



15 Years of Defending Climate Science

Office of Personnel Management
1900 E Street, NW
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To Whom It May Concern:

The Climate Science Legal Defense Fund (“CSLDF”) submits this comment in response and opposition to the proposed Office of Personnel Management (OPM) rule: Regulation for Federal Financial Assistance¹ (Fed. Reg.: 2026-10817) (“Proposed Rule”).

The Proposed Rule will dangerously upend how research has functioned at academic institutions for nearly a century. Inherent in this Proposed Rule are also unconstitutional infringements on First Amendment rights – viewpoint discrimination as well as violations of academic freedom and collaboration. For all these reasons, CSLDF strongly opposes the adoption of OPM’s Proposed Rule.

I. The Proposed Rule Ignores a Longstanding Tradition of Academic Freedom in America

The ability to engage in research and academic inquiry without undue interference is integral to the idea of scholarship and at the heart of academic freedom. As noted by Ernest Boyer, a former U.S. Commissioner of Education² who served both Republican and Democratic presidents, “basic research has to come to be viewed as the first and most essential form of scholarly

¹ Regulation for Federal Financial Assistance, 91 Fed. Reg. 32,198 (proposed May 29, 2026) (to be codified at 2 C.F.R. pt. 200).

² The title of “Commissioner of Education” was replaced by “Secretary of Education” in 1972 and, similarly, denoted the highest education official in the United States government.

activity, with other functions flowing from it.”³⁴ Similarly, the *1915 Declaration of Principles*, a foundational document on academic freedom by the American Association of University Professors (“AAUP”), states plainly that “[i]n all of these domains of knowledge, the first condition of progress is complete and unlimited freedom to pursue inquiry and publish its results. Such freedom is the breath in the nostrils of all scientific activity.”⁵

The AAUP, a key driver of the development of academic freedom as a concept and legal right has also long held that such protections should be aimed at safeguarding “research, teaching and service...the standard measure of achievement in academia.”⁶ When the core principles of academic freedom were laid out over a century ago, a scholar’s “freedom of inquiry and research” had primacy.⁷ Later, the *1940 Statement of Principles on Academic Freedom and Tenure* – a landmark text relied upon by federal courts, and which established the longrunning values and “unwritten common law”⁸ of American universities – held that academic freedom “applies to both teaching and research” and that scholars are “entitled to full freedom in research and in the publication of the results.”⁹

Building on these principles, the judicial analysis of legal protections for academic freedom developed, perhaps unsurprisingly, following the era of Joseph McCarthy and the so-called “Red Scare.” Universities resided in the crosshairs during this time, as the federal government was weaponized against academics in an attempt to root out vague and allegedly anti-American elements (under the guise of communism) from public institutions. Writing in 1963, historian Richard Hofstadter described the period: “Primarily it was McCarthyism which aroused the fear that a critical mind was at a ruinous discount in this country...[I]ntellectuals were in the line of

³ Ernest L. Boyer, *Scholarship Reconsidered: Priorities of the Professoriate* 15 (1990).

⁴ Boyer’s influential taxonomy defines scholarship as four overlapping domains: discovery, integration, application, and teaching, a functional definition that treats scholarship as an ongoing and distributed process, one that requires collaboration and participation in a community of inquiry.

⁵ Am. Ass’n of Univ. Professors, *1915 Declaration of Principles on Academic Freedom and Academic Tenure* (1915).

⁶ John K. Wilson, *AAUP’s 1915 Declaration of Principles: Conservative and Radical, Visionary and Myopic*, 7 *AAUP J. Acad. Freedom* 1 (2016).

⁷ Am. Ass’n of Univ. Professors, *supra* note 5.

⁸ *See Perry v. Sindermann*, 408 U.S. 593, 602 (1972).

⁹ Am. Ass’n of Univ. Professors, *1940 Statement of Principles on Academic Freedom and Tenure* (1940).

fire.”¹⁰ Amid the legal battles of this time, and in response to authoritarian abuses, the Supreme Court first came to define academic freedom as a constitutional value, asserting as early as 1952 that one of “the deepest interests of a democratic society...[is the] teacher's freedom of thought, inquiry and expression.”¹¹

The years following WWII established the United States as the leader in science and technology. Generations of funding science through rigorous, peer-reviewed, and merit-based procedures benefited the national economy and crowned America as the gold standard in academic research.

