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Summary of Significant Changes or Clarifications to Office of Management and Budget (OMB) Grants Management or Audit Requirements

NOTE: This chart highlights changes most relevant to SEAs for U.S. Department of Education programs and does not include all changes made by OMB.

Subpart B – General Provisions			
Section	**Title**	**Summary of Text**	**Comments/Remaining Questions**
200.102	***Exceptions***	Primarily new, with some clarifications. Delineates options for seeking exceptions to the Omnicircular's requirements. • There are no exceptions from audit requirements. • OMB may allow exceptions in unusual circumstances for classes of Federal awards or recipients, which will be published on OMB's website. • Federal agencies may authorize exceptions on a case-by-case basis for individual recipients. • Federal agencies may propose new strategies. • Federal agencies may be more restrictive when approved by OMB or required by law.	It remains to be seen how open OMB and/or the U.S. Department of Education (ED) will be to exception requests, but this may facilitate discussion about administrative burdens in ED programs.
200.109	***Review date***	New. OMB will review these rules at least every five years after December 26, 2013.	A built-in review process may give grant recipients an opportunity to engage with OMB on grants management topics on a more regular basis.
200.112	***Conflict of Interest***	New. Federal awarding agencies must establish conflict of interest policies for their Federal awards. Grant recipients "must disclose in writing any potential conflict of interest" to the Federal awarding agency or pass-through entity in accordance with the Federal awarding agency's policy.	"Conflict of interest" is not defined by OMB. What and when recipients will have to disclose will depend on ED's conflict of interest policy.
200.113	***Mandatory Disclosures***	New. Grant recipients must disclose in a timely manner, in writing, to the awarding agency all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.	The circumstances under which a recipient will have to make a written disclosure are still unclear.

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<td>200.201</td>
<td>Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts</td>
<td><u>New</u>. Federal agencies have the option to use “fixed amount awards” where payment is tied to performance and results. The award amount is negotiated using the cost principles, and there is no governmental review of the actual costs incurred by the recipient in performance of the award. Payment can be made in several ways including, but not limited to:

In several partial payments based on agreed upon milestones or triggering events,
On a unit price basis, for defined unit(s) at a defined price(s), or
In one payment at completion of the award.

Fixed amount awards cannot be used in programs with a required cost share or match.

If a fixed amount award is used:

The recipient must certify in writing that the project or activity was completed, or the level of effort was expended,
If the required level of activity/effort was not carried out the amount must be adjusted,
Periodic reporting may be required, and
Changes in key staff must receive prior written approval.

“Fixed amount award” is defined in § 200.45.</td>
<td>It is unclear how this will affect K-12 ED programs. Most of ED’s K-12 programs require ED to follow certain formulas when awarding funds, and have rules establishing who can benefit from grant-funded services and the kinds of activities grants can support. Often these rules cannot be waived, so for most ED K-12 programs this option likely is not available.</td>
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<tr><th colspan="4">Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards</th></tr>
<tr><th>Section</th><th>Title</th><th>Summary of Text</th><th>Comments/Remaining Questions</th></tr>
<tr><td colspan="4">The requirements described in Sections 200.204, 200.205, and 200.207 are <u>required</u> only for competitive grants (such as Race to the Top), but may be applied to non-competitive grants, like formula programs (such as Title I, Part A), “where appropriate” (which is not defined) or where required by law. (§ 200.200)</td></tr>
<tr><td>200.204</td><td>Federal awarding agency review of merit of proposals</td><td><u>New</u>. For competitive grants or cooperative agreements, the Federal awarding agency must design and execute a merit review process for applications.

This process must be described or incorporated by reference in the funding opportunity notice.</td><td>This section may make the competitive grant process more transparent, and provide potential grant applicants more information about the review process so they can make better informed decisions about whether to apply.

Federal agencies must also review financial risk, discussed below in § 200.205. OMB separated the merit review process from the financial risk review process based on comments received to an earlier draft of the Omnicircular.</td></tr>
<tr><td rowspan="2">200.205</td><td rowspan="2">Federal awarding agency review of risk posed by applicants</td><td><u>Clarification</u>. Prior to making a Federal competitive award, Federal agencies are required to review information available through databases identified by OMB that house eligibility qualification or financial integrity information.</td><td>Depending on how ED implements this process, it could increase the significance of Single Audits and other financial information.</td></tr>
<tr><td><u>New</u>. For competitive grants, the Federal agency must have a framework in place for evaluating the risks posed by applicants before they receive a Federal award. The evaluation can take into account the quality of the application (but is not required to), and if the agency determines an award will be made, it can place special conditions on the award corresponding to the degree of risk.

