



1350 I STREET NW
SUITE 700
WASHINGTON, DC 20005
202-588-5180
NWLC.ORG

Via <http://www.regulations.gov>

August 18, 2025

Dana Carr
U.S. Department of Education
400 Maryland Ave. SW
Room 4B210
Washington, DC 20202-1200.

Re: Proposed Changes to the U.S. Department of Education's School-Based Mental Health Services Grant (SBMH) Program (Docket ID ED-2025-OESE-0152, at 90 Fed. Reg. 33353)

Dear Ms. Dana Carr,

The National Women's Law Center (NWLC) submits these comments in response to the U.S. Department of Education's (The Department) notice about proposed changes to the School Based Mental Health Grant Program (SBMH program). The competitive grants provided by the SBMH program help to increase mental health service providers particularly in high-need Local Education Agencies (LEAs). The proposed changes to this program will remove important resources for students who have demonstrated a need for targeted support. We submit these comments to reinforce the need to specifically support those students and request that the Department modify the proposed rule to remove paragraph "d" under "Proposed Program Requirements."

For over 50 years, NWLC has fought for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. In the context of education, NWLC seeks to ensure safe, healthy, and inclusive learning environments for all students, particularly for girls, girls of color, students in the LGBTQI+ community, pregnant and parenting students, students from families with low incomes and students with intersecting identities. These students are often denied access to educational opportunities due to harassment, policing, and school policies that are racist, sexist, or overall fail to consider their unique needs. In the interest of ensuring that these students can learn in safe and supportive learning environments, we submit these comments in opposition to the proposed changes that will remove support for these students.

I. The SBMH Grant Program Provides Important Funding for High Need Local Education Agencies to Support Students

Students need access to mental health resources, and for many, school is the only place where they can receive them. An analysis of data from the National Survey of Children’s Health found that approximately 1 in 6 youth have at least one mental health condition.¹ Yet, in the 2021-2022 school year, only 38% of public schools offered mental health treatment services to students.² The April 2022 School Pulse Panel survey found that 66% of public schools saw an increase in students seeking mental health services at school since the COVID pandemic started.³ This same survey reported that certain student populations were more likely to seek mental health services including students experiencing homelessness, students in the LGBTQ+ community, and students from particular racial and ethnic backgrounds.⁴ The kind of targeted supports that are currently provided by grantees in the SBMH grant program are the types of resources that students need.

SBMH program grants have been used to improve and increase access to targeted mental health services for youth with the most need. For example, Fulton County, Georgia received a SBMH grant for a project that aims to address their “high student to school psychologist ratio, high percentage of students living in poverty, and increased discipline referrals.”⁵ Among other things, this project commits to building a diverse pipeline of school psychologists and implementing culturally responsive practices. Another example is the project administered by the Wisconsin Department of Public Instruction which aims to address their “high student to mental health professional ratios, lack of diversity in [mental health professional] positions, and increasing mental health needs of [their] students.”⁶ Funding from the SBMH grant program supports their Grow Your Own program which operates from high school through post graduate education to help recruit, retain, and diversify its school based mental health professionals.⁷ These schools are in the best position to determine the greatest needs amongst their student population, and they should have the opportunity to address those needs with specific goals and initiatives.

¹ National Alliance on Mental Illness, “Mental Health in Schools,” <https://www.nami.org/advocacy/policy-priorities/improving-health/mental-health-in-schools/> (last accessed 8/18/2025); interpreting an analysis of National Survey of Children’s Health data: Daniel G. Whitney and Mark D. Peterson, “US National and State-Level Prevalence of Mental Health Disorders and Disparities of Mental Health Care Use in Children,” JAMA Pediatrics, February 2019, available at <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2724377?guestAccessKey=f689aa19-31f1-481d-878a-6bf83844536a>.

² National Center for Education Statistics, “Prevalence of Mental Health Services Provided by Public Schools and Limitations in Schools’ Efforts to Provide Mental Health Services,” July 2024, available at <https://nces.ed.gov/programs/coe/indicator/a23>.

³ National Center for Education Statistics, “Mental Health and Well-Being of Students and Staff During the Pandemic,” available at https://ies.ed.gov/schoolsurvey/spp/SPP_April_Infographic_Mental_Health_and_Well_Being.pdf.

⁴ Id.

⁵ U.S. Department of Education, “School Based Mental Health Services Grant Program,” available at <https://www.ed.gov/grants-and-programs/grants-birth-grade-12/safe-and-supportive-schools/school-based-mental-health-services-grant-program#current-year-awards> (last accessed 8/18/2025).

⁶ Id.

⁷ Wisconsin Department of Public Instruction, “Federal School-Based Mental Health Professionals Grant,” available at <https://dpi.wi.gov/sspw/mental-health/school-based-mental-health-professionals-federal-grant-program> (last accessed 8/18/2025).