Since 1950, over half of all research and development expenditures at American universities have been funded by the federal government,¹² dwarfing all other sources of funding. The importance of federal funding is particularly acute in the sciences, where many fields, including atmospheric science, meteorology, and physics, rely on federal grants to supply over 70% of their annual funding.¹³ Scientific inquiry depends on the benefaction of the American taxpayer – and it returns collective benefits multifold.¹⁴

The Proposed Rule makes numerous changes to the guidance governing federal financial assistance and will dramatically alter how billions of dollars in federal grants are awarded annually to researchers, scholars, and scientists at universities across America. One of the principle changes espoused in this Proposed Rule, articulated in § 200.205, is the establishment of “Pre-Issuance Review,” where a senior political appointee would become the ultimate arbiter for any grant or funding application. Usurping the traditional merit review process, this partisan

¹⁰ Richard Hofstadter, *Anti-Intellectualism in American Life* 3 (1963).

¹¹ *Adler v. Board of Educ. of City of New York*, 342 U.S. 485, 504 (1952).

¹² Nat’l Ctr. for Sci. & Eng’g Stat., NSF 25-345, Since the 1950s, Over Half of R&D Expenditures at U.S. Colleges and Universities Have Been Funded by the Federal Government (July 10, 2025), <https://nces.nsf.gov/pubs/nsf25345>.

¹³ *Id.*

¹⁴ The funding of science has overwhelming support among Americans. According to a recent Pew Research poll, 84% of Americans asserted that government investment in science is worthwhile, and 91% said it is important that America be a world leader in scientific achievements. See Brian Kennedy, *Do Americans Think the Country Is Losing or Gaining Ground in Science?*, Pew Rsch. Ctr. (Jan. 15, 2026), <https://www.pewresearch.org/science/2026/01/15/do-americans-think-the-country-is-losing-or-gaining-ground-in-science/>.

and non-expert appointee would be charged with ensuring all federal funding dovetails with the whims of the President.¹⁵

Along with entirely foreclosing research in critical areas, any grant application could now be denied, or existing grant cancelled,¹⁶ at the discretion of the Executive Branch, for “promot[ing] anti-American values,” an undeveloped and undefined metric echoing the shameful Red Scare tactics used generations ago to unconstitutionally infringe upon academic freedom.

This Proposed Rule denotes a dangerous and modern expansion of authoritarian attacks on academic freedom, where the loyalty oaths and ideological disavowals thrust upon scholars during the Red Scare have been reinvented as a demand for absolute political fealty to the President. Anything less, according to this Proposed Rule, would blacklist and divorce the academic from the most common source of funding required to engage in the core tenet of scholarship. In intending to impose unconstitutional, ill-defined, and politically partisan conditions to federal funding in academia, this Proposed Rule will serve as a spiritual successor to McCarthyism, recalling a national era of historical notoriety and shame.

Simply put, this Proposed Rule would destroy the stable and reliable long-term funding infrastructure and freedom of scholarship, which has secured generations of scientific advancement in this nation.

II. The Proposed Rule is Antithetical to Core First Amendment Principles of Academic Freedom

Due to the unique intellectual and social importance universities embody in this nation, federal courts have repeatedly affirmed academic freedom “as a special concern of the First

¹⁵ Proposed 2 C.F.R. § 200.205(a)(1) (“Discretionary awards must, where applicable, demonstrably advance the President’s policy priorities.”).

¹⁶ Proposed 2 C.F.R. § 200.340 (“If finalized, this revision will further ensure that Federal agencies retain ongoing programmatic discretion after an award is made, consistent with law, to terminate a discretionary award that is not effective at achieving program goals or Federal agency priorities, or that an agency otherwise determines is no longer in the Federal Government’s interest.”).

Amendment.”¹⁷ Specifically for public universities, the ability of both the institution and individual academics to possess the latitude to engage in scholarship – namely what to teach, how to teach, what to research and write – without undue governmental interference is closely linked with First Amendment rights.

The bedrock Supreme Court cases on academic freedom, namely, *Sweezy v. New Hampshire*¹⁸ and *Keyishian v. Board of Regents*,¹⁹ arose as a response to executive and legislative abuses during the Red Scare and ultimately laid the groundwork for both universities and individual academics to have their scholarship, teaching, and administration acknowledged as a constitutional value under the First Amendment.

