

# The Coalition Against Religious Discrimination

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February 9, 2026

Kenneth Wolfe  
Center for Faith  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, DC 20210  
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**RE: RFI Regarding Faith-Based Organizations (Department of Labor—RIN 1290-AA52)**

Dear Mr. Wolfe:

On behalf of the undersigned members and supporters of the Coalition Against Religious Discrimination (CARD), thank you for the opportunity to comment on the request for information, “Addressing Barriers to Participation of Faith Organizations in DOL Programs and Funding.”<sup>1</sup>

DOL regulations, guidance, and policies do not impose “barriers to faith organizations’ participation in DOL-funded or regulated programs.” Nor do they “explicitly or implicitly restrict or discourage faith-based organizations from participating in DOL-funded programs.” Program requirements that apply to all DOL-funded providers are not “barriers.”<sup>2</sup>

DOL must not sweep aside program requirements that ensure people have access to effective services. DOL must not carve out exemptions that would permit social service providers to discriminate against beneficiaries or otherwise restrict beneficiaries’ access to DOL-funded services. DOL also must preserve the constitutional safeguard against the use of government funds for explicitly religious activities. Abandoning these protections would mean beneficiaries could face religious coercion, proselytization, or discrimination funded by the government. Neither the Constitution nor federal religious freedom laws contemplate these results.

Indeed such policies would run counter to the Department’s mission, which is to “foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.”<sup>3</sup> DOL rules and regulations should serve as a shield to protect religious freedom, not a sword that allows harm to those seeking government services.

**Coalition Against Religious Discrimination (CARD)**

CARD is a broad and diverse group of leading religious, civil rights, education, labor, health, LGBTQ, and women’s organizations formed in the 1990s to monitor legislative and regulatory changes impacting government partnerships with religious and other non-profit organizations and, in particular, to oppose government-funded religious discrimination. Our coalition members appreciate the important role religiously affiliated institutions historically have played in addressing many of our nation’s most pressing social needs, as a complement to

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<sup>1</sup> [90 Fed. Reg. 57217](#) (Dec. 10, 2025).

<sup>2</sup> In fact, the current regulations already go too far. For example, certain regulations are designed to allow faith-based organizations to both take government funds and discriminate in hiring with those funds. This violates a core principle of religious freedom—no one should be denied a government-funded job because they are the “wrong” religion.

<sup>3</sup> U.S. Dep’t of Labor, *About Us*, <https://www.dol.gov/general/aboutdol> (last accessed Jan. 6, 2026) [hereinafter *DOL Mission*].

government-funded programs; indeed, many members of CARD are directly involved in this work. We also recognize that the separation of church and state is the cornerstone of religious freedom. In our view, even as we believe that faith-based organizations need not give up their distinct religious identities to partner with the government in the provision of social services, we also believe that effective government collaboration with faith-based groups does not require the sanctioning of government-funded religious coercion or discrimination. As explained by unanimous recommendations from the President's Advisory Council on Faith-Based and Neighborhood Partnerships in 2010: "fidelity to constitutional principles is an objective that is as important as the goal of distributing Federal financial assistance in the most effective and efficient manner possible."<sup>4</sup> Accordingly, we have long advocated for strong, clear, and constitutionally sound safeguards to govern partnerships between the government and faith-based social services providers.

### **There Are No Barriers for DOL to Remove**

The RFI asks whether there are any "barriers to participation in DOL-funded or regulated programs," including "specific DOL regulations, guidance, or policies, explicitly or implicitly restrict or discourage faith-based organizations from participating in DOL-funded programs." The answer is no.

#### *Previous Administrations Have Engaged in this Process Already*

Administration after administration have examined government partnerships with social service providers. Current regulations protect the religious freedom of beneficiaries while ensuring faith-based providers have the same opportunities as other community-based providers to partner with the government. These rules do not need to be overwritten.