In evaluating risk, the Federal agency may consider items such as:
Financial stability,
Quality of management systems,
History of performance,
Audit reports, or
Ability to implement.
Federal agencies must continue to comply with suspension and debarment rules, and require recipients to do so as well.</td><td>ED will have significant discretion in defining the risk framework for competitive grants. Depending on how ED implements this requirement, there could be an increased focus on technical compliance rules.</td></tr>
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<td>200.207</td>
<td>Specific conditions</td>
<td><u>Enhanced authority</u>. Federal agencies and pass-through entities – such as SEAs – may impose specific conditions based on:

the criteria in Section 200.205, or
when an applicant/recipient has a history of failure to comply with the terms and conditions of an award, or
failure to meet performance goals as described in the award, or
is not otherwise responsible.

Award conditions may include items such as:

Making payments on a reimbursement basis rather than as an advance,
Withholding authority to move to the next phase of a grant until the recipient can provide evidence of acceptable performance,
Requiring additional financial reports,
Requiring additional monitoring,
Requiring technical or management assistance, or
Establishing additional prior approvals.

The Federal agency or pass-through must notify the grant recipient about:

The nature of the requirements,
Why they are being imposed,
The nature of the action needed to remove the additional requirements, if applicable,
Timelines for completing the requirements, if applicable, and
How the recipient can request reconsideration of the additional imposed requirements.

The conditions must be removed promptly once the underlying issues have been corrected.</td>
<td>Federal agencies and SEAs currently have authority to impose conditions on “high-risk” recipients, but the Omnicircular appears to make it easier to impose conditions without the need to make a formal “high-risk” designation. Clarification about ED’s interpretation of this section would be helpful.

The authority to impose specific conditions may make it easier for SEAs to ensure districts or other recipients spend and manage grant funds appropriately when the state has concerns about program performance or compliance issues. ED will have the same authority to impose conditions on states.</td>
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200.210	***Information contained in a Federal award***	Clarification. Provides guidance about what must be contained in a Federal award, including a standard set of 15 data elements. (§ 200.210(a))	This standardization was designed to reduce administrative burden for grant recipients.
		New. Requires Federal awarding agencies to include in the Federal award an indication of the timing and scope of expected performance as related to the outcomes intended to be achieved by the program. Federal agencies also can include specific performance goals, indicators, milestones, or expected outcomes with an expected timeline for accomplishment. (§ 200.210(d))	It is unclear how ED will implement this subsection, and how that implementation will affect Federal education programs.

Subpart D – Post-Federal Award Requirements Standards for Financial and Program Management			
Section	**Title**	**Summary of Text**	**Comments/Remaining Questions**
200.301	***Performance measurement***	Clarification. Federal agencies must require recipients to use OMB-approved standard governmentwide information collections to provide financial and performance information. As appropriate and in accordance with approved governmentwide information collections, Federal agencies must require recipients to relate financial data to performance accomplishments of the Federal award and must provide cost information to demonstrate cost effective practices. Recipients' performance should be measured in a way that will help the Federal agency and other recipients improve program outcomes, share lessons learned, and spread the adoption of promising practices.	OMB states that these performance measurement requirements do not change OMB's existing policy. It is not clear what impact this clarification will have on ED formula programs. At the very least, this signals continued Federal interest in "return on investment" type analyses.
200.302	***Financial Management***	Similar to existing. Each state must expend and account for Federal awards in accordance with state laws and procedures. In addition, the financial management systems of states and other recipients, including compliance records, must be sufficient to permit the preparation of required reports and the tracing of funds to a level of expenditures adequate to establish that funds have been used as required. (§ 200.302(a))	This is similar to the current financial management system requirements for states in 80.20(a) of the Education Department General Administrative Regulations (EDGAR).
		Clarification and new. The financial management system (FMS) of "non-Federal entities" must provide for: 1. Identification in its accounts of all Federal awards. 2. Accurate, current, and complete disclosure of the financial results of each Federal award. 3. Records that adequately identify the source and application of funds for Federally-funded activities.	This section contains new requirements to develop written procedures on paying grant funds and written procedures for determining the allowability of costs. Further clarification of the applicability of subsection 200.302(b) to states and to school districts/schools receiving "state-administered" program funds is needed.