However, paragraph “d” under the Proposed Program Requirements for the SBMH grant program will create challenges for schools that need to provide targeted supports for specific student populations. As it is currently written, paragraph “d” will likely make schools hesitant to provide these distinct supports out of concern that they will not receive SBMH grant funding. This will lead to a missed opportunity for funding to school districts, and a decreased likelihood that SBMH grant program projects will meet the direct needs of specific student populations.

II. The Proposed Changes Under Paragraph D Will Create Confusion and Will Deter Schools from Proposing Lawful Programs

Under “Proposed Program Requirements,” The Department seeks to add paragraph “d,” which would prohibit funds from being used to promote or endorse, “(1) gender ideology, (2) political activism, (3) racial stereotyping, or (4) hostile environments for students of particular races.” As described in more detail below, NWLC strongly opposes the addition of these requirements, which would undermine the provision of critically needed services to students.

First, paragraph (d) provides no examples or explanations of the activities that this section seeks to prohibit. Lack of clarity about the meaning of these terms or prohibited activities will likely lead to program applicants avoiding lawful, targeted support programs out of concern that they will not receive grant funding or that they may be sued. Recently, The Department published a Dear Colleague Letter on February 14th that provided an interpretation of Title VI that is not aligned with current regulations or legal precedent.⁸ Although this letter was enjoined shortly after,⁹ the Trump Administration’s efforts to re-interpret civil rights law has created confusion. Programs that are created to provide targeted support for students that face unique challenges, are not inherently misaligned with Title VI, the constitution, or federal case law. The language used in paragraph “d” contributes to confusion about lawful activity, and can lead to a missed opportunity for LEAs to implement targeted SBMH grant funded programs in their district.

Second, every student faces unique challenges, and they need approaches to mental health that are culturally responsive, gender inclusive, and targeted to their specific needs. In 2019, NWLC published a report called, “*We Are Not Invisible*,” which explored the effects of mental health challenges on the academic success of Latina students in Philadelphia schools.¹⁰ In Philadelphia in 2017, just over half (50.9 percent) of Latina high school students felt persistently sad or hopeless.¹¹ This report addressed how gender norms and societal expectations factor into the mental health challenges that Latina students experience.¹² Some of these challenges were due to cultural expectations that they place the needs of others before their own.¹³ From the students who participated in this study, many expressed the desire to have access to culturally competent

⁸ U.S. Department of Education Dear Colleague Letter: Title VI of the Civil Rights Act in Light of Students for Fair Admissions v. Harvard issued by the U.S. Department of Education’s Office for Civil Rights (OCR) (Feb. 14, 2025), <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

⁹ *National Education Association et. al. v. United States Department of Education et.al.*, available at <https://www.aclu.org/documents/preliminary-injunction-order-in-national-education-association-et-al-v-us-department-of-education-et-al>.

¹⁰ Noelia Rivera-Calderón, et.al., “We Are Not Invisible: Latina Girls, Mental Health, and Philadelphia Schools,” National Women’s Law Center, April 2019, available at [We-Are-Not-Invisible-Final-Report-1.pdf](#).

¹¹ Id.

¹² Id.

¹³ Id.

counselors.¹⁴ These students overwhelmingly supported more specific mental health training for guidance counselors as well as teachers and other staff.¹⁵ The students surveyed for the, “*We Are Not Invisible*,” report addressed specific challenges that can only be addressed through culturally competent care. For the SBMH grant program, the unclear language under paragraph “d” of the Proposed Program Requirements will likely deter schools from applying for a grant if they want to provide students with the culturally competent care addressed above.

In 2024, NWLC published a report called, “*Keep Her Safe*,” to address the unique experiences that Black girls have with school safety in the Miami-Dade County Public School System.¹⁶ The research for this report included focus groups and surveys where participants shared how various school safety measures impacted their mental health.¹⁷ One participant stated, “some teens are feeling like they need to disown themselves or like they don’t feel good about themselves and try to hurt themselves. And talking to a mental health counselor is the best way to feel better about themselves.”¹⁸ Another stated, “Black girls will feel safer and more welcomed coming to school because they won’t feel insecure about themselves”¹⁹ when speaking about the desire for more mental health supports. Research shows that schools with predominately Black student populations are more likely to have school safety officers, and more likely to have police and security officers than mental health providers.²⁰ The students in the, “*Keep Her Safe*,” report, addressed how over policing from school security guards negatively impacted their mental health. This report identified very specific concerns that Black girls have, which can only be addressed through targeted support programs. Yet, the unclear language under paragraph “d” of the Proposed Program Requirements may cause program applicants to avoid these types of targeted programs altogether in order to receive grant funding.

LGBTQ+ students also face distinct challenges that need individualized direct support. The Trevor Project’s *2024 U.S. National Survey on the Mental Health of LGBTQ+ Young People* amplifies the experiences of more than 18,000 LGBTQ+ young people ages 13 to 24 across the United States.²¹ This survey found that 50% of LGBTQ+ young people who wanted mental health care in the preceding year were not able to get it; 39% of LGBTQ+ young people seriously considered attempting suicide in the preceding year — including 46% of transgender and nonbinary young people.²² Further, LGBTQ+ youth of color reported higher attempted suicide rates than their white peers; and more than 1 in 10 (12%) LGBTQ+ young people attempted suicide in the past year.²³ This data shows the importance of a sense of belonging for LGBTQ+ youth, and a dire need to provide

¹⁴ Id.

