

**List of Subjects****34 CFR Part 74**

Accounting, Grant programs, Reporting and recordkeeping requirements.

**34 CFR Part 75**

Accounting, Administrative practice and procedure, Education, Grant programs—Education, Private schools, Reporting and recordkeeping requirements.

**34 CFR Part 76**

Administrative practice and procedure, Compliance, Eligibility, Grant administration, Reporting and recordkeeping requirements.

**34 CFR Part 80**

Accounting, Grant programs, Reporting and recordkeeping requirements.

Dated: September 22, 2003.

**Rod Paige,**

*Secretary of Education.*

For the reasons stated in the preamble, the Secretary proposes to amend parts 74, 75, 76, and 80 of title 34 of the Code of Federal Regulations as follows:

**PART 75—DIRECT GRANT PROGRAMS**

1. The authority citation for Part 75 continues to read as follows:

**Authority:** 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

2. A new § 75.52 is added to subpart A under the heading “Eligibility for a Grant” to read as follows:

**§ 75.52 Eligibility of faith-based organizations for a grant.**

(a)(1) A faith-based organization is eligible to apply for and to receive a grant under a program of the Department on the same basis as any other private organization, with respect to programs for which such other organizations are eligible.

(2) The Department shall not discriminate against a private organization on the basis of the organization’s religious character or affiliation.

(b) The provisions of § 75.532 apply to a faith-based organization that receives a grant under a program of the Department.

(c) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location

from any programs or services supported by a grant from the Department, and participation in any such inherently religious activities by beneficiaries of the programs supported by the grant must be voluntary.

(d)(1) A faith-based organization that applies for or receives a grant under a program of the Department may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(2) A faith-based organization may, among other things—

(i) Retain religious terms in its name;

(ii) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(iii) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(iv) Select its board members and otherwise govern itself on a religious basis; and

(v) Include religious references in its mission statement and other chartering or governing documents.

(e) A private organization that receives a grant under a program of the Department shall not discriminate against a beneficiary or prospective beneficiary of that program on the basis of religion or religious belief.

(f) If a grantee contributes its own funds in excess of those funds required by a matching or grant agreement to supplement Federally funded activities, the grantee has the option to segregate those additional funds or commingle them with the funds required by the matching requirements or grant agreement. However, if the additional funds are commingled, this section applies to all of the commingled funds.

(Authority: 20 U.S.C. 1221e–3 and 3474)

3. Section 75.532(a)(2) is revised to read as set forth below; paragraphs (a)(3) and (4) are removed; and paragraph (b) is removed and reserved.

**§ 75.532 Use of funds for religion prohibited.**

(a) \* \* \*

(2) Equipment or supplies to be used for any of the activities specified in paragraph (a)(1) of this section.

(b) [Reserved]

**PART 76—STATE-ADMINISTERED PROGRAMS**

4. The authority citation for part 76 continues to read as follows:

**Authority:** 20 U.S.C. 1221e–3, 3474, 6511(a), and 8065a, unless otherwise noted.

5. A new § 76.52 is added to subpart A under the heading “Eligibility for a Grant or Subgrant” to read as follows:

**§ 76.52 Eligibility of faith-based organizations for a subgrant.**

(a)(1) A faith-based organization is eligible to apply for and to receive a subgrant under a program of the Department on the same basis as any other private organization, with respect to programs for which such other organizations are eligible.

(2) States shall not discriminate against a private organization on the basis of the organization’s religious character or affiliation.

(b) The provisions of § 76.532 apply to a faith-based organization that receives a subgrant from a State under a State-administered program of the Department.

(c) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a subgrant from a State under a State-administered program of the Department, and participation in any such inherently religious activities by beneficiaries of the programs supported by the subgrant must be voluntary.

(d)(1) A faith-based organization that applies for or receives a subgrant from a State under a State-administered program of the Department may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(2) A faith-based organization may, among other things—

(i) Retain religious terms in its name;

(ii) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(iii) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(iv) Select its board members and otherwise govern itself on a religious basis; and

(v) Include religious references in its mission statement and other chartering or governing documents.

(e) A private organization that receives a subgrant from a State under a State-administered program of the Department shall not discriminate against a beneficiary or prospective beneficiary of that program on the basis of religion or religious belief.

(f) If a State or subgrantee contributes its own funds in excess of those funds required by a matching or grant