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February 9, 2026

SUBMITTED VIA REGULATIONS.GOV

Lori Chavez-DeRemer
Secretary of Labor
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: DOL-2025-0070; RFI Regarding Faith-Based Organizations

Dear Secretary Chavez-DeRemer:

On behalf of the more than three million members of the National Education Association (NEA), we are submitting the following comment in response to the U.S. Department of Labor’s request for information (RFI), “Addressing Barriers to Participation of Faith Organizations in DOL Programs and Funding” published in the Federal Register on December 10, 2025. While we understand that this RFI is for DOL-funded and regulated programs, we believe that the matter applies to federally funded social service programs across the government, potentially impacting our members, students, and their families. The Department must ensure that any “faith-based rules” do not infringe upon program participants’ rights.

The NEA does not believe that current DOL regulations, guidance, and policies deter faith-based organizations from participating in DOL-funded or regulated programs. In fact, altering these policies may undermine access to services by tampering with religious freedom protections from individuals seeking federally funded services *and* absolve faith-based organizations of their obligation to abide by constitutional and statutory requirements related to religious freedom and employment discrimination.

For the reasons set forth below, the NEA urges the Department to maintain current rules which recognize the rights of beneficiaries and reasonable responsibilities of organizations that provide federally funded programs and services.

We remind you of the rights of beneficiaries. According to the Supreme Court, in *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002), indirect government funding of sectarian institutions does not violate the Establishment Clause of the First Amendment provided that:

- (a) The funded program is neutral toward religion;
- (b) The provider of funded services receives funding as a result of the free and independent choice of the beneficiary; and
- (c) Beneficiaries have adequate non-religious options.

The clear implication of the Court's holding in *Zelman* is that where secular providers are absent in government funding programs, there can be no genuine and independent choice, and the government is aiding religion in violation of the Establishment Clause of the First Amendment. Lower court cases are likewise clear that secular options are not just a factor but are necessary to ensure there is genuine independent private choice.¹ And these principles are reflected in the current definition of indirect Federal financial assistance, which requires beneficiaries to have at least one secular option.² The NEA believes current regulations already effectively implement these rules while protecting individual beneficiaries from being coerced into entering programs with explicitly religious content.

We remind you of the Department's mission 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." The NEA cautions that unnecessary changes are odds with this mission if they create barriers for beneficiaries and abandon the very people the programs are meant to serve and support.

As a matter of fact, previous administrations have affirmed that beneficiaries are the priority in the provision of government-funded services. Under President Bush's executive order 13279, no government-funded social service organization was "allowed to discriminate against current or prospective program 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." The executive order also barred the direct use of taxpayer funds for religious activities. Via executive order 13559, the Obama administration maintained these safeguards and further emphasized the importance of protecting beneficiaries. In fact, most of the unanimous recommendations from the diverse presidential advisory council were focused upon protecting those with whom the programs are meant to serve. Most recently, the Biden administration made clear that executive order 14015's most important goal was "to better serve people in need." 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." The NEA encourages the Department to carry this goal forward.

Relatedly, we firmly believe that current regulations offer faith-based organizations a fair opportunity to participate in DOL programs and funding. As such, there are no barriers to address or remove. As

¹ E.g., *Ams. United for Separation of Church & State v. Prison Fellowship Ministries, Inc.*, 509 F.3d 406 (8th Cir. 2007); *Am. Jewish Congress v. Corp. for Nat'l and Comm'y Serv.*, 399 F.3d 351, 358 (D.C. Cir. 2005); *Freedom from Religion Found., Inc. v. McCallum*, 324 F.3d 880, 881-82 (7th Cir. 2003).

² <https://www.ecfr.gov/current/title-7/subtitle-A/part-16/section-16.2>

is evident, religious organizations have a long tradition of providing social services to people in their communities. Faith-based organizations frequently apply for government grants to deliver social services already. Any modifications may weaken current regulations and undermine the effectiveness of DOL-funded programs and even harm beneficiaries.

Further, several administrations have engaged in this process in which the DOL is beginning, including President Bush in 2001, President Obama in 2008, President Trump in 2018, and President Biden in 2023. The current faith-based 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. Another audit of alleged “barriers,” would be a waste of time for the Department along with American taxpayers’ dollars.

We would be remiss not to call the Department’s attention to Title IX of the Education Amendments of 1972, which prohibits elementary and secondary schools, colleges and universities, and any education or training program operated by a recipient of federal financial assistance from denying benefits or treating students differently on the basis of sex. The NEA dissuades the Department from making any changes that may put the future leaders of our nation at risk for any form of discrimination.

All faith-based providers receiving federal financial assistance should continue to be required to perform all program requirements and abide by the Constitution’s prohibition on supporting religious activities with taxpayer dollars.

The NEA respectfully submits the above comments for consideration and urges the Department to put the people in need of social services above the interests of faith-based organizations – members of our society who are often vulnerable and rely heavily on such government-funded services. Please do not hesitate to contact me or Linh Dang at LDang@nea.org should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Daaiyah Bilal-Threats". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Daaiyah Bilal-Threats
Senior Director, Education Policy and Implementation Center
National Education Association