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## Federal Guidance for Grants and Agreements: Understanding the Latest Attempt to Erode Religious Liberty

### BACKGROUND

On October 5, 2023, the Biden Administration's Office of Management and Budget (OMB) introduced its Notice of Proposed Rulemaking (NPRM) ([88 Fed. Reg. 69390](#)). Included in the NPRM is Subpart D, titled "Post Federal Award Requirements, § 200.300 Statutory and national policy requirements," and Sections (A-C), which would require recipients of federal grant moneys to unlawfully comply with the faulty idea that gender is fluid and therefore, not determined by biological sex, including those whose religious or moral beliefs compel them to believe otherwise. Through the NRPM, the OBM is therefore seeking to undermine religious freedom by unlawfully expanding federal law as it pertains to sexual orientation and gender identity under the auspices of ensuring that federal funding and associated programs are implemented in conformity with "discrimination" regulations (Section A) and "consistent with the Supreme Court's reasoning in *Bostock v. Clayton County*" (Section B).

As one might recall from Citizen Defending Freedom's (CDF) Title IX Campaign, *Bostock*, a Title VII employment discrimination case, is the same decision that has been cited to justify a sweeping and lawless expansion of federal law to include "sexual orientation" and "gender identity." However, as noted in CDF's [Title IX Fact Sheet](#), the Court in *Bostock* anticipated that its ruling might be erroneously applied in an effort to unconstitutionally broaden the scope of other statutes. As such, the majority opinion states: "The employers worry that our decision will sweep beyond Title VII to other federal or state laws that prohibit sex discrimination...." **[but] we do not prejudge any such question today.**" (See *Bostock* 140 S. Ct. at 1753).

Beyond calling for compliance with a faulty application of the *Bostock* decision, the NPRM states that federal agencies providing federal grant aid must accord "with the U.S. Constitution, applicable Federal statutes (including statutes that prohibit discrimination) and regulations" (Section A). Yet, nowhere in the U.S. Constitution is "sexual orientation" or "gender identity" mentioned, while the right to religious freedom and the free exercise thereof, is clearly enumerated. Sadly, the NPRM contains no language recognizing this and thus, is currently devoid of any religious liberty protections. As a result, faith-based humanitarian, educational, or medical agencies whose stances on sexuality, marriage, and the family may be in contradiction with the NPRM could be at risk of losing the federal grant funding upon which these organizations have historically relied to assist communities in-need.

## CALL TO ACTION

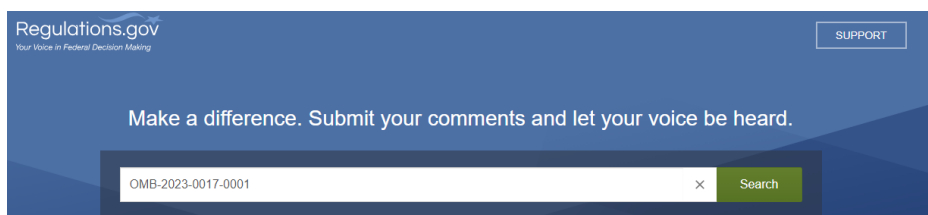
Citizens Defending Freedom provides the following guidance to encourage patriots to vocalize their dissent with the NPRM through active participation in the Public Comments Period **closing on December 4, 2023**. A public comment is a response authored by members of the public on proposed regulations.

The public comment period is a crucial and urgent opportunity for concerned citizens to make their voices heard and take meaningful action on policy that will otherwise jeopardize religious liberty.

