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Via Federal eRulemaking Portal

34 CFR Parts 75 and 76

Docket ID ED-2022-OPE-0157

RIN: 1840-AD72

The Honorable Miguel A. Cardon
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, DC 20202

Re: The Christian Medical & Dental Associations Comment *opposing* the Notice of Proposed Rulemaking (NPRM) Direct Grant Programs, State-Administered Formula Grant Programs

Dear Secretary Cardona,

The Christian Medical & Dental Associations® (CMDA) founded in 1931 is the largest Christian membership organization comprised of healthcare professionals serving throughout the United States and overseas. We provide programs and services supporting its mission to "change hearts in healthcare." CMDA promotes positions, addresses policies on healthcare issues, and advocates on behalf of its members. We educate our membership on current issues of the day from a federal and state perspective. We coordinate with our network of Christian healthcare professionals for fellowship and professional growth. Our members provide excellent care for all patients for everything from cancer to the common cold.

We have a robust network of student led campus chapters. These span more than 330+ campus ministries representing 90 percent of the nation's medical and dental schools across the country.

Our overseas work is also far-reaching. We conduct short-term missions' trips to medically underserved regions of the world and provide healthcare composed of medical, dental, and surgical teams. In addition, our overseas focus includes our Medical Education International (MEI) program. This short-term missions program provides academic teaching and clinical training upon requests from governments, healthcare professional training institutions, and hospitals while building relationships with local colleagues. We strive to model compassion and care to those in need. MEI serves primarily in low-and middle-income countries.

We respectfully submit comments to the Notice of Proposed Rulemaking (NPRM) titled "Direct Grant Programs, State-Administered Formula Grant Programs" (also known as the Free Inquiry Rule) which

proposes to rescind two provisions (34 CFR [§ 75.500\(d\)](#) and [§ 76.500\(d\)](#)) related to religious student groups; directed at public institution grantees and for states or subgrantees that are public institutions. The current, straightforward regulations were promulgated by the Department in 2020. They simply require that public institutions that receive federal grants allow religious student groups to be recognized, along with access to the same benefits that other student groups receive. In other words, that student religious groups be assured of equal treatment and protection that other non-religious student groups hold. If this standard is not met, then these institutions of higher learning (IHEs) that receive public funding risk losing federal grants or subgrants from state-administered formula grant programs.

In the [summary section](#) of the NPRM published by the U.S. Department of Education (ED), it states “(we or the Department) proposes to rescind regulations related to religious student organizations at certain public institutions of higher education (IHEs) that prescribe a novel role for the Department in enforcing grant conditions related to religious student organizations. These regulations apply to public IHEs that receive a direct grant from the Department or a subgrant from a State-administered formula grant program of the Department.

In the Department of Education’s [blog](#) of February 21, 2023 stated the following reasons for rescinding the NPRM: “the Department believes it is not necessary in order to protect the First Amendment right to free speech and free exercise of religion given existing legal protections, it has caused confusion about schools’ nondiscrimination requirements, and it prescribed a novel and unduly burdensome role for the Department in investigating allegations regarding public institutions’ treatment of religious student organizations.

The following are more justifications the department gives to rescind the two regulations noted above:

Regulations are too burdensome for the Department to administer:

CMDA does not believe the regulations are too burdensome. The Department of Education’s Office of Civil Rights has an annual budget of about [\\$144 million](#) and has over 600 full-time employees. Also, the department has stated it has not received complaints regarding alleged violations off the regulations protecting religious student groups.

The regulations create confusion:

CMDA does **not** agree that these regulations cause confusion, in fact, the 2020 regulations provide clarity. Colleges can adopt any policy they want as long as their policies ensure that religious student groups have the same access to benefits that other student groups enjoy. The regulations clarified institutions of higher education First Amendment responsibilities, confirming that IHEs may not deny religious organizations benefits afforded other organizations based on the religious organization’s religious beliefs. As other comments to this NPRM have demonstrated, the existence of this language has helped to avoid conflict and potential litigation that as the NPRM itself has can be costly for these institutions.

The text of the regulations (34 CFR [§ 75.500\(d\)](#)) **leaves no room for confusion** and plainly states; (d) *As a material condition of the Department’s grant, each grantee that is a public institution shall not deny to any student organization whose stated mission is religious in nature and that is at the public institution any right, benefit, or privilege that is otherwise afforded to other student organizations at the public institution (including but not limited to full access to the facilities of the public institution, distribution of student fee funds, and official recognition of the student organization by the public institution) because of*

the religious student organization's beliefs, practices, policies, speech, membership standards, or leadership standards, which are informed by sincerely held religious beliefs.

The accompanying regulation, (34 C.F.R. § [76.500 \(d\)](#)) is basically the same *but specifically administers Department grants which are funneled through a State or a subgrantee.*

The Department of Education claims in the NPRM that it “conducted outreach and held meetings with” various stakeholders in order “to hear from impacted groups that had diverging perspectives in their comments...”. However, they did not reach out to CMDA or frankly any organization that we are aware of to discuss whether the language had been helpful. Several organizations with religious student chapters including CMDA expressed their concerns to the Department via phone calls and letters prior to its [blog post](#) in August of 2021 but had very little dialogue. Please see the attached letters with the expressed concerns.

The courts, not the Department, should protect students' religious freedom:

This seems a rather unusual position for the USDE to take in which the Department would rather defer to the courts to enforce protections of the rights of religious student groups and instead encourage the use of lawsuits by vulnerable students to protect their rights. We question why the department desires to rescind clear and well-defined regulation which also protects IHEs from lawsuits. Litigation is expensive for all involved, and encouraging students to use the courts as an enforcement mechanism seems to be an abdication of the role of the Department. This is a losing and costly proposition for all parties involved, but especially for the religious students themselves.