Executive order 13198, issued by George W. Bush in 2001, required department-wide audits to identify "all existing barriers to the participation of faith-based and other community organizations in the delivery of social services."<sup>5</sup> The effort led to five additional executive orders and dozens of new regulations that made drastic and unprecedented changes to the grant-making and contracting rules that apply to nearly all federal agencies. In the name of removing barriers, the initiative eliminated several significant church-state protections that had applied to partnerships between faith-based organizations and the government for decades.

In 2009, the Obama administration assembled an advisory council comprising "leaders and experts in fields related to the work of faith-based and neighborhood organizations" to examine the rules governing partnerships.<sup>6</sup> It was, as the members of the Council explained, "the first time a governmental entity has convened individuals with serious differences on some church-state issues and asked them to seek common ground in this area."<sup>7</sup> The Council made twelve unanimous recommendations focused on improving the constitutionality and clarity of the rules and increasing protections for beneficiaries. The recommendations were implemented through an executive order and a noncontroversial rulemaking process.

During his first term, President Trump issued executive order 13831, which directed agencies to roll back many of the Obama-era improvements.<sup>8</sup> This order led to new agency rules that

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<sup>4</sup> President's Advisory Council on Faith-Based and Neighborhood Partnerships, *A New Era of Partnerships: Report of Recommendations to the President* 127 (2010), <http://bit.ly/2A0yhXA> [hereinafter *Council Report*].

<sup>5</sup> Exec. Order No. 13,198, 66 Fed. Reg. 8497 (Jan. 31, 2001).

<sup>6</sup> *Council Report* at Introduction, v.

<sup>7</sup> *Id.* at 120.

<sup>8</sup> Exec. Order No. 13,831, 83 Fed. Reg. 20715 (May 8, 2018).

stripped beneficiaries of key protections, falsely claiming that they burdened faith-based organizations. Although the Department of Health and Human Services issued a request for information similar to this one,<sup>9</sup> the administration did not cite any responding comments or findings in its regulations that rolled back these religious freedom protections.<sup>10</sup>

In 2021, President Biden signed executive order 14015, which emphasized that partnerships must “preserv[e] our fundamental constitutional commitments guaranteeing the equal protection of the laws and the free exercise of religion and forbidding the establishment of religion.”<sup>11</sup> Subsequent agency regulations restored important Obama-era safeguards for beneficiaries, ensuring that people who use social services will not be pressured to participate in religious activities or be required to meet a religious litmus test in exchange for the help they need. At the same time, the regulations clarified requirements for all funded organizations, ensuring that faith-based organizations are equally eligible.

There is no need for yet another audit of the rules that apply to partnerships between the government and faith-based organizations.

#### *Faith-Based Organizations Frequently Perform Government Grants and Contracts Already*

Religious organizations have a longstanding tradition of providing social services, including with the use of government funds. Many of the organizations in our coalition know this firsthand. The RFI itself emphasizes that faith-based organizations “have a long history of providing critical services, such as job training, education, career counseling, and community support in a culturally competent and compassionate manner.” This history demonstrates that further changes are not necessary for robust government collaboration with faith-based groups.

#### **DOL Must Ensure It Continues to Provide Effective Services to Beneficiaries**

DOL is the government’s principal agency for protecting the rights of working people in this country. Its mission is to “foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.”<sup>12</sup> The Department provides critical services such as job training, career counseling, income support, and education assistance to many diverse communities, including dislocated workers, low-income youth, people returning from incarceration, migrant workers, and people with disabilities. It is critical to the country as a whole and to those in need that DOL-funded programs are effective, available, and accessible.

#### *Previous Administrations Acknowledged that Beneficiaries Are the Priority*

Prior administrations have recognized the importance of protecting beneficiaries and removing barriers to their accessing government-funded programs. Although this coalition opposed most of the changes the George W. Bush administration made to existing rules and regulations governing partnerships with faith-based organizations, we expressed appreciation for the fact that it took steps to ensure government-funded entities could not refuse to serve beneficiaries based on religion. Under President Bush’s executive order 13279, no government-funded social service organization was “allowed to discriminate against current or prospective program

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<sup>9</sup> Removing Barriers for Religious and Faith-Based Organizations to Participate in HHS Programs and Receive Public Funding, [82 Fed. Reg. 49300](#) (Oct. 25, 2017).