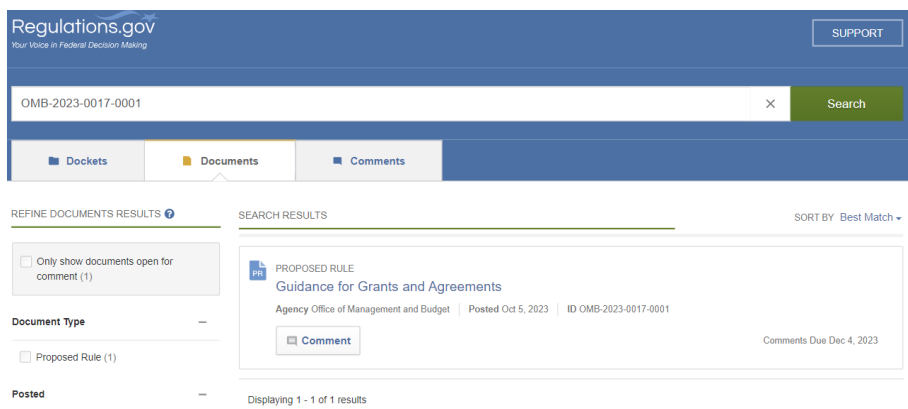
Under federal law, the OMB is mandated to evaluate and react to the comments they receive. Therefore, the more comments that are submitted, the more likely the agency may be to reevaluate or delay the NPRM.

## HOW TO SUBMIT A PUBLIC COMMENT

1. Visit <https://www.regulations.gov/>, type OMB-2023-0017-0001 into the search engine provided, then click the green “search” button.

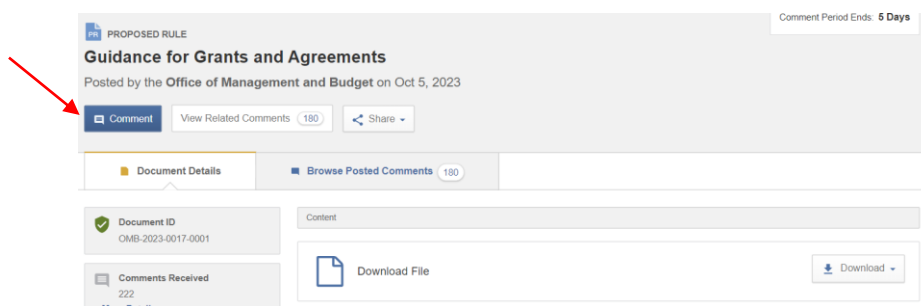


2. On the next page, select “Guidance for Grants and Agreements.”



3. The next page will give you the option to download the [full text of the NPRM](#). The policy in-question (“Subpart D–Post Federal Award Requirements § 200.300: Statutory and national policy requirements) is available on page 69445 (Page 56 of the PDF document).

On this same page, select the option to post a comment by clicking on the blue “comment” box.



- You will then be prompted to write a public comment. You can either type your comment in the comment box or attach your comment as a PDF or Word document. You must also choose between three different categories (individual, organizational, anonymous) that best fits your submission description. Once finished, click the blue “submit comment” button at the bottom of the page to submit your comment.

**NOTE:** Be sure to include the Docket ID (Docket OMB-2023-0017-001, “Guidance for Grants and Agreements”) at the top of your comment. “2 CFR 200.300: “Statutory and national policy requirements”” may function as the subject of your comment.

### TIPS ON WRITING YOUR PUBLIC COMMENT

- Acknowledge the absence of explicit religious liberty protections for recipients of federal grants and related funding. If you or your organization is indeed such a recipient, you may also consider including this information, as it will go to support your concerns that the ability to receive or apply for funding in the future may be adversely affected due to you or your organization’s religious convictions.
- Consider mentioning that the NPRM is misapplying the *Bostock* case. It is worth noting that the Supreme Court indicated in its own opinion that its scope is limited to Title VII employment cases and therefore, is inapplicable to the current issue of federal grantmaking and funding at-hand.
- While consulting this document for ideas is encouraged, these are only tips. Maintaining a degree of uniqueness to your submission is key. Generic or “copycat” responses are more likely to be dismissed.
- Remember, 12/4/23 is the deadline for public comment. Make your voice heard today!**