

## AAUP Analysis of Department of Education's "Compact 2.0"

Secretary Linda McMahon's August 3, 2026, announcement should be read in the context of the administration's 2025 higher education "compact," which offered access to federal benefits in exchange for institutional acceptance of a detailed list of government demands. The AAUP and other higher education organizations opposed that compact as imposing political litmus tests and governmental control over whom universities teach, what they teach, and who teaches.

The new call is rhetorically softer and does not presently specify consequences. Nevertheless, it is reasonable to ask whether the requested statements will later be used to construct a compliance regime. Universities should seek express assurance that responding—or declining to respond—will have no bearing on federal grants, contracts, investigations, enforcement decisions, or other treatment by the government.

Universities should not be made answerable to the political program of a particular administration. The Department of Education may enforce the law and administer programs authorized by Congress. It may not dictate whom faculty hire, what they teach, which research questions they pursue, which scholarly perspectives count as "relevant," or whether institutions publicly endorse the government's preferred conception of their mission. Public confidence in higher education will be restored through affordability, independent research, academic freedom, and shared governance.

The problem here is that the department is asking presidents and governing boards to **publicly commit themselves to a federally framed reform program that reaches faculty hiring, evaluation, curriculum, research priorities, student protest, academic standards, and the purposes scholarship should serve.** That confuses public accountability with political supervision of higher education.

### **1. The department is asking presidents and boards to make promises they do not have unilateral authority to make.**

The letter is directed to presidents and governing boards, but many of its questions concern matters over which the faculty have primary responsibility: whom to appoint and promote, how academic work should be evaluated, what perspectives are relevant within a discipline, how students should be assessed, how AI should be used in teaching, and which research questions merit pursuit. Under the AAUP's foundational governance principles, faculty members have primary responsibility for curriculum, instruction, research, degree requirements, and faculty status because scholars in a field possess the relevant professional competence. Presidents and boards cannot credibly pledge to reorganize those matters before consultation with—and meaningful decision-making by—the faculty.

Shared governance is the institutional mechanism through which academic decisions remain grounded in knowledge rather than political preference.

### **2. Congress expressly prohibited the Department of Education from becoming a national academic supervisor.**

The Department of Education Organization Act provides that no provision of a program administered by the Secretary of Education or another departmental officer may be construed to authorize federal direction, supervision, or control over an educational institution's curriculum, program of instruction, administration, or personnel, except to the extent authorized by law. The General Education Provisions Act contains a parallel prohibition, providing that no provision of an applicable program may be construed to authorize federal control over curriculum, instruction, administration, personnel, or the selection of library resources, textbooks, and other printed or published instructional materials.

Those statutes prevent the department from converting broad political preferences into federal standards governing faculty hiring, academic programs, teaching practices, research priorities, or institutional administration.

The present announcement is framed as an exhortation, so the strongest statutory objection would arise if the department begins to use institutional responses—or refusals to respond—as criteria in grantmaking, contracting, investigations, regulatory treatment, or other exercises of federal authority.

### **3. “Intellectual pluralism” cannot become a federally administered system of viewpoint balancing.**

Intellectual pluralism is produced through open inquiry, professional judgment, and evidentiary standards—not by requiring every college and university to exhibit a politically acceptable distribution of viewpoints. Academics evaluate scholarship according to the standards of the field, not according to whether a political official believes that every “relevant perspective” has received sufficient representation.

The danger is particularly acute because the secretary expressly links “intellectual pluralism” to faculty hiring and evaluation. That invites political litmus tests: Applicants and faculty members could be assessed not on scholarly quality but on whether their appointment would produce a preferred ideological balance. The AAUP has long warned that legislatively or politically mandated “viewpoint diversity” can become a mechanism for political control over appointments.

The recent eleventh circuit decision in *Pernell v. Florida Board of Governors* reinforces constitutional concerns. The court held that broadly framed, viewpoint-based restrictions on public university classroom speech violated the First Amendment and rejected Florida's argument that public funding transformed professors' academic speech into government speech subject to plenary political control. Although the decision is binding only within the eleventh circuit, its reasoning speaks directly to any federal attempt to establish an official conception of permissible or required academic viewpoints.

### **4. A requested public statement is a nicer way of asking for a compelled political pledge.**

The secretary is not merely asking universities to provide neutral data. She is urging every institution to publish a statement committing itself to implementing reforms framed by the administration. A genuinely voluntary invitation does not itself establish a First Amendment violation. But the constitutional analysis changes if federal funds, contracts, investigations, enforcement decisions, or

other benefits and burdens are tied to an institution's willingness to issue the statement or embrace the administration's positions.

In *Agency for International Development v. Alliance for Open Society International*, the Supreme Court held that the federal government could not condition funding on an American organization's adoption of the government's preferred policy position. The government may define the activities it chooses to fund, but it ordinarily may not leverage funding to compel a recipient to profess the government's viewpoint as its own. A requirement that universities publicly commit to politically prescribed positions on "merit," faculty viewpoints, protest, research priorities, or "American interests" would raise the same compelled-speech and unconstitutional-conditions concerns.

#### **5. The letter presents a selective and politically narrow conception of free speech.**

The secretary's formulation treats protesters as the principal threat to open inquiry while saying nothing about legislative censorship, donor pressure, ideologically motivated trustees, politically directed investigations, the cancellation of research funding, or administrators disciplining faculty and students for controversial expression. Free speech cannot mean protecting politically favored speakers while treating protest and dissent primarily as security problems.

A genuine commitment to free speech protects peaceful protest, controversial teaching, unpopular speakers, extramural faculty expression, and the ability of students to challenge institutional and governmental power.

#### **6. The "loan repayment" standard reduces education to a debt-servicing instrument.**

The secretary asks institutions to ensure that "every academic program equips students to repay their loans." That formulation naturalizes high student debt and then evaluates academic programs by whether graduates can service it. It effectively makes private earnings—not education, democratic participation, knowledge creation, public service, or cultural and scientific advancement—the measure of academic legitimacy.

Many socially essential occupations do not command high salaries, and many forms of foundational scholarship do not produce an immediate labor market return. The appropriate response to unaffordable higher education is greater public investment, lower costs, transparency, and reduced dependence on debt—not pressure to eliminate or marginalize programs that do not generate sufficiently high private earnings.

#### **7. "Prioritizing American interests" risks becoming a national-loyalty test for research.**

The letter makes the broad demand that campuses and faculties "advance American security interests" and "prioritize American interests." Those terms are undefined and inherently political. Scholarship often serves the public precisely by questioning official claims, exposing institutional failures, criticizing national policy, and pursuing knowledge whose value cannot be predicted in advance. A federal expectation that research affirm the administration's understanding of national interest could chill

critical scholarship and international collaboration while casting suspicion on foreign students and scholars.