<sup>10</sup> See, e.g., Ensuring Equal Treatment of Faith-Based Organizations, [85 Fed. Reg. 2974](#) (Jan. 17, 2020).

<sup>11</sup> Exec. Order No. 14,015, 86 Fed. Reg. 10007 (Feb. 18, 2021).

<sup>12</sup> *DOL Mission*.

beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.”<sup>13</sup> The executive order also barred the direct use of taxpayer funds for religious activities.<sup>14</sup>

In executive order 13559, the Obama administration maintained these safeguards and further emphasized the importance of protecting beneficiaries.<sup>15</sup> In fact, most of the unanimous recommendations from the diverse presidential advisory council were focused upon protecting those whom the programs are meant to serve.

The Biden administration likewise made clear that executive order 14015’s most important goal was “to better serve people in need.”<sup>16</sup> The order also emphasized that the government must strengthen faith-based and community-based organizations “ability . . . to deliver services effectively” “while preserving our fundamental constitutional commitments.”

Despite changes across administrations, regulations have consistently maintained that religious providers may retain their autonomy and religious character. However, these regulations have also prohibited organizations from discriminating against beneficiaries or using direct federal financial assistance to support or engage in any explicitly religious activities, such as worship, religious instruction, or proselytization.<sup>17</sup> These safeguard beneficiaries from religious coercion or discrimination. No one should feel the need to choose between accessing vital services and abiding by their own belief systems.

### *Changes to Current Regulations May Harm Beneficiaries*

The RFI ignores all of these commitments. It does not explain that DOL-funded programs must remain effective, fulfill program objectives, and protect the interests of those who receive benefits from DOL-funded programs. And, while it solicits examples of “barriers” to faith-based organizations’ participation, it seeks no information on how weakened regulations could undermine the effectiveness of DOL-funded programs or harm beneficiaries. These kinds of changes may actually create “barriers” for beneficiaries and abandon the very people the programs are meant to serve. For example, a faith-based provider may be the only program provider in a community—meaning that individuals denied services may have no alternatives at all. Instead, these kinds of changes would put the interests of taxpayer-funded entities, some of which receive millions of taxpayer dollars each year, ahead of the needs of our most vulnerable.

### **Nothing Requires Changes to Current Regulations**

Neither the U.S. Constitution nor federal religious freedom laws requires DOL to make changes to its program requirements.

First, the Religious Freedom Restoration Act (RFRA)<sup>18</sup> was intended to provide protection for free exercise rights, applying strict scrutiny, on a case-by-case basis, to federal laws that substantially burden religious exercise.<sup>19</sup> Thus, it must not be used to change government

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<sup>13</sup> Exec. Order No. 13,279, 67 Fed. Reg. 77,141-42 (Dec. 16, 2002).

<sup>14</sup> *Id.*

<sup>15</sup> Exec. Order No. 13,559, 75 Fed. Reg. 71,319 (Nov. 22, 2010).

<sup>16</sup> Exec. Order No. 14,015, 86 Fed. Reg. 10007 (Feb. 18, 2021).

<sup>17</sup> *See, e.g.*, 29 C.F.R. § 2.32.

<sup>18</sup> 42 U.S.C. §§ 2000bb–bb-4.

<sup>19</sup> Some of us were members of the Coalition for the Free Exercise of Religion, which led the effort to persuade Congress to enact legislation after the Supreme Court altered the protections granted under the Free Exercise Clause in *Employment Division v. Smith*, 494 U.S. 872 (1990). This effort culminated with the enactment of RFRA in 1993.

regulations that allegedly “discourage” faith-based organizations from participating in DOL-funded programs or to “enhance” their participation. And even when a law or policy creates a substantial burden, the government may only grant a religious exemption when it lacks a compelling interest and the law is not narrowly tailored to further that interest. Because all these factors must be considered on a case-by-case basis, RFRA should not be used to create blanket, categorical exemptions.