In *Keyishian*, the Court laid bare that “our Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned.”²⁰ In *Sweezy*, the Court noted that “scholarship cannot flourish in an atmosphere of suspicion and distrust,” describing “the essentiality of freedom...in American universities...almost self-evident,” and holding that “to impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation.”²¹ Through these cases, the Court affirmed that scholarship and academic expression reside under the protective umbrella of the First Amendment because of their centrality to producing truth, discovery, democratic discourse, and social progress.²²

Nearly 50 years later, in *Garcetti v. Ceballos*,²³ which narrowed the scope of First Amendment protections for statements made by public employees in their official capacity, the Court reaffirmed academic scholarship’s unique relation to the First Amendment, not extending the

¹⁷ *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 312 (1978).

¹⁸ 354 U.S. 234 (1957).

¹⁹ 385 U.S. 589 (1967).

²⁰ *Keyishian*, 385 U.S. at 603.

²¹ *Sweezy*, 354 U.S. at 250.

²² See *Urofsky v. Gilmore*, 216 F.3d 401, 430 (4th Cir. 2000) (en banc) (Wilkinson, C.J., concurring).

²³ 547 U.S. 410 (2006).

Court’s ruling to “speech related to scholarship or teaching.”²⁴ Since *Garcetti*, several circuit courts have extended First Amendment academic freedom protections.²⁵

A scholar’s ability to engage in academic inquiry and research are also essential components of academic freedom. As Boyer notes, “scholars are academics who conduct research, publish, and then perhaps convey their knowledge to students or apply what they have learned. *The latter functions grow out of scholarship, they are not to be considered a part of it.*”²⁶ Legal precedent supports this axiom, as courts have held that *Garcetti* restrictions “do not apply to ‘speech related to scholarship or teaching.’”²⁷ The Supreme Court has further affirmed the importance of protecting “scientific expression” or speech possessing “scientific value” that scientific research, even outside the academic setting.²⁸

The Proposed Rule seems to directly contradict First Amendment academic freedom jurisprudence. Although the Supreme Court has never considered such an authoritarian move, the democratic ideals in the First Amendment clearly protect free expression and inherently incorporate the free generation of ideas. Government control of critical thought and research undermines the democratic function of the university and effectively represses free expression. For over 75 years, the Supreme Court has repeatedly endorsed, defended, and carved out academic freedom protections. While the precise contours of these protections have yet to be fully fleshed out, past administrations have never attempted to so blatantly attack them. The Proposed Rule falls so far out of our constitutional tradition that, if accepted, it would be a uniquely novel attack on academic freedom.

²⁴ *Id.* at 425.

²⁵ See *Demers v. Austin*, 746 F.3d 402 (9th Cir. 2014); *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021); *Adams v. Trs. of the Univ. of N.C.-Wilmington*, 640 F.3d 550 (4th Cir. 2011); *Kilborn v. Amiridis*, 131 F.4th 550 (7th Cir. 2025).

²⁶ Boyer, *supra* note 3, at 15 (emphasis added).

²⁷ *Demers*, 746 F.3d at 406 (quoting *Garcetti*, 547 U.S. at 425).

²⁸ *Miller v. California*, 413 U.S. 15, 34 (1973) (“The First Amendment protects works which, taken as a whole, have . . . scientific value, regardless of whether the government or a majority of the people approve of the ideas these works represent.”).

For over seven decades, federal funding of research has driven our national economy and ensured American eminence in higher education. The collaboration between government and academia, to fund scientific advancements after World War II, was viewed as a potent remedy for a host of societal ills. It served “as a source of light that could drive away the dark shadows of... war and stave off the return of the Great Depression.”²⁹ In guiding the origins of federal research funding, Vannevar Bush, the forefather of the National Science Foundation, acknowledged as a founding principle that “research is a long-term process,” and while advocating for the “continuity and stability” of government funds, noted that “universities and research institutes must leave the internal control of policy, personnel, and the method and scope of the research to the institutions themselves. This is of the utmost importance.”³⁰

By its terms, the Proposed Rule intends to muzzle academic expression, constricting areas of intellectual pursuit and defunding research that conflicts with political whims. Its restrictions are antithetical to the spirit of academic freedom. The Proposed Rule will allow the government to hammer universities into alignment with partisan ideologies by leveraging billions of dollars of funding. This will create a chilling effect in academia, where scholars will be forced to forgo research and intellectual inquiry which may be seen as politically inconvenient. Simply put, the Proposed Rule will upend “the historical role of the University in expressing opinions which may well not make favor with the majority of society and in serving in the vanguard in the fight for freedom of expression and opinion.”³¹

The Proposed Rule would also undermine the collaborative aspects of scholarship by eliminating the longstanding understanding that conference attendance connected to a grant’s scientific purpose is an allowable cost³² and by rendering publication costs categorically unallowable “unless such costs are expressly required by statute or approved in advance by the Federal agency.”³³ Giving an agency veto power over whether a researcher may use their grant to

²⁹ Jake Miller, *A Brief History of Federal Funding for Basic Science*, Harv. Med. (Apr. 2025), <https://magazine.hms.harvard.edu/articles/brief-history-federal-funding-basic-science>.

