

# FREEDOM FROM RELIGION *foundation*

P.O. BOX 750 • MADISON, WI 53701 • (608) 256-8900 • WWW.FFRF.ORG

February 5, 2020

The Honorable Betsy DeVos  
Secretary of Education  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Re: Comment opposing proposed rule entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Direct Grant Programs, State-Administered Formula Grant Programs, Developing Hispanic-Serving Institutions Program, and Strengthening Institutions Program

Document Number: 2019-26937, RIN: 1840-AD45, CFR: 2 CFR 3474, 34 CFR 75, 34 CFR 76, 34 CFR 106, 34 CFR 606, 34 CFR 607, 34 CFR 608, 34 CFR 609

Dear Secretary DeVos:

We are writing on behalf of the Freedom From Religion Foundation (FFRF) to submit a public comment in opposition to the proposed rule, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Direct Grant Programs, State-Administered Formula Grant Programs, Developing Hispanic-Serving Institutions Program, and Strengthening Institutions Program. FFRF is a national nonprofit organization with more than 30,000 members across the country. FFRF protects the constitutional separation between state and church and educates about nontheism.

FFRF strongly opposes this effort to lessen protections for DOE-funded service beneficiaries who object to receiving services from a religious service provider. No one should ever be forced to enter a religious environment, to endure religious rituals, or to support a religious organization in order to receive government-funded services.

This proposed rule enacts substantial changes to the current regulations. All of the proposed changes are hostile to true religious liberty, contribute to a dangerous

mixture of religion and government, and sacrifice the well-being of service beneficiaries for no good reason. The Department should move in the opposite direction, abandoning this proposed rule and instead strengthening protections for nonreligious beneficiaries and others who object to the religious beliefs or practices of their government-funded service provider.

Particularly concerning is the proposed rule's removal of the requirement that religious service providers assist beneficiaries in finding alternative providers when requested to do so. This change is unconscionable and unethical, removing a minimal responsibility on religious service providers, but losing an important protection for beneficiaries.

The proposed rule removes the requirement that religious service providers give written notice to beneficiaries indicating their religious affiliation and beneficiaries' right to request an alternative provider. Beneficiaries of government-funded services have a right to know whether they are receiving services from an organization that works to promote religious values that are inapposite to the beneficiaries' beliefs and values.

Under the new rule, beneficiaries will be blindsided by the religious nature of both their government-funded services as well as their service provider. This is unacceptable and violates the fundamental constitutional principle that American government must remain entirely secular. Among other areas, this will eliminate religious freedom protections for college prep and work-study programs intended to help high school students from low-income families prepare for college, and would also impact federally funded afterschool and summer learning programs for students in high-poverty, low-performing schools.

No one has a right to contract with the Department of Education, and when religious organizations seek such a contract they must understand that the U.S. Constitution requires that extra steps be taken to ensure that government funding will not be inappropriately used to advance religion. There is no legitimate reason to deliberately erode these protections, and doing so strikes a blow at religious liberty by forcing taxpayers to support particular religious entities and forcing many beneficiaries to forego their right of conscience in order to receive a government-funded service.

Fundamentally, this proposed rule weaponizes "religious liberty" by focusing entirely on the religious preferences of service providers while ignoring the rights of

beneficiaries. This focus is backwards and will result in rampant discrimination under the guise of protecting “religious liberty.” Qualifying beneficiaries have a right to DOE services that cannot and should not be dependent on placating the religious views of providers, in violation of the beneficiaries’ personal conscience.

Finally, the proposed rule inexplicably allows for employment discrimination as well. Christian organizations commonly discriminate against “the wrong kind of Christian.” When Aimee Madonna, a Catholic, sought to volunteer to provide foster care with Miracle Hill Ministries — the largest taxpayer-funded foster care agency in South Carolina — Miracle Hill refused because Madonna wasn’t an Evangelical Christian. It also rejected help from Jewish foster families.

This proposed rule will negatively impact nonreligious beneficiaries in particular. Today, more than one-quarter of Americans, 26%, are religiously unaffiliated and nearly 30 percent are non-Christians, either practicing a minority religion or no religion at all.<sup>1</sup> Younger Americans are not just religiously unaffiliated, they are largely atheist or agnostic. A recent survey found that 21 percent of Americans born after 1999 are atheist or agnostic.<sup>2</sup>

FFRF opposes the proposed rule in its entirety and urges the Department to abandon it and to instead take immediate action to protect the religious liberty of *all* service beneficiaries rather than catering to the religious preferences of service providers.

Very truly,



Annie Laurie Gaylor & Dan Barker  
Co-presidents  
ALG/DB:rdj

---

<sup>1</sup> Robert P. Jones & Daniel Cox, *America’s Changing Religious Identity*, Public Religion Research Institute (Sept. 6, 2017), available at [www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf](http://www.ppri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf).

<sup>2</sup> *Atheism Doubles Among Generation Z*, The Barna Group (Jan. 24, 2018), <https://www.barna.com/research/atheism-doubles-among-generation-z/>.