		4. Effective control over and accountability for all funds, property, and other assets (and adequately safeguard all assets so they are used solely for authorized purposes). 5. Comparison of budgeted amounts to expenditures. 6. Written payment procedures (new). 7. Written procedures to determine the allowability of costs (new). (§ 200.302(b)(1)-(7))	*Applicability to states* Further clarification is needed, but this section may impose new FMS standards on states. Under current rules, states must use an FMS that meets state law requirements, but state systems do not have to incorporate more specific FMS standards that apply to non-state entities. Section 200.302(a) still requires states to use an FMS that meets state law requirements, but then Section 200.302(b) requires "each non-Federal entity" to meet more specific, detailed standards, including the requirement to have written payment and allowability procedures. Because the Omnicircular's definition of "non-Federal entity" includes states (see § 200.69), it appears these additional requirements apply to states. This would be a change in Federal policy. Additional clarification is needed about the applicability of FMS requirements to states. *Applicability to school districts/schools* Clarification is also needed about the rules that apply to school districts and schools in "state-administered programs," meaning grants that are awarded to states and then subgranted to school districts/schools. State-administered programs include Title I-A, Title II-A, Title III-A, IDEA-B, and Perkins. Under current rules, school districts/schools that receive "state-administered" grants must use an FMS that meets

			state law requirements. Like states, they are not required to incorporate more specific FMS standards that apply to non-state entities. This deference to state law for state-administered programs was established by the preamble to OMB Circular A-102, which is superseded by the Omnicircular, so it would appear the more specific requirements outlined in the Omnicircular now apply to school districts/schools.
200.303	***Internal Controls***	New. Recipients must: • Establish and maintain effective internal controls, • Comply with Federal statutes, regulations, and terms and conditions of awards, • Evaluate and monitor compliance, • Take prompt action to resolve non-compliance, and • Safeguard protected personally identifiable and sensitive information. "Internal controls" and "Internal control over compliance requirements for Federal awards" are defined in §§ 200.61 and 200.62. "Personally Identifiable Information" and "Protected Personally Identifiable Information" are defined in §§ 200.79 and 200.82.	Recipients of Federal funds have always been expected to have internal controls, however, the concept of "internal controls" is now repeated throughout the Omnicircular in an effort to encourage recipients "to better structure their internal controls earlier in the process." Although the Omnicircular emphasizes the importance of internal controls, it does not require recipients to take any specific action or implement any specific system. Instead, OMB gives recipients discretion to decide how best to safeguard Federal funds in ways that are appropriate given their needs and circumstances. To help recipients identify best practices for internal controls, the Omnicircular references three guidance documents recipients should consider. Compliance with these guidance documents is not mandatory, however. An FAQ document issued by OMB in February 2014 stated: While non-Federal entities must have effective internal control, there is no expectation or requirement that the non-Federal entity document or evaluate internal controls prescriptively in accordance with these three documents or that the non-Federal entity or auditor reconcile technical differences between

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Further clarification about ED's expectations with regard to internal controls is needed.

Additional clarification about ED's expectations on the safeguarding of personally identifiable and other sensitive information is also needed.</td></tr>
<tr><td>200.305</td><td>Payment</td><td><u>Clarification</u>.
Payments to states are governed by Treasury-State cash management agreements. (§ 200.305(a))
Payments to other kinds of recipients are governed by this section, and can be made through:
Advances, if the recipient maintains written procedures that minimize the time elapsing between the transfer of funds and disbursement, and meets the Omnicircular's financial management standards,
Reimbursements, if the recipient cannot meet the standards for an advance, because of specific conditions placed on the recipient's grant, or when requested by the recipient, or
A working capital advance, where funds are advanced for an initial period, and are then reimbursed. (§ 200.305(b))</td><td>In general, this is consistent with current law. Payments the Federal government makes to states are governed by a Federal law known as the Cash Management Improvement Act (CMIA), and payments to other recipients are governed by ED's general administrative regulations (EDGAR). EDGAR, however, never differentiated between payments to states and payments to other kinds of recipients, which caused confusion.