³⁰ Vannevar Bush, *Science: The Endless Frontier* (1945), https://nsf-gov-resources.nsf.gov/2023-04/EndlessFrontier75th_w.pdf.

³¹ *Bazaar v. Fortune*, 476 F.2d 570, 580, *aff’d as modified*, 489 F.2d 225 (5th Cir. 1973) (en banc).

³² Proposed 2 C.F.R. § 200.432.

³³ Proposed 2 C.F.R. § 200.461.

participate in a particular exchange of private speech would undoubtedly have a chilling effect on speech that may not align with this administration's political priorities. The Proposed Rule undermines the "marketplace of ideas" the Supreme Court has recognized as fundamental to the nation's future.³⁴

III. The Proposed Rule Imposes Unconstitutional Funding Restrictions

While the government may not typically impose conditions on a benefit that would compel the beneficiary to surrender a constitutional right, it maintains discretion when "appropriating public funds to establish a program... to define the limits of that program."³⁵ That discretion is greater when awarding merit-based grants, such as research grants. However, the government cannot leverage funding conditions to regulate speech outside the bounds of what it is specifically funding or impose viewpoint-based restraints on private expression.³⁶

Yet the Proposed Rule seeks to do just that. It explicitly bans large swaths of scholarly areas from federal funding. This will undoubtedly have a chilling effect in public universities where scholars will self-censor. The Proposed Rule will effectively remake academia as an appendage of the State, silencing disagreeable values, starving out disfavored areas of expertise, and ensuring that academia reflects short-term political views of the Executive. Once again, the Proposed Rule reserves the discretion to deny or defund academic inquiry into any area or topic it deems "anti-American" – a rather ominous designation by an administration that has already claimed that the First Amendment protections for political dissent³⁷ and freedom of the press,³⁸ the

³⁴ See *Keyishian*, *supra* note 18, citing *United States v. Associated Press*.

³⁵ *Rust v. Sullivan*, 500 U.S. 173, 194 (1991).

³⁶ See *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595 (2013).

³⁷ Brett Samuels, *Trump Deems Dems 'Traitors' over Calls for Military To Resist Unlawful Orders*, The Hill (Nov. 11, 2025), <https://thehill.com/homenews/administration/5614881-trump-calls-democrats-traitors/>.

³⁸ Khaleda Rahman, *Trump Calls New York Times Story 'Treasonous,' Vows To Add to Lawsuit*, Newsweek (June 23, 2026), <https://www.newsweek.com/trump-calls-new-york-times-iran-story-treasonous-vows-add-lawsuit-12101843>.

scientific consensus on climate change,³⁹ and even the Second Amendment right to bear arms,⁴⁰ as anti-American or treasonous activity.

It is critical to square the effects of this Proposed Rule with existing jurisprudence regarding First Amendment protections for federal funding. Specifically, the Supreme Court has already acknowledged (if not clearly defined) the unique position of America's universities and the importance of academic freedom, when discussing the congressional right to conditionalize aspects of federal funding. In *Rust v. Sullivan*, the Supreme Court upheld conditions placed by Congress on programmatic funds to doctors which prohibited them from offering abortion counseling to patients, determining this restriction did not violate the First Amendment. However, in discussing the government's general ability to define the contours of federal funding, the Court acknowledged academia as a unique exception, undoubtedly aware of the potential dangers that even vague or ill-defined conditions may impose on the "vital centers for the Nation's intellectual life."⁴¹ Echoing the same principles that define academic freedom jurisprudence, the Court asserted, "the university is . . . so fundamental to the functioning of our society that the Government's ability to control speech within that sphere by means of conditions attached to the expenditure of Government funds is restricted by the vagueness and overbreadth doctrines of the First Amendment."⁴²

Subsequent cases have clarified the limitations on the government's ability to impose conditions on federal funding based on content or viewpoint. In *Nat'l Endowment for the Arts ("NEA") v. Finley*,⁴³ the Court held that discretionary criteria such as "artistic merit" and "artistic excellence," utilized by NEA to award federal grants, were neither vague nor overbroad enough to constitute a First Amendment violation. The Court noted that such discretionary conditions, unavoidable in awarding competitive grants, did not threaten the censorship of ideas and that the

³⁹ Genevieve Guenther, *Sorry, Climate Change Is Still Dangerous, No Matter What Nonsense Trump Emits*, Bull. of the Atomic Scientists (May 22, 2026), <https://thebulletin.org/2026/05/sorry-climate-change-is-still-dangerous-no-matter-what-nonsense-trump-emits>.