The Department lacks evidence that anyone has benefited from the regulations:

While the Department of Education proposes that the [First Amendment](#) alone provides sufficient protections, this has not played out in real life situations. Public colleges and universities have repeatedly engaged in discrimination against religious organizations by excluding them from accessing the same funding, using the same school facilities, or communicating with students via the same school email, websites, or events used by secular groups. Please see the attached document from the Christian Legal Society titled “*When Colleges and Universities Exclude Religious Student Groups: A Serious Problem.*” This document describes real-life situations religious student organizations face on college campuses across the country.

Mental Health and religious student groups:

A well-known fact in the United States is that mental health has been declining at alarming rates for students across college campuses and exponentially at medical and dental schools. A 2021 Report from the American College Health Association, which included “data from 70,087 undergraduate students at 137 schools,” noted that 72.1% of respondents said they had had an appointment or discussion with a healthcare or mental health professional for **depression** within the last twelve months, and 72.4% of respondents said they had an appointment for anxiety.¹ The American Psychological Association has also stated that “By nearly every metric, student mental health is worsening. During the 2020–2021 school

¹ The American College Health Association's ACHA-NCHA III Institutional Data Report for Spring 2021, available at https://www.acha.org/documents/ncha/NCHA-III_SPRING-2021_UNDERGRADUATE_REFERENCE_GROUP_DATA_REPORT.pdf

year, more than 60% of college students met the criteria for at least one mental health problem, according to the Healthy Minds Study, which collects data from 373 campuses nationwide.”²

There is evidence that involvement in religious groups is beneficial, particularly in overcoming mental health challenges. For example, one study noted that “students whose religion was ‘very important’ in their lives had a lower rate of depression compared with those who placed less importance on religion.”³

Connections with peers and a sense of belonging are widely known to be key factors for student well-being. Professor Rebecca A. Glazier states that “Decades of research has shown that the best way to ensure that students are successful in college is to help them build relationships—with professors, with mentors, and with peers.”⁴ Many universities agree that getting involved in community is a key component for student mental health and improves well-being and a successful college experience. Research also indicates that “Involvement in clubs and organizations has been shown to correlate positively with several areas of psychosocial development.”⁵ The U.S. Department of Health and Human Services concurs with this, outlining the connection on its MentalHealth.gov website.⁶ It says that “Faith and community leaders are often the first point of contact when individuals and families face mental health problems or traumatic events. In fact, in times of crisis, many will turn to trusted leaders in their communities before they turn to mental health professionals. When leaders know how to respond, they become significant assets to the overall health system.”

CMDA’s Campus & Community Ministries:

As stated at the beginning of the document [CMDA Student Life](#) is a network of campus chapters helping students live out the character of Christ on their campuses. We now have more than 300 campus ministries, representing 90 percent of the nation's medical and dental schools. They exist to help student THRIVE with a purpose during their healthcare training. These chapters provide connection with other healthcare professionals in the local area. Please see the following brief quotes from our student members which have held that belonging to a student religious group has given them vital support during their tenures as students:

“I truly believe without CMDA I would have succumbed to the pressures of medical school and let that become my number one priority. Each week there is an event that allows me the opportunity to step away from the books and remember why I am doing this in the first place.”

-Brooks, 1st Year Medical Student in TX

² Abrams, Zara, “Student mental health is in crisis. Campuses are rethinking their approach,” *Monitor on Psychology*, October 12, 2022. Available at: <https://www.apa.org/monitor/2022/10/mental-health-campus-care>

³ See, e.g., Ghodasara, Sweta L. MD; Davidson, Mario A. PhD; Reich, Michael S. MD; Savoie, Corliss V. MD; Rodgers, Scott M. MD. Assessing Student Mental Health at the Vanderbilt University School of Medicine. *Academic Medicine* 86(1):p 116-121, January 2011. | DOI: 10.1097/ACM.0b013e3181ffb056.

⁴ Glazier, Rebecca A., “How to Solve the Student-Disengagement Crisis,” *The Chronicle of Higher Education*, May 27, 2022.

⁵ Foubert, John D.; Grainger, Lauren U., “Effects of Involvement in Clubs and Organizations on the Psychosocial Development of First Year and Senior College Students,” *NASPA Journal*, 2006, Vol. 43, no.1.

⁶ See <https://www.mentalhealth.gov/talk/faith-community-leaders>

“CMDA has been very helpful to me regarding boosting my faith. School can be really difficult sometimes and having a group to confide to and do life with by doing bible study every week is really helpful for me.” -[DS3 Student, University of Oklahoma Health Sciences Center](#)

Conclusion:

The Free Inquiry Rule upholds fundamental First Amendment rights, ensuring that public institutions of higher education adhere to their stated policies of respecting freedom of speech and academic freedom. We find the reasoning of rescinding the two regulations noted in the first page of this comment document to be somewhat vague and coupled with unfounded arguments for this NPRM. The regulations that are currently in place ensure and protect the equal treatment rights of student religious organizations and their members in public institutions, along with other secular groups. The seemingly intentional action by the department to remove protections of religious groups on public college campuses across the country will inevitably have a chilling effect on these already vulnerable groups and their membership.

The marginalization of religious groups on college campuses will suppress the much-needed benefits that religious student organizations provide. We therefore ask the Department of Education to change its proposed course. We request you reconsider this NPRM, and retain the language of 34 CFR § 75.500(d) and § 76.500(d), so that religious student organizations nationwide may enjoy the rights and benefits of belonging and benefitting from the vital support that religious student groups provide on college campuses nationwide.

Thank you.

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