Additional clarification is needed, however, about the applicability of § 200.305 to payments a state makes to its subgrantees in its role as a pass-through entity (e.g. when a state pays Title I-A or IDEA-B funds to a school district). Section 200.305 references pass-throughs in some places, but not others. It is not clear whether this is intentional.</td></tr>
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		Clarification on timing of advance payments. Advance payments must be limited to the minimum amounts needed to pay for grant-related costs, and be timed as close as is administratively feasible to meet a recipient's actual, immediate need for cash. (§ 200.305(b)(1))	Under current law, non-state grantees or subgrantees (such as school districts/schools) can receive "advance payments" – i.e. receive Federal funds before they spend money on a grant related cost – if they "minimize the time elapsing between the transfer of funds and disbursement by the grantee or subgrantee." Some auditors and oversight entities imposed a "three-day" timeframe on such payments, requiring recipients to spend the money within three days of receiving the advance. The Omnicircular does not mandate any particular timeframe, and instead requires payment to be made "as close as is administratively feasible" to meet a recipient's cash needs.
		New deadline for reimbursements. When payment is made on a reimbursement basis, Federal agencies and pass-through entities must make payment within 30 calendar days of a reimbursement request unless the Federal agency or pass-through reasonably believes the request is improper. (§200.305(b)(3))	This 30-day timeline is new for states and local governments. For SEAs that pay districts and other subgrantees on a reimbursement basis, it may require the SEA to accelerate the payment process. In some cases this will limit the time the state has to review such requests. It also may require coordination with other state agencies involved in the payment process, such as the state treasury.

		New. Advance payments of Federal funds must be deposited into interest bearing accounts unless certain exceptions apply. Interest earned on Federal funds may now be paid annually, instead of "promptly," and should be remitted to the U.S. Department of Health and Human Services. Interest of up to $500 maybe retained for administrative expenses. (§ 200.305(b)(8) and (9))	ED's current regulations do not specifically require recipients to maintain Federal funds in interest bearing accounts. This may help to resolve questions about how to calculate and pay interest earned on Federal funds, issues that have been the subject of several Office of Inspector General audits.
200.313	***Equipment***	Potential change for school districts/schools. States must use, manage, and dispose of equipment acquired under a Federal award in accordance with state laws and procedures. Other non-Federal entities must follow the specific requirements detailing use, management, and disposition requirements. (§ 200.313(c)-(e))	Further clarification is needed about what equipment rules apply to school districts/schools that receive "state-administered" ED grants. Currently, school districts/schools that receive "state-administered" grants must follow state equipment requirements. This deference to state law for state-administered programs was established by the preamble to OMB Circular A-102, which is superseded by the Omnicircular, so it would appear these more specific requirements now apply. As a practical matter, applying the Omnicircular's equipment rules in state-administered programs may not feel like a change to many school districts. Many states require school districts/schools to follow the equipment rules in ED's administrative regulations, which, for the most part, are consistent with the Omnicircular.

		Definitions related to equipment: Acquisition cost. The definition of the "acquisition cost" of equipment now includes the item itself *as well as* "any attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it was required." (§ 200.2)	This clarifies that inexpensive items bought and used together should be treated as equipment when their aggregate cost is above the equipment threshold. For background, there has been confusion over how to treat inexpensive items that are bought and used together – such as a laptops and mobile carts used together as mobile computer labs. While the individual cost of each item may be below the equipment threshold ($5,000 unless the state uses a lower amount), sometimes the aggregate cost of the entire purchase exceeds the equipment threshold. This definition provides more clarity.
		Definitions related to equipment: Supplies. The definition of supplies states that a computing device is a supply if the acquisition cost is less than the equipment threshold. (§ 200.94)	This could potentially make managing a recipient's inventory of computing devices less burdensome since individual property records will not be required for each device (unless required by state or local law). However, auditors, monitors and other oversight entities may still expect recipients to manage devices more closely than other supplies since they are more vulnerable to theft. Also, as discussed in the internal control section, recipients must take reasonable steps to safeguard personally identifiable information stored on computing devices.
		Clarification. Recipients must make equipment available for other projects or programs supported by the Federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. (§ 200.313(c)(2))	While ED has permitted other programs to use equipment purchased with Federal funds in limited circumstances, the Omnicircular provides more clarity on the circumstances under which this is permissible. Depending on how ED implements this section, this could assist in breaking down silos between funding sources.
200.317	***Procurements by states***	Potential policy change for school districts/schools. States must follow state procurement rules. All other non-Federal entities, including subrecipients of a state, will follow 200.318 General procurement standards through 200.326 Contract provisions.	Further clarification is needed about what procurement rules apply to school districts/schools that receive "state-administered" ED grants. Under current rules, school districts/schools that receive "state-administered" grants