⁴⁰ Alex Gangitano, *Trump: Petti 'Shouldn't Have Been Carrying a Gun,'* Politico (Jan. 27, 2026), <https://www.politico.com/news/2026/01/27/trump-petti-shouldnt-have-been-carrying-a-gun-00750241>.

⁴¹ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 835 (1995).

⁴² *Rust*, 500 U.S. at 200.

⁴³ 524 U.S. 569 (1998).

challenged provision did “not introduce considerations that, in practice, would effectively preclude or punish the expression of particular views.”⁴⁴ However, the Court explicitly delineated a red line in the deference awarded to the government in such situations, asserting that if the government “were to leverage its power to award subsidies on the basis of subjective criteria into a penalty on disfavored viewpoints, then we would confront a different case.”⁴⁵ It followed that government funding may not result in “the imposition of a disproportionate burden calculated to drive ‘certain ideas or viewpoints from the marketplace.’”⁴⁶

The limitations espoused in *Finley* have already been successfully utilized in ongoing litigation to challenge conditions imposed on competitive grants by the current administration.⁴⁷ In the same vein, this Proposed Rule intends to weaponize grantmaking to deflate entire areas of scholarship and delete intellectual and scientific viewpoints at odds with the current administration. These motivations are well-supported by evidence. Russell Vought, the head of OMB, has already used his tenure to demolish research and purge data involving a range of disfavored disciplines. At his direction, globally important research centers were dismantled to suppress scientific realities⁴⁸ and critical healthcare information was deleted from public government websites.⁴⁹ He has expressed a desire to utilize his dubious legal control⁵⁰ of the

⁴⁴ *Id.* at 583.

⁴⁵ *Id.* at 587.

⁴⁶ *Id.* (quoting *Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd.*, 502 U.S. 105, 116 (1991)).

⁴⁷ At the time of this submitted comment, the rationale and language in *Finley* has been successfully utilized to argue in ruling that the Trump Administration’s funding restrictions barring potential NEA projects promoting “gender ideology” likely violates the First Amendment. See *R.I. Latino Arts v. Nat’l Endowment for the Arts*, 777 F. Supp. 3d 87, 107–09 (D.R.I. 2025).

⁴⁸ Hannah Richter, *Trump Administration Moves To Break Up Leading U.S. Climate and Weather Center*, Science (Dec. 17, 2025), <https://www.science.org/content/article/trump-administration-moves-break-leading-u-s-climate-and-weather-center> (Vought spearheaded the dismantling of NCAR, a critical research facility for being “one of the largest sources of climate alarmism”).

⁴⁹ Carla K. Johnson, *Health Info Wiped from Federal Websites Following Trump Order Targeting Transgender Rights*, PBS NewsHour (Jan. 31, 2025), www.pbs.org/newshour/health/health-info-wiped-from-federal-websites-following-trump-order-targeting-transgender-rights (Vought directed agencies to destroy public health data from governmental websites).

⁵⁰ While outside the scope of this public comment, it should be noted that much of these efforts are tantamount to impoundment, which while theoretically validated under the maximalist “unitary executive theory” Vought espouses, may be in violation of the Impoundment Control Act of 1974, 2 U.S.C. §§ 681–688. Relatedly, nearly all case law involving challenges to competitive grants involve conditions imposed by Congress, not the Executive Branch, who maintains the power to appropriate funds in accordance with U.S. Const. art. I, § 9.

pursestrings at OMB to promote historical and scientific falsehoods in an attempt to rewrite the historical record.⁵¹ Russell Vought, vis-à-vis this Proposed Rule, is not attempting to uplift or promote a viewpoint the government simply favors; instead, it is a cudgel to destroy viewpoints and to make them unpalatable for academic inquiry and public discussion.