Second, the U.S. Constitution prohibits exemptions that would cause harm and those that would result in the direct funding of religion. This limits the reach of RFRA and any religious exemptions or changes DOL might adopt. The Constitution commands that any exemption, under RFRA or otherwise, “must be measured so that it does not override other significant interests,”<sup>20</sup> “impose unjustified burdens on other[s],”<sup>21</sup> or have a “detrimental effect on any third party.”<sup>22</sup> The Constitution also bars direct funding of religion.<sup>23</sup>

Changes to existing program requirements cannot be justified by the Constitution or federal religious freedom laws. These changes would instead cause harm.

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There are no barriers for faith-based organizations, which regularly partner with the government to deliver social services. Individuals should not be denied the services they need or the constitutional and civil rights protections to which they are entitled because of the religious beliefs cited by the organization paid by DOL to deliver those services. Nor should they have to face pressure to participate in religious worship or instruction in order to gain access to these services.

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<sup>20</sup> *Cutter v. Wilkinson*, 544 U.S. 709, 722 (2005); see also *Estate of Thornton v. Caldor, Inc.*, 472 U.S. 703, 709-10 (1985) (“unyielding weighting” of religious interests of those taking exemption “over all other interests” violates Constitution).

<sup>21</sup> *Cutter*, 544 U.S. at 726; see also *Texas Monthly, Inc. v. Bullock*, 489 U.S. 1, 18 n.8 (1989) (such accommodations may not impose “substantial burdens on nonbeneficiaries”).

<sup>22</sup> *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 729 n.37 (2014) (citing *Cutter*, 544 U.S. at 720). Indeed, every member of the Court, whether in the majority or in dissent, reaffirmed that the burdens on third parties must be considered. See *id.*; *id.* at 693, 739 (Kennedy, J., concurring); 745 (Ginsburg, J., joined by Breyer, Kagan, and Sotomayor, JJ., dissenting). See also *Holt v. Hobbs*, 574 U.S. 352, 370 (2015) (Ginsburg, J., concurring).

<sup>23</sup> See, e.g., *Agostini v. Felton*, 521 U.S. 203, 228-30 (1997) (religious indoctrination); *DeStefano v. Emergency Hous. Grp., Inc.*, 247 F.3d 397, 412 (2d Cir. 2001) (religious coercion); *Ams. United for Separation of Church & State v. Prison Fellowship Ministries, Inc.*, 509 F.3d 406, 425 (8th Cir. 2007) (religious discrimination).

Recent Supreme Court decisions in *Carson v. Makin*, 596 U.S. 767 (2022) and *Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*, 605 U.S. 238 (2025) do not require any changes to this prohibition. *Carson* dealt with “indirect aid” only (e.g. vouchers) and did not address grant-funded programs. *Carson* does not permit, much less require, the government to directly fund religion. Likewise, *Catholic Charities* was a narrow decision regarding a state court’s interpretation of a religious exemption under the state’s unemployment insurance program. It does not alter DOL’s obligations to ensure that DOL-funded programs protect the interests of beneficiaries and to bar explicitly religious activities. Coercing beneficiaries to participate in religious activities in government-funded programs is also harmful to beneficiaries.

Thank you for the opportunity to provide comments on this request for information. If you should have further questions, please contact Dena Sher, [sher@au.org](mailto:sher@au.org).

Sincerely,

AFT: Education, Healthcare, Public Services  
American Atheists  
American Civil Liberties Union  
American Humanist Association  
Americans United for Separation of Church and State  
Baptist Joint Committee for Religious Liberty  
Bend the Arc: Jewish Action  
Center for Inquiry (CFI)  
Cooperative Baptist Fellowship  
Equality California  
FFRF Action Fund  
Human Rights Campaign  
Jewish Council for Public Affairs  
Lambda Legal  
MAZON: A Jewish Response to Hunger  
Movement Advancement Project  
Muslims for Progressive Values  
National Council of Jewish Women  
National Education Association  
National Partnership for Women & Families  
National Women's Law Center  
People For the American Way  
PFLAG National  
Planned Parenthood Federation of America  
The Secular Coalition for America  
Union for Reform Judaism