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			must follow state procurement rules, not the more specific rules that are detailed in EDGAR 80.36(b)-(i). This deference to state law for state-administered programs was established by the preamble to OMB Circular A-102, which is superseded by the Omnicircular, so it appears that the more specific rules of § 200.318 - § 200.326 apply to schools districts/schools. Some states currently require school districts/schools to follow the more specific procurement rules in EDGAR 80.36(b)-(i), which, for the most part, are consistent with the Omnicircular's requirements. However, application of these more specific procurement rules may be a significant change for many school districts/schools, particularly with regard to competitive bidding requirements and accompanying thresholds. While the Omnicircular is substantially similar to EDGAR 80.36(b)-(i), the Omnicircular provides more clarity on certain topics, including: • Documented procurement procedures (§ 200.318(a)) • Written standards of conduct regarding conflict of interest standards and the conduct of employees that select, award, and administer contracts (§ 200.318(c)(1)) • Organizational conflicts of interest (§ 200.318(c)) • Micro-purchases (§ 200.320(a)) • Price and cost analysis requirements for every procurement more than the Simplified Acquisition Threshold including contract modifications (§ 200.323) ○ Simplified Acquisition Threshold is defined currently as $150,000 (§ 200.88)

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<tr><td>200.330</td><td>Subrecipient and contractor determinations</td><td><u>Clarification</u>. Pass-through entities must make a case-by-case determination whether an agreement to disburse Federal programs funds casts the party receiving the funds as a subrecipient or a contractor. Federal agencies may supply, and require recipients to comply with, additional guidance to support these determinations.

A subaward is provided to a subrecipient for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship between the non-Federal entity and the subrecipient.

A contract is awarded to a contractor for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship between the non-Federal entity and the contractor.</td><td>This subsection provides additional clarification about the distinctions between a subrecipient and a contractor, which is important because subrecipients and contractors are governed by different requirements.

It remains to be seen if ED will issue guidance to help pass-throughs understand when to treat an entity as a subrecipient versus a contractor. If ED issues guidance that differs from other Federal agencies, it could create burden for SEAs that receive awards from multiple Federal agencies.</td></tr>
<tr><td>200.331</td><td>Requirements for pass-through entities</td><td><u>Clarifications and new requirements</u>. Pass-through entities (such as SEAs in state-administered programs) must:
Identify subawards to subrecipients and include certain required information in the subaward instrument.
Evaluate each subrecipient's risk of noncompliance with Federal requirements. Risk factors include: subrecipient's prior experience with the same or similar subawards, prior audit or monitoring findings, new personnel or changed systems.
Consider imposing specific conditions on the subaward if appropriate to address performance or compliance concerns.
Monitor subrecipients as necessary to ensure compliance and that subaward performance goals are achieved.
This monitoring must include:
Reviewing financial and programmatic reports from subrecipients,
Following-up and making sure subrecipients take appropriate corrective actions to resolve deficiencies detected through</td><td>The new rules make clear that monitoring can encompass a range of activities such as training, technical assistance, reporting, and on-site reviews. The new rules also make clear states have the flexibility to tailor their monitoring processes to each subrecipient's level of risk. This may help reduce burden at both the state and local level.</td></tr>
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audits, on-site reviews, and other means, and
Issuing a management decision for audit findings.
Depending on the subrecipient's level of risk, the following monitoring tools may be useful to ensure compliance and achievement of performance goals: training and technical assistance, on-site reviews, or "mini audits" of certain aspects of a subrecipient's operations (known as "agreed upon procedures" engagements).
Verify every subrecipient obtains a single audit, if required.
Adjust the pass-through entity's own records as needed to account for the results of a subrecipient's audit or monitoring findings. For example, if a cost is disallowed at the subrecipient level, ensure the cost is adjusted in the SEA's records as needed to make sure it is not charged to Federal funds.
Take enforcement action against noncompliant subrecipients.
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<tr><td rowspan="2">200.335</td><td rowspan="2">Methods for collection, transmission, and storage of information</td><td><u>New requirement</u>. Federal agencies and pass-through entities (such as SEAs) should collect, transmit, and store Federal grant-related information in "open and machine readable formats" whenever practicable. At the same time, however, Federal agencies and states must always provide or accept paper versions of Federal grant-related information when requested.</td><td>It is unclear what impact this will have on ED programs.

