

Federal Update

Board of Regents
March 13, 2025

Montana University System

Federal Landscape

Status of Continuing Resolution

FAFSA Update

Impacts of federal announcement on MUS Research

Department of Education Dear Colleague Letter

Status of Continuing Resolution

- Increases defense funding by \$6 billion
 - Cuts non-defense funding by \$13 billion
- Galen Hollenbaugh, Deputy Commissioner for Government Relations & Communications

FAFSA Update

The Good....

- The 2025-26 FAFSA is open and functioning as intended.
- Department of Education has begun processing batch corrections – **first time that institutions will be able to utilize the process since the implementation of the FAFSA simplification.**
- Through February 28, 2025, **30.8%** of the high school class of 2025 in Montana has completed a FAFSA. (**7.0%** change compared to last year, ~233+ submissions)
- Financial Aid Offices Report:
 - User experience seems to be much more positive
 - Fewer calls for assistance
 - Better environment for students and staff
 - Award notices should happen at a traditional pace

To Watch....

- Without a congressional fix, the Pell Grant program faces a projected shortfall of nearly \$3 billion for the next fiscal year and a \$10 billion shortfall in 2026-27.

Impacts of federal announcement on MUS research

-Joe Thiel, Interim Deputy Commissioner, Academic,
Research & Student Affairs

Impacts of Proposed Indirect Cost Cap on Montana Research

The Facilities and Administrative (F&A) costs of research – also referred to as the “indirect costs” of research – are essential to conducting world-class research effectively, efficiently, safely, and securely.

- Federal agencies reimburse institutions for the F&A costs they incur to support research overall; these are expenses that are difficult to attribute to specific research projects on an individual basis (e.g., libraries, physical lab operation and maintenance, utility costs, security, and other similar needs).
- The federal government only allows certain expenses to be considered as part of a research institution’s F&A reimbursement rate and reassesses each institution’s rate every 2 to 4 years to ensure that expenses have not changed.

Cuts to F&A would have a real impact on Montana’s universities and their communities

Capping indirect costs at 15%, as proposed by the national institutes of health would necessitate painful cuts to core research facilities and staff.

- ⇒ *An NIH 15% IDC cap is, at minimum, a **\$3.7m annual cut to the MUS***
- ⇒ *If all federal agencies impose a 15% cap it would result in an **~\$28m annual cut to the MUS***

F&A funds support real costs of research.

- ⇒ 28% research building expenses, including bonds, leases, O&M, and equipment
- ⇒ 32% research core facilities and centers
- ⇒ 28% central research administration, compliance and audit
- ⇒ 11% faculty support, including start-up funding for new research faculty to set up labs
- ⇒ 2% internal research development awards and student research support

The proposed NIH cuts would amount to a 6% cut in funding to the university system’s research core. A federal government-wide 15% cap is a 49% cut. If faced by cuts of this size, the MUS would be required to:

- ⇒ Combine or close many research core facilities used both by faculty researchers and industry
- ⇒ Scale back development of new research facilities, including an increasing share of projects with substantial industry partnership / use
- ⇒ Cancel or scale back internal research development grant programs and funds used to recruit top-tier research faculty to Montana institutions.
- ⇒ Reduce staffing. Currently approximately 700 students, faculty, and staff are partly or wholly funded through IDCs.
- ⇒ Scale back graduate education offerings and funding support for undergraduate research

The end result would be less cutting-edge research and high-tech innovation in Montana

- Montana universities’ research strength has been key to new industries that serve the state. Growing clusters of biotechnology, ag tech, optics and photonics, and defense firms either grew out of university research or leverage research facilities and personnel supported through F&A.
- Reductions would diminish Montana researchers’ ability to pursue breakthroughs relevant to Montana, from lessening the spread of brucellosis, halting invasive species, addressing opioid addiction, increasing agricultural productivity and better serving veteran’s health needs.
- Likelihood that both UM and MSU lose their R1 research university status

Examples of facilities, equipment cores, and programs seeded or supported through F&A

More than 30 core facilities that provide services to researchers across the MUS are supported substantially through F&A recover. This is only a selected list of facilities and equipment cores.



Applied Research Lab – MSU-Bozeman

The applied research lab provides a facility for secure research and development of technologies relevant to US defense and national security. The lab is used not only by MSU faculty, students and staff, but also by Montana industry executing secure DoD and DHS contracts.

Lubrecht Forest – University of Montana

Lubrecht Forest is a testing ground for forest management practices. In part through F&A funds, the Forest will be used by the Headwaters Tech Hub to develop a rough-terrain and precision forestry testing and proving ground for vehicles and lidar systems developed by industry in Montan.



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F&A funds help to sustain the Center's Materials Testing Laboratory and Analytical Testing Laboratory. The Center is leading efforts to develop new methods to recover and process critical minerals from Montana-based resource streams.

FLBS – Freshwater Analysis Lab

The freshwater analysis lab provides analytical services to UM researchers working on environmental and ecosystem management research. The facility also works with researchers and state and federal government to develop novel and experimental analytical methods



The Montana Microfabrication Facility – Montana State University

The MMF specializes in photo and electron beam lithography, wet and dry etching, sputter deposition, thermal and electron beam evaporation and chemical vapor deposition. University researchers and industry clients are active in a variety of applications and research areas, including: Optics and Silicon Photonics, Micro- and Nano-ElectroMechanical Systems, and Microfluidics and Sensors.

