

# United States Senate

WASHINGTON, DC 20510

February 9, 2026

Dear Secretary McMahon:

We write to express grave concern with the guidance released by the Department of Education (“the Department”) on August 19, 2025, prohibiting the use of Federal Work-Study (FWS) funds to support student participation in nonpartisan voter registration or related civic activities, and encouraging colleges and universities to limit distribution of voter registration forms contrary to statutory requirements.<sup>1</sup>

### **Unlawful Prohibition on On-Campus Federal Work-Study Jobs:**

The updated guidance cites to the Department’s regulations under 34 CFR 675.22(b)(5) and states that FWS funds cannot be used for “jobs involving partisan or nonpartisan voter registration, voter assistance at a polling place or through a voter hotline, or serving as a poll worker—whether this takes place on or off campus.”<sup>2</sup> By applying this regulation to on campus jobs, the guidance is imposing an overly broad prohibition that is contrary to statute. 675.22 only applies to students employed by a Federal, State, or local public agency, or a private nonprofit organization. That is because the FWS statute, enacted under the Higher Education Act, explicitly states that part-time employment can occur through “work for the institution itself, work in community service, or work in the public interest for a Federal, State, or local public agency or private nonprofit organization.”<sup>3</sup> The regulation that is cited for the Department to get to this conclusion does not have any restrictions for on campus work study positions so cannot be used as a rationale for doing so.

### **Continued Need to Lift Prohibition on Off-Campus Federal Work-Study Jobs:**

In addition, in 2023, over a dozen members of the U.S. Senate and House of Representatives sent the Department a letter calling for clarification of whether students could use their FWS funds to engage in non-partisan voter participation activities working for government entities or non-party affiliated non-profit 501(c)(3) organizations, in addition to working directly for their institution of higher education.

Following that request, the Department issued guidance in February 2024 allowing FWS funds to be used for employment by a Federal, State, local, or Tribal public agency for civic engagement work that is not associated with a particular interest or group, consistent with 34 CFR § 675.22(b)(5). We stand by our strong belief that allowing so would not violate any statutory, regulatory, or other legal barrier as it would fit into the current regulatory framework for “work in the public interest” as it is “work performed for the national or community welfare rather than work performed to benefit a particular interest or group.”

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<sup>1</sup> U.S. Dep’t of Educ., *Dear Colleague Letter: Updated Requirements for Distribution of Voter Registration Forms and Federal Work-Study Allowable Uses of Funds*, No. OPE-2025-110519 (Aug. 19, 2025).

<sup>2</sup> *Ibid.*

<sup>3</sup> 20 USC 1087-53.

We urge the Department to issue new guidance correcting its August, 2025 claim that FWS funds cannot be used for voting activities if the employer is the institution itself, and we ask that the Department also clarify that FWS funds can be used for nonpartisan voter registration and participation activities, including serving as poll workers, if the employer is a government agency or nonpartisan nonprofit group.

**Unlawful Guidance on Voter Registration Distribution Requirements:**

The August 19<sup>th</sup> guidance also encourages institutions of higher education to limit the distribution of voter registration forms to certain students, contrary to clear statutory requirements. Section 487(a)(23) of the Higher Education Act states that institutions of higher education must “make a good faith effort to distribute a mail voter registration form...to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.” The Department’s guidance states that it does not interpret this “good faith” provision as “requiring institutions to distribute voter registration information to students who the institution has reason to believe are ineligible to vote in federal or state elections, such as foreign students” and says institutions “may limit the list of recipients accordingly.” Colleges or institutions following this interpretation would be in violation of federal law, and the impact of the new guidance, if followed, may prevent students who are eligible to vote from receiving the required registration information.

The Department’s reinterpretation of both of these statutory requirements will unjustly limit students’ opportunities to engage in nonpartisan civic participation. It also undermines decades of bipartisan recognition that encouraging voter registration is a core public interest function of institutions of higher education.

For these reasons, we respectfully urge the Department to reconsider and rescind the August 19 guidance as it improperly prohibits the use of FWS funds to support student participation in nonpartisan voter registration or related civic activities and encourages colleges and universities to limit distribution of voter registration forms, in contradiction to longstanding federal law. We also request the Department issue guidance recognizing that FWS funds can be used for on campus voter registration activities and for off campus voter registration and participation activities if the employer is a government agency or a nonpartisan, nonprofit organization.

Thank you for your prompt attention to this matter.

Sincerely,



Cory A. Booker  
United States Senator



Andy Kim  
United States Senator



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Mazie K. Hirono  
United States Senator



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Richard Blumenthal  
United States Senator



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Tim Kaine  
United States Senator



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Margaret Wood Hassan  
United States Senator



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Elizabeth Warren  
United States Senator



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Chris Van Hollen  
United States Senator