This is a new requirement and was included in response to a May 2013 Executive Order on Making Open Machine Readable the New Default for Government Information.</td></tr>
<tr><td><u>Clarification</u>. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. Electronic duplications of paper records are acceptable as long as they are subject to periodic quality control, reasonable safeguards are in place to protect against alteration, and remain readable.</td><td>This has the potential to reduce paperwork burdens, but all records are subject to privacy rules such as FERPA and the new Omnicircular requirement to protect personally identifiable and sensitive information.</td></tr>
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200.338	***Remedies for noncompliance***	Clarification. Federal agencies and pass-through entities may attempt to resolve non-compliance through specific conditions. If it is determined that noncompliance cannot be remedied by imposing additional conditions, the entity can: • Temporarily withhold grant payments, • Disallow costs, • Wholly or partly suspend or terminate the grant award, • Initiate suspension or debarment proceedings, • Withhold further Federal awards for the project or program, or • Take other remedies that are legally available.	This could promote the use of less punitive approaches to non-compliance by encouraging Federal agencies and pass-through entities to consider whether specific conditions can remedy noncompliance before taking more serious enforcement action.
200.341	***Opportunities to object, hearings and appeals***	Clarification. Upon taking any remedy for non-compliance, the Federal agency must provide the recipient an opportunity to object and provide information and documentation challenging the suspension or termination action. The Federal agency or pass-through (like an SEA) must comply with any requirements for hearings, appeals, or other administrative proceedings to which the entity is entitled.	Further clarification is needed to understand the extent to which subrecipients (such as LEAs in state-administered programs), have the opportunity to object, and have access to hearings and appeals.
200.344	***Post-closeout adjustments and continuing responsibilities***	Clarification. The closeout of a Federal grant does not preclude the right of the Federal agency or pass-through to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through must make a cost disallowance determination and notify the non-Federal entity within the Omnicircular's three-year record retention period.	It is unlikely this clarification will affect ED programs because Federal law gives ED five years to recover misspent funds. In general, Federal law will trump the Omnicircular, meaning the five year "statute of limitations" would trump the shorter three year record retention timeframe.

Subpart E – Cost Principles			
Section	**Title**	**Summary of Text**	**Comments/Remaining Questions**
200.400	***Policy guide***	Clarification. Among other fundamental premises, the cost principles are based on premises that the recipient: • Is responsible for the efficient and effective administration of the Federal award (§ 200.400(a)), • Assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award (§200.400(b)), • In recognition of its own unique combination of staff, facilities, and experience, has primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award. (§ 200.400(c))	This clear statement from OMB that grant recipients are responsible for administering their Federal funds efficiently and effectively, and are primarily responsible for determining how to administer their Federal funds based on their unique conditions, may help facilitate a conversation about the roles ED, SEAs, and LEAs play when administering ED programs.
200.405(d)	***Allocable costs; Direct cost allocation principles***	Clarification. Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the costs should be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then costs may be allocated or transferred to benefitted projects on any reasonable basis.	This could make it easier to divide the total cost of an initiative among several Federal grants without having to do a line-by-line analysis of each individual cost. Currently recipients are permitted to use different funding sources to support different parts of a comprehensive initiative so long as the recipient can prove that each cost charged to a grant is permissible under that specific grant. This typically requires a line-by-line analysis of the individual costs making up a comprehensive initiative. Alternative funding models are permitted, but this authority is rarely used because: (1) the legal authority is buried in an appendix to OMB Circular A-87 so it is not widely known, and (2) there is little, if any, practical guidance on how this might work in practice.