Along with promulgating viewpoint discrimination, the Proposed Rule suffers from a vagueness unacceptable to constraints on academic freedoms, which is perhaps less a bug than an intended feature. In addition to granting non-expert political appointees the power to deny or *cancel funds* for any indeterminate showing of “anti-American values,” it demands all research must comply with “Gold Standard Science.”⁵²

Referencing Executive Order 14303 (“EO”), the term “Gold Standard Science” is not defined by the Proposed Rule, nor by the original EO text. Yet, according to the EO, characteristics associated with “Gold Standard Science” include science that is conducted in a manner that is “subject to unbiased peer review,” “collaborative and interdisciplinary,” “transparent,” and “without conflicts of interest”⁵³ – all of which are directly at odds with the Proposed Rule’s offloading to unqualified political appointees. The Proposed Rule makes no serious attempt to explain how “Gold Standard Science” deviates from the decades-long merit-based and peer-reviewed structure currently operating.

In fact, nearly all the verbiage utilized in drafting and justifying this Proposed Rule – namely, to remedy a system where it claims that research has been co-opted by “woke,” “neo-Marxist,” “anti-American,” or “divisive ideolog[ies]”⁵⁴ – are wholly undefined and unsupported by evidence. Such verbiage is political theater, with purposefully vague ever-shifting goalposts, and

⁵¹ Arvind Salem, *At House Hearing, Russell Vought Grilled on OMB Grants Proposal*, Ctr. for Progressive Reform (July 2, 2026), <https://progressivereform.org/cpr-blog/at-house-hearing-russell-vought-grilled-on-omb-grants-proposal/> (Vought testified that he would have rescinded federal research grants to Wuhan, China, during the Covid-19 pandemic because of their role in “leaking” the virus. The lab leak theory, posited early during the pandemic by experts, has been debunked).

⁵² Proposed 2 C.F.R. § 200.205(b)(5) (referencing Exec. Order No. 14,303, 90 Fed. Reg. 22,601 (May 23, 2025)). <https://www.whitehouse.gov/presidential-actions/2025/05/restoring-gold-standard-science/>.

⁵³ Exec. Order No. 14,303, 90 Fed. Reg. 22,601 (May 23, 2025)

⁵⁴ Proposed 2 C.F.R. Executive Summary.

unable to give guidance or even be clearly defined, even by the current political appointees employing them to direct domestic policy.⁵⁵

IV. Conclusion

For the reasons set forth above, CSLDF urges OMB to withdraw the Proposed Rule. The Proposed Rule violates the First Amendment on multiple independent grounds. It is antithetical to academic freedom as a constitutional value recognized in *Sweezy* and *Keyishian*, replacing decades of merit-based, peer-reviewed funding with a system in which a senior political appointee may deny or cancel funding for any research deemed insufficiently loyal to the President's priorities. It imposes unconstitutional funding conditions of exactly the kind *Finley* warned would present "a different case" from ordinary merit review, conditioning grants on subject-matter and viewpoint alignment rather than scientific merit. And it specifically dismantles the collaborative infrastructure, including conferences, publication, and international partnership, through which scholarship is tested, refined, and disseminated, restrictions that reach the constitutive activity of scholarship itself.

Writing in the wake of McCarthyism, the historian Richard Hofstadter observed that suspicion of intellectuals in American life was not a permanent condition but a cyclical one, prone to recede as readily as it arose.⁵⁶ His words are a reminder that the hostility toward independent inquiry and academic freedom animating this Proposed Rule has receded before, through the same constitutional commitments this comment invokes, and it can recede again. This retreat happened only because courts, universities, and the public actively resisted the ideological conditioning of academic life rather than allowing it to become normalized. OMB should not wait for a court to reach the same conclusion. The Proposed Rule should be withdrawn.

⁵⁵ Erik Uebelacker, *First Circuit Questions Trump Rationale for Cutting DEI Health Research Funding*, Courthouse News Serv. (Jan. 6, 2026), <https://courthousenews.com/first-circuit-questions-trump-rationale-for-cutting-dei-health-research-funding/> (First Circuit criticized government for not clearly defining fund-cutting guidance when cutting \$800 billion in funds related to DEI-related subjects); Christopher Wiggins, *Former DOGE Staffer Says ChatGPT Helped Feds Cancel Grants Mentioning 'LGBTQ,'* The Advocate (Mar. 12, 2025), <https://www.advocate.com/politics/national/doge-chatgpt-dei-lgbtq-grants> (former DOGE employee failed to define criteria utilized when cancelling federal grants).

⁵⁶ Hofstadter, *supra* note 10.