¹⁵ Id.

¹⁶ Sabrina Bernadel, et. al., “Keep Her Safe,” National Women’s Law Center, April 2024, available at https://nwlc.org/wp-content/uploads/2024/04/f.NWLC_SPLC_SROReport.pdf.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Kristen Harper and Deborah Temkin Cahill, “Compared to majority white schools, majority black schools are more likely to have security staff,” Child Trends, April 2018, available at <https://www.childtrends.org/publications/compared-to-majority-white-schools-majority-black-schools-are-more-likely-to-have-security-staff>.

²¹ The Trevor Project, “2024 U.S. National Survey on the Mental Health of LGBTQ+ Young People,” (2024) available at <https://www.thetrevorproject.org/survey-2024/>.

²² Id.

²³ Id.

these young people with affirming and inclusive mental health care. The survey also found that more than half (54%) of transgender and nonbinary young people found their school to be gender-affirming, and those who did reported lower rates of attempting suicide. The language under paragraph “d” of the Proposed Program Requirements is unclear. Particularly, under section 1, the term “gender ideology,” provides no clarity about what this term means. For schools that need support providing targeted resources to their LGBTQ+ student population, they may avoid seeking SBMH grant program funding altogether due to confusion about which programs are prohibited.

Students who are pregnant and/or parenting face many barriers that make it difficult to complete their education. Only about half of young mothers will earn a high school diploma by the age of 22, compared with 89 percent of women who did not have a child during their teenage years.²⁴ Additionally, one-third of young mothers will never get a G.E.D. or a diploma.²⁵ In 2017, NWLC published a report called, “Let Her Learn: Stopping School Pushout for Girls Who are Pregnant or Parenting.” This report analyzed an online survey collected from girls nationwide and focus group data collected from pregnant or parenting students in select locations. This report found that girls who are pregnant or parenting were less likely than girls overall (61 percent v. 81 percent) to say that they had someone at their school who cared about them and wanted them to succeed. Further, 26 percent of girls who are pregnant or parenting said that they get little or no counseling or help about their futures. The report addressed that girls who are pregnant or parenting often face discouraging environments that can cause them to leave school. This can include low expectations from some teachers and administrators, policies that do not consider their responsibilities as parents, discrimination, or pressure to leave school. For students who are pregnant or parenting, targeted support staff that can directly address their unique needs can make the difference between staying in school or leaving school altogether. However, the language under paragraph “d” of the Proposed Program Requirements would likely deter a school from applying for a SBMH grant to support pregnant and parenting students, even if really needed the support. As noted above, without a clear definition for “gender ideology,” this term may deter some LEAs from applying for this program to provide pregnant and parenting students with the targeted mental health support they need.

III. Students Have First Amendment Rights in School

Section 2 of paragraph “d” also prohibits “political activism” without clarity about what the term means. We remind The Department that students still have First Amendment rights, even while they are in school. The First Amendment establishes the right to freedom of speech, and the right to peaceably assemble.²⁶ Students do not leave behind their First Amendment rights to freedom of speech and expression when they enter their school.²⁷ Students have some rights to freedom of speech particularly where their speech does not substantially disrupt school operations,²⁸ include

²⁴ Kate Perper, Kristen Peterson, and Jennifer Manlove, “Diploma Attainment Among Teen Mothers,” Child Trends, 2010, available at <https://www.childtrends.org/publications/diploma-attainment-among-teen-mothers>.

²⁵ Id.

²⁶ U.S. Const. amend. I.

²⁷ Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

²⁸ Id.

profane speech,²⁹ or promote illegal drug use.³⁰ The meaning and extent of the prohibition on “political activism” is unclear, but if it infringes upon students’ First Amendment rights, it is unlawful. Therefore, we urge The Department to completely remove this language from the Proposed Program Requirements.

IV. Conclusion

We urge the Department not to add paragraph “d” to the Program Requirements for the School Based Mental Health grant program. Adding this paragraph would contribute to confusion about which programs are lawful, given recent efforts by the Trump Administration. Further the lack of clarity in paragraph “d” will deter schools from offering targeted mental health resources for student populations that need it the most. Schools should have some autonomy to identify the greatest need amongst their student population and address those needs specifically.

Should you have any questions, please contact Bayliss Fiddiman, Senior Director of Educational Equity, at bfiddiman@nwlc.org or Jasmin Randolph Taylor, Counsel for Education and Workplace Justice, at jrandolphtaylor@nwlc.org.

Thank you,



Bayliss Fiddiman
Senior Director of Educational Equity
National Women’s Law Center

²⁹ Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986).

³⁰ Morse v. Frederick, 551 U.S. 393 (2007).