			The Omnicircular addresses the first of these challenges: it now very clearly permits recipients to split the cost of a comprehensive initiative across multiple grants using "any reasonable documented basis" when a cost-by-cost approach would be prohibitively difficult.
200.413(c)	***Direct costs***	Clarification. The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging may be appropriate where all of the following are met: 1. Administrative or clerical services are integral to a project or activity, 2. Individuals involved can be specifically identified with the project or activity, 3. Such costs are explicitly included in the budget or have the prior written approval of the Federal agency, and 4. The costs are not also recovered as indirect costs.	This section clarifies when it is appropriate to charge administrative costs as direct costs.
200.414	***Indirect (F&A) costs***	New. This section includes new provisions that: • Require all Federal agencies to accept negotiated indirect cost rates unless an exception is required by statute or regulation, or when approved by an agency head or delegate in limited circumstances (§ 200.414(c)), • Provide a de minimis indirect cost rate of 10% of Modified Total Direct Costs (MTDC), which may be used indefinitely (200.414(f)), and • Permit recipients that have a negotiated indirect cost rate to apply for a one-time extension of the rate for up to four years (§ 200.414(g)).	These new options are designed to streamline the indirect cost rate process, and through the de minimis rate, eliminate the administrative barriers to obtaining and implementing a rate. Further clarification is needed to understand how the de minimis rate relates to ED programs.
		Definitions related to indirect costs: Modified Total Direct Cost (MTDC). There is clarification that the portion of each subaward and subcontract above $25,000 are excluded from the definition of MTDC (a component of most indirect cost rate calculations). (§ 200.68)	This rule is consistent with longstanding ED policy, but was never specifically articulated in OMB Circular A-87 so it may feel new to some SEAs and LEAs. The exclusion has the practical effect of reducing the indirect costs (i.e. overhead costs) a recipient can charge to Federal grants.

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200.421	***Advertising and public relations***	Clarification. Clarifies that certain advertising costs are allowable, such as for recruitment, procurement, program outreach, and other costs necessary to meet the requirements of the Federal grant.	This should help clarify that in certain limited circumstances advertising and public relations costs can be allowable (such as using Title II, Part A funds for teacher recruitment activities). This has been a point of confusion among auditors in the past.
200.428	***Collections of improper payments***	New. It is allowable for recipients to charge to the Federal award costs incurred to recover improper payments as either direct or indirect costs.	This should help recipients in recovering improper payments.
200.430(i)	***Compensation-Personal Services: Standard for Documentation of Personnel Expenses***	New. Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. The records must: • Be **supported by a system of internal control** which provides reasonable assurance grants are being charged accurately for allowable activities that benefit the grant, • Be part of the recipient's **official records**, • **Reasonably reflect the total activity** for which the employee is compensated, • **Encompass all activities** the employee is compensated for – including any non-Federal activities the employee performs if applicable, • Comply with the recipient's **established accounting policies and practices**, and • **Support the distribution of the employee's salary** among various funding sources, if applicable. (In other words, if a recipient pays an employee's salary with more than one funding source, the records must show that amount each funding source pays is reasonable given the work the employee performed.) (§ 200.430(i)(1)(i)-(viii)	Under current law, employees paid with Federal funds must keep specific "time and effort" records documenting the time they spend on grant activities. Under the Omnicircular these records would no longer be required if the recipient's payroll, human resources and/or other systems can generate records that accurately reflect how its employees work (see language to the left). The Omnicircular does not provide examples of what these records/systems might look like in practice, so additional clarification from OMB and ED will be needed. For the most part, these requirements were adapted from the standards that currently apply to institution of higher education. This is a significant extension of flexibility to state and local governments like SEAs and LEAs.

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		Clarification. States and local governments (like SEAs and LEAs) are permitted to use substitute processes or systems for allocating salaries and wages to Federal awards, which may be used in place of or in addition to the records described above if approved by the Federal agency. Such systems may include, but are not limited to: • Random moment sampling, • Rolling time studies, • Case counts, or • Other quantifiable measures of work performed. (§ 200.430(i)(5))	Substitute systems were permitted under OMB Circular A-87 and remain an option.
		New. Federal agencies are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal agency, these plans are an acceptable alternative to the normal record keeping standards. (§ 200.430(i)(6))	This could provide significant new flexibility. Additional clarification is needed about alternative proposals, and the process ED will use to approve them.
		New. For Federal awards of similar purpose activity or instances of approved blended funding, a recipient may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal agencies. The recipient must submit a request for waiver based on documentation that describes: • The methods of charging costs, • Relates the charging of costs to the specific activity that is applicable to all fund sources, and • Is based on quantifiable measures of the activity in relation to time charged. (§ 200.430(i)(7))	This could provide significant new flexibility for coordinating funding streams across ED programs, and across Federal agencies (such as Head Start from HHS and Title I from ED). Additional clarification is needed about these blended funding proposals, and the process Federal agencies will use to approve them.

