981) (invoking the exception to suspend DOJ guidelines prohibiting disability discrimination in transportation programs receiving Federal financial assistance). HHS itself has asserted that the exemption applies to its grants, even before rescinding the Richardson waiver. *See Texas v. Becerra*, 577 F. Supp. 3d 527, 547 (N.D. Tex. 2021) (acknowledging that “[t]he APA specifically exempts matters relating to ‘grants,’ and Head Start is a federal grant program,” but requiring compliance with APA procedures in light of the not-yet-rescinded Richardson waiver).

Invoking 5 U.S.C. 553(a)(2) is also consistent with the Office of Management and Budget (OMB) definition of “Federal financial assistance” under 2 CFR 200.1, which includes many of the same categories as the APA exception. With potentially limited exceptions not applicable to HHS, all the forms of Federal financial assistance set forth in 2 CFR 200.1 that HHS administers would fall within the “public property, loans, grants, benefits, or contracts” exception under 5 U.S.C. 553(a)(2). It is also consistent with the current policy of HHS, which rescinded its prior voluntary practice of applying notice-and-comment procedures to rules otherwise exempt under 5 U.S.C. 553(a)(2).

Finally, because 5 U.S.C. 553(a)(2) applies to section 553 as a whole, the section 5 U.S.C. 553(d) delayed-effective-date requirement does not apply.

B. Executive Order 12250 (Coordination of Nondiscrimination Laws)

EO 12250, 45 FR 72995 (Nov. 4, 1980), directs the Attorney General to coordinate the implementation and enforcement by Executive agencies of the nondiscrimination provisions of: (a) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*; (b) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*; (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; and (d) any other provision of federal statutory law

prohibiting discrimination on the basis of race, color, national origin, disability, religion, or sex in programs or activities receiving Federal financial assistance. This action rescinds program-specific *Guidelines* relating to all three of the statutes expressly enumerated in EO 12250 (Title VI, Section 504, and Title IX) as implemented by 45 CFR parts 80, 84, and 86, respectively. The U.S. Department of Justice has reviewed and approved this action consistent with the requirements of EO 12250.

C. Executive Orders 12866 and 13563 (Regulatory Review)

The Department has determined that this rulemaking is a “significant regulatory action” under section 3(f) of EO 12866, *Regulatory Planning and Review*, 58 FR 51735, 51738 (Oct. 4, 1993), but it is not an “economically significant” action within the meaning of section 3(f)(1). Accordingly, this rule has been reviewed by OMB.

This rule has been drafted and reviewed in accordance with EO 12866 section 1(b), 58 FR at 51735, and in accordance with EO 13563, *Improving Regulation and Regulatory Review*, section 1(b), 76 FR 3821, 3821 (Jan. 21, 2011), which supplements and reaffirms the principles of EO 12866. These EOs direct agencies to assess all costs and benefits of available regulatory alternatives and, where regulation is necessary, to select regulatory approaches that maximize net benefits. 58 FR at 51735; 76 FR at 3821. EO 13563 further recognizes that some benefits and costs are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify. 76 FR at 3821.

Data limitations make the costs and benefits of this action difficult to quantify with precision. HHS has not identified current HHS-recipient compliance costs specifically attributable to the *Guidelines*, and the Department does not maintain data that would allow it to isolate, across its full portfolio of Federal financial assistance, any awards, recipients, program activities, or compliance actions that might be affected by this rescission. Notwithstanding these data limitations, the Department has concluded that rescission is consistent with the principles of

EOs 12866 and 13563. As explained in the preamble, the *Guidelines* serve no current operational function at HHS; HHS has not administered the *Guidelines*' proactive MOA compliance framework since the Department of Education Organization Act of 1979 transferred administration of Federal vocational education programs and the associated civil rights compliance structure to ED. The *Guidelines*' continued codification in the CFR alongside HHS's operative civil rights regulations at 45 CFR parts 80, 84, and 86 creates a risk that funding recipients will misunderstand HHS's actual enforceable requirements, without providing any corresponding regulatory benefit. This deregulatory action does not alter any rights of individuals protected by Federal civil rights laws, does not create any new obligations for recipients, and removes a source of potential regulatory confusion. The Department therefore concludes that the benefits of this action (e.g., increased regulatory clarity, elimination of obsolete material from the CFR, and reduced risk of recipient confusion) justify its costs, which are minimal. *See* 58 FR at 51735; 76 FR at 3821.

D. Executive Order 14192 (Unleashing Prosperity Through Deregulation)

EO 14192, *Unleashing Prosperity Through Deregulation*, 90 FR 9065 (Feb. 6, 2025), directs agencies to maintain regulatory budgets by identifying existing regulations for repeal in connection with the promulgation of new regulations, and to pursue deregulatory actions to offset the costs of existing regulations. *Id.* Because this action is deregulatory, rather than the promulgation of a new regulation imposing new obligations, the offsetting requirement of EO 14192 section 3(c) does not apply. This rescission is itself a deregulatory action that advances the EO's purpose of reducing unnecessary regulatory burdens. By rescinding appendix material that HHS does not administer and that serves no current operational function, the Department expects this action to reduce total incremental regulatory cost, consistent with the deregulatory objectives of EO 14192, by eliminating unnecessary regulatory text and associated confusion.

E. Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of EO 12988, *Civil Justice Reform*, 61 FR 4729 (Feb. 7, 1996), which require agencies to specify regulatory provisions in clear language and to minimize litigation. *Id.* at 4730–32. Consistent with section 7 of the EO, *id.* at 4731, nothing in this action or any previous administrative policy, directive, ruling, notice, guidance, or writing directly relating to the *Guidelines* is intended to create any legal or procedural rights enforceable against the United States.