U.S. Department of Education “Dear Colleague” Letter

-Ali Bovingdon, MUS Chief Legal Counsel



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Ali Bovingdon, Chief Legal Counsel
Hannah Tokerud, Associate Legal Counsel

To: Clayton T. Christian, Commissioner of Higher Education

From: Ali Bovingdon, Chief Legal Counsel

Date: 02/19/2025

Re: February 14, 2025 Dear Colleague Letter issued by the United States Department of Education, Office of Civil Rights

The February 14, 2025 Dear Colleague Letter from the Department of Education (“ED letter”) reaffirms the existing legal requirements under Title VI of the Civil Rights Act of 1964, the Equal Protection Clause of the United States Constitution, and other relevant authorities.

Specifically, the letter states that “[f]ederal law prohibits covered entities from using race in decisions pertaining to admissions, hiring, promotion, compensation, financial aid, scholarships, prizes, administrative support, discipline, housing, graduation ceremonies, and all other aspects of student academic, and campus life. Put simply, educational institutions may neither separate or segregate students based on race, nor distribute benefits or burdens based on race.”

The U.S. Supreme Court’s 2023 decision in *Students for Fair Admissions v. Harvard* held that “[e]liminating racial discrimination means eliminating all of it.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 207 (2023). The Court noted that “[a]ny exception to the Constitution’s demand for equal protection must survive a daunting two-step examination known in our cases as ‘strict scrutiny.’” *Id.* Therefore, classification or assignment of students based on their race is unlawful, unless the classification satisfies strict scrutiny. This means that any use of race must be “narrowly tailored—meaning necessary—to achieve” a compelling state interest. *Id.*

Following that decision, the Montana University System (“MUS”) reviewed its admission practices and determined that no institution of the MUS uses race-based classifications in their admissions processes. The MUS admission criteria for traditional students require a student to meet one of the following criteria: (1) earn at least a 2.5 high school GPA; (2) rank in the top half of the school’s graduating class; or (3) earn an ACT composite score of 22 or higher, or SAT total score of 1120 or higher (exception: MSU-Northern: ACT score of 20, SAT score of 1050). A non-traditional student must provide one of the following: an official high school transcript listing graduation date; an official high school equivalence completion assessment designated by the Board of Public Education; or a Compass proficiency test result. The MUS is a universal admit system, and a student who meets one of the required criteria is automatically admitted.

We are also able to affirm that our employment and educational policies and practices comply with the DOE letter. Board of Regents policy expressly provides that “[e]ach campus of the Montana University System shall insure that no employment or educational policy is discriminatory on the basis of race, color, religion, creed, political ideas, sex, gender identity, sexual orientation, age, marital status, physical or mental disability, national origin, or ancestry.” See Policy 703—Non-Discrimination (emphasis added). The MUS does not consider race in hiring, compensation or any other aspect of employment, nor do campuses “separate or segregate students based on race” or “distribute benefits or burdens based on race.”

The MUS does work collaboratively with tribal governments to increase the recruitment and retention of tribal students. Initial review of the policy of the state legislature and the Board of Regents to allow for tuition waivers for tribal students indicates the waivers are permissible under U.S. Supreme Court precedent. The Supreme Court has recognized that distinctions based upon tribal enrollment are a political classification, not a classification based upon race.

In *Morton v. Mancari*, the U.S. Supreme Court described the special relationship between Congress and the tribes. The Court noted that the issue of whether an employment preference for Native Americans violated the Civil Rights Act turned on “the unique legal status of Indian tribes under federal law and upon the plenary power of Congress, based on a history of treaties and the assumption of a ‘guardian-ward’ status, to legislate on behalf of federally recognized Indian tribes.” The Court further explained that “[t]he plenary power of Congress to deal with the special problems of Indians is drawn both explicitly and implicitly from the Constitution itself. Article I, § 8, cl. 3, provides Congress with the power to ‘regulate Commerce . . . with the Indian Tribes,’ and thus, to this extent, singles Indians out as a proper subject for separate legislation. Article II, § 2, cl. 2, gives the President the power, by and with the advice and consent of the Senate, to make treaties. This has often been the source of the Government's power to deal with the Indian tribes.” *Morton v. Mancari*, 417 U.S. 535, 551-552 (1974).

The Court found that the preference at issue in the case was not a racial preference, but a political one, noting “[t]he preference is similar in kind to the constitutional requirement that a United States Senator, when elected, be ‘an Inhabitant of that State for which he shall be chosen,’ Art. I, § 3, cl., or that a member of a city council reside within the city governed by the council.” *Id.* at 54. The *Mancari* decision remains good law. See *Haaland v. Brackeen*, 599 U.S. 255, 273, 275 (2023) (citing *Mancari* in support of the conclusion that Congress has “well established and broad” power to legislate with respect to the tribes).

While our review shows that the MUS is in compliance with the guidance from ED, campuses should be vigilant to ensure that they do not have programs or practices that do not provide universal access or that segregate students or distribute benefits or burdens based on race.