		Clarification. Where records do not meet the standards described in § 200.430(i)(1), the Federal government may require personnel activity reports, including prescribed certifications, or equivalent documents. (§ 200.430(i)(8))	Additional clarification is needed for entities to determine when they should rely on traditional time and effort records versus other records as permitted in § 200.430(i)(1). In addition, clarification is needed about what OMB's/ED's expectations are for the contents of a personnel activity report and certifications.
200.432	***Conferences***	Clarification. While generally allowable, conference hosts and sponsors must exercise discretion and judgment in ensuring conference costs are appropriate, necessary, and managed in a manner that minimizes cost to the Federal award.	This section is generally consistent with recent guidance letters from ED about meetings and conferences supported with ED grant funds. While noting that meetings and conferences are allowable, ED cautioned that they should be consistent with the recipient's approved application or plan, relevant to the ED grant program, and that costs should be reasonable and necessary.
		New. Costs related to identifying, but not providing, locally available dependent care are now allowable.	This change is consistent with OMB's goal to encourage recipients to have family-friendly policies.
200.435	***Defense and prosecution of criminal and civil proceeding, claims, appeals and patent infringements***	Change. Costs related to legal proceedings involving violations of Federal law or grant terms generally are unallowable, but may be permitted in limited circumstances.	It appears a recipient that prevails in an administrative or civil case might be able to charge the relevant Federal grants for some of those costs; this would be a change in current Federal policy so additional clarification is needed.

200.474	***Travel costs***	Change. Travel costs are generally allowable, and may be charged on an actual, per diem, or mileage basis so long as they are charged consistently for the entire trip and are consistent with recipients' written travel reimbursement policies for non-Federally funded activities. Temporary dependent care costs incurred as a result of travel is allowable in certain circumstances. If there is no written travel policy, costs must be consistent with Federal General Services Administration policies.	This section is generally consistent with current law, but clarifies what standards apply when recipients do not have written travel policies, and includes new provisions for dependent care costs.

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Subpart F – Audit Requirements			
Section	**Title**	**Summary of Text**	**Comments/Remaining Questions**
200.501	***Audit Requirements***	Change. New higher threshold for single audits. Any entity that spends $750,000 or more of Federal funds in a fiscal year must obtain a single audit. (§ 200.501(a))	This will reduce the number of recipients required to obtain a single audit, particularly small organizations such as charter schools and not-for-profits.
		Clarification. An auditee's compliance responsibility with regard to contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with the terms of the Federal award. Federal compliance requirements normally do not apply to contractors, unless the procurement transaction is structured in a way that makes the contractor responsible for program compliance. In that case, the auditee is responsible for ensuring compliance with federal requirements. (§ 200.501(g))	This provides clarity that, in general, contractors are not subject to Federal compliance requirements.
200.513 (c)	***Responsibilities; Federal awarding agency responsibilities***	New. Federal agencies must use cooperative audit resolution mechanisms to improve Federal program outcomes through better audit resolution, follow-up, and corrective action.	ED already uses a cooperative audit resolution process called CAROI when requested by a recipient, so this may not significantly change any practice at ED. This requirement highlights OMB's effort to focus more on improved program outcomes.
		New. Federal agencies must develop a baseline, metrics, and targets to track, over time, the effectiveness of the Federal agency's process to follow-up on audit findings and on the effectiveness of Single Audits in improving grant recipient accountability and their use by Federal agencies in making award decisions.	It is unclear how ED will take into account audit findings when making award decisions.
200.516	***Audit findings***	Change. Auditors must report: • Significant deficiencies and weaknesses in internal controls and significant instances of abuse, • Material noncompliance, and • Known questioned costs exceeding $25,000 for major programs.	The current reporting threshold is $10,000. This may reduce instances where auditors have to report questioned costs for major programs.

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