

§ 2.33

§ 2.33 Responsibilities of DOL, DOL social service providers, and State and local governments administering DOL support.

(a) Any organization that participates in a program funded by Federal financial assistance shall not, in providing services supported in whole or in part with Federal financial assistance, or in conducting outreach activities related to such services, discriminate against a current or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, an organization that participates in a program funded by indirect Federal financial assistance need not modify its program activities to accommodate a beneficiary who chooses to expend the indirect aid on the organization's program. This requirement does not preclude DOL, DOL social service intermediary providers, or State or local governments administering DOL support from accommodating religion in a manner consistent with the Establishment Clause of the First Amendment to the Constitution.

(b)(1) Organizations that receive direct Federal financial assistance may not engage in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) as part of the programs or services funded with direct Federal financial assistance. If an organization conducts such explicitly religious activities, the activities must be offered separately, in time or location, from the programs or services funded with direct Federal financial assistance, and participation must be voluntary for beneficiaries of the programs and services funded with such assistance.

(2) This regulation is not intended to and does not restrict the exercise of rights or duties guaranteed by the Constitution. For example, program officials must not impermissibly restrict the ability of program beneficiaries or DOL social service providers to freely express their views and to exercise their right to religious freedom. Additionally, subject to reasonable and permissible time, place and manner restrictions, residential facilities that re-

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ceive DOL support must permit residents to engage in voluntary religious activities, including holding religious services, at these facilities.

(3) Notwithstanding the requirements of paragraph (b)(1) of this section, and to the extent otherwise permitted by Federal law (including constitutional requirements), direct DOL support may be used to support explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), and such activities need not be provided separately in time or location from other DOL-supported activities, under the following circumstances:

(i) Where DOL support is provided to chaplains to work with inmates in prisons, detention facilities, or community correction centers through social service programs;

(ii) Where DOL support is provided to social service programs in prisons, detention facilities, or community correction centers, in which social service organizations assist chaplains in carrying out their duties; or

(iii) Where DOL-supported social service programs involve such a degree of government control over the program environment that religious exercise would be significantly burdened absent affirmative steps by DOL or its social service providers.

(c) If a DOL social service intermediary provider, acting under a contract, grant, or other agreement with the Federal Government or with a State or local government that is administering a program supported by Federal financial assistance, is given the authority under the contract, grant, or agreement to select non-governmental organizations to provide services funded by the Federal Government, the DOL social service intermediary provider must ensure the recipient's compliance with the provisions of Executive Order 13279, as amended by Executive Order 13559, and any implementing rules or guidance. If the DOL social service intermediary provider is a non-governmental organization, it retains all other rights of a non-governmental organization under

the program's statutory and regulatory provisions.

[69 FR 41891, July 12, 2004, as amended at 81 FR 19421, Apr. 4, 2016; 85 FR 82141, Dec. 17, 2020; 89 FR 15716, Mar. 4, 2024]

§ 2.34 Written notice to beneficiaries.

(a) *Notice to beneficiaries of programs supported by direct Federal financial assistance.* Organizations providing social services to beneficiaries under programs supported by direct Federal financial assistance from DOL must give the written notice described in paragraph (c) of this section to beneficiaries and prospective beneficiaries.

(b) *Notice to beneficiaries of programs supported by indirect Federal financial assistance.* The entity responsible for disbursing Federal funds as part of a program of indirect Federal financial assistance administered by DOL must give the written notice described in paragraph (c) of this section to beneficiaries and prospective beneficiaries.

(c) *Contents of the notice.* The required language for the written notice to beneficiaries and prospective beneficiaries is set forth in appendix C to this subpart. The notice includes the following:

(1) The organization may not discriminate against beneficiaries or prospective beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;

(2) The organization may not require beneficiaries or prospective beneficiaries to attend or participate in any explicitly religious activities that are offered by the organization, and any participation by beneficiaries in such activities must be purely voluntary;

(3) The organization must separate in time or location any privately funded explicitly religious activities from activities supported by direct Federal financial assistance;

(4) Beneficiaries and prospective beneficiaries may report an organization's violation of these protections, including any denials of services or benefits by an organization, by contacting or filing a written complaint with DOL's Civil Rights Center, 200 Constitution Avenue NW, Room N-4123,

Washington, DC 20210, or by email to CRCEXternalComplaints@dol.gov; and

(5) Beneficiaries and potential beneficiaries may seek information about whether there are any other federally funded organizations that provide these kinds of services in their area by calling DOL's US2-JOBS helpline toll-free at 1-877-US2-JOBS (1-877-872-5627) or TTY 1-877-889-5627.

(d) *Timing.* The written notice set forth in appendix C to this subpart must be given to prospective beneficiaries before they enroll in the program or receive services from the program. The written notice may be incorporated into materials that are otherwise provided to prospective beneficiaries. When the nature of the service provided or exigent circumstances make it impracticable to provide such written notice in advance of the actual service, organizations must advise beneficiaries of their protections at the earliest available opportunity.

[89 FR 15716, Mar. 4, 2024]

§ 2.35 [Reserved]

§ 2.36 Application to State and local funds.

If a State or local government voluntarily contributes its own funds to supplement activities carried out under the applicable programs, the State or local government has the option to separate out the Federal funds or commingle them. If the funds are commingled, then the provisions of this subpart apply to all of the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal assistance. State funds that are contributed pursuant to the requirements of a matching or grant agreement are considered to be commingled funds.

[69 FR 41891, July 12, 2004. Redesignated at 81 FR 19423, Apr. 4, 2016]

§ 2.37 Effect of DOL support on Title VII employment nondiscrimination requirements and on other existing statutes.

A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C.