F. Executive Order 14294 (Fighting Overcriminalization in Federal Regulations)

EO 14294, *Fighting Overcriminalization in Federal Regulations*, 90 FR 20363 (May 14, 2025), requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the *mens rea* standard applicable to each element of those offenses. *Id.* at 20363. This rule does not create any criminal regulatory offense and therefore does not implicate the requirements of EO 14294.

G. Executive Order 13132 (Federalism)

This rule does not have substantial federalism implications within the meaning of EO 13132, *Federalism*, 64 FR 43255 (Aug. 10, 1999). It does not impose substantial direct compliance costs on State or local governments, does not preempt State law, and does not otherwise have sufficient federalism implications to warrant preparation of a federalism summary impact statement. *See id.* at 43258. States that choose to receive Federal financial assistance from HHS do so voluntarily and agree to comply with relevant statutory requirements as a condition of receiving such funding. *See* 42 U.S.C. 2000d-1; 29 U.S.C. 794; 20 U.S.C. 1682. This action does not subject States or any other funding recipients to new obligations; it removes obsolete, unused program-specific *Guidelines* from the CFR. The Department has therefore determined, in accordance with section 6 of EO 13132, that these amendments do not have sufficient federalism implications to warrant preparation of a federalism summary impact statement as outlined in section 6(c)(2). 64 FR at 43258.

H. Executive Order 13175 (Tribal Consultation)

This rule does not have substantial tribal implications within the meaning of EO 13175, *Consultation and Coordination with Indian Tribal Governments*, 65 FR 67249 (Nov. 9, 2000). It does not have substantial direct effects on Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. *See id.* at 67252.

I. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, does not require a regulatory flexibility analysis for this action because, as described in Part IV.A, the Department is invoking the Administrative Procedure Act exception at 5 U.S.C. 553(a)(2) for matters relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. Accordingly, no notice of proposed rulemaking is required under 5 U.S.C. 553, and the analytical requirements of 5 U.S.C. 603 and 604 do not apply. *See* 5 U.S.C. 603(a), 604(a); *Or. Trollers Ass'n v. Gutierrez*, 452 F.3d 1104, 1123-24 (9th Cir. 2006) (noting that the RFA does not apply when an agency validly invokes an exception to the notice-and-comment requirements of 5 U.S.C. 553).

In addition, the Department, in accordance with 5 U.S.C. 605(b), has reviewed this rule and certifies that it will not have a significant economic impact on a substantial number of small entities. This action imposes no new substantive obligations on any recipient of Federal financial assistance from HHS, including any small businesses, small organizations, or small governmental jurisdictions that receive HHS financial assistance. All recipients of HHS financial assistance remain bound by the civil rights regulations at 45 CFR parts 80, 84, and 86.

J. Paperwork Reduction Act

This rule contains no new information collection requirements subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* It imposes no new recordkeeping, reporting, or information collection burdens. To the contrary, this rescission eliminates any residual ambiguity

that the *Guidelines* might be read to impose on HHS funding recipients beyond those required by HHS's operative civil rights regulations at 45 CFR parts 80, 84, and 86.

K. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.*, requires agencies to prepare analytical statements before adopting rules that may result in annual expenditures of \$100 million or more by State, local, or Tribal governments or the private sector. 2 U.S.C. 1532(a). This rule does not contain a Federal mandate that may result in such expenditures. In addition, UMRA expressly excludes from its coverage any proposed or final Federal regulation that “establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability.” 2 U.S.C. 1503(2). Accordingly, this rulemaking is not subject to the provisions of UMRA.

L. Congressional Review Act

The rescission of the *Guidelines* constitutes a “rule” as defined in 5 U.S.C. 804(3). The Department will submit a report to Congress and the Comptroller General as required by the Congressional Review Act, 5 U.S.C. 801(a)(1). This rule is not a “major rule” as defined by 5 U.S.C. 804(2). It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. This action is deregulatory and does not impose additional compliance costs, reporting obligations, or any other new requirements on HHS funding recipients.

List of Subjects

45 CFR Part 80

Civil rights, Federal financial assistance, Grant programs, Race discrimination, Reporting and recordkeeping requirements.

45 CFR Part 84

Administrative practice and procedure, Civil rights, Disability discrimination, Federal financial assistance, Grant programs, Reporting and recordkeeping requirements.

45 CFR Part 86

Civil rights, Education programs, Federal financial assistance, Grant programs, Reporting and recordkeeping requirements, Sex discrimination.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR parts 80, 84, and 86 as follows:

PART 80—NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE THROUGH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

1. The authority citation for part 80 continues to read as follows:

Authority: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d–1.

Appendix B to Part 80 [Removed]

2. Remove appendix B to part 80.

PART 84—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

3. The authority citation for part 84 continues to read as follows:

Authority: 29 U.S.C. 794.

Subpart G also issued under 21 U.S.C. 1174; 42 U.S.C. 4581.

Appendix B to Part 84 [Removed and Reserved]

4. Remove and reserve appendix B to part 84.

**PART 86—NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION
PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

5. The authority citation for part 86 continues to read as follows:

Authority: 20 U.S.C. 1681 through 1688; Pub. L. 100-259, 102 Stat. 28 (Mar. 22, 1988).

Appendix A to Part 86 [Removed]

6. Remove appendix A to part 86.

Robert F. Kennedy, Jr.,

Secretary,

Department of Health and Human Services.