

**FAQ Regarding U.S. Department of Education’s Proposal to Rescind
Protections for Religious Student Organizations on Public College Campuses
Comment Deadline: March 24, 2023**

Where can someone find the Department of Education’s proposal?

The Notice of Proposed Rulemaking (NPRM) was published on February 22, 2023 (Ash Wednesday) at [88 Fed. Reg. 10857-10864](#) (Feb. 22, 2023). *Because the proposal is not yet a final decision, it is important for every concerned person and organization to submit comments informing the Department that taking away protections for religious students is unacceptable.*

Where can an organization or person submit comments?

Information about how to submit comments and a link to the [government portal](#) for comments can be found at [campusaccess.us](#) or the [Christian Legal Society](#) website.

How do the current regulations protect religious students?

The current regulations, ([34 C.F.R. § 75.500\(d\) & 76.500 \(d\)](#)), were adopted by the Department of Education in 2020. These simple, straightforward regulations require public colleges that receive grants from the Department of Education (either directly or indirectly through a State agency) to allow religious student groups to meet on campus as recognized student groups with access to the same benefits that other student groups receive.

What is the practical importance of the regulations?

The regulations require that colleges “recognize” religious student groups and provide them the same benefits other student groups have. A “recognized” student group typically has:

- the ability to reserve free meeting space on campus on a regular basis;
- listing on the college’s website to let other students know the group exists;
- permission to post announcements around campus;
- eligibility to participate in student activities fairs;
- access to online announcement boards to publicize meetings and events;
- eligibility to apply for funding for its events, including bringing outside speakers to campus.

Without access to these benefits, student groups find it hard to exist on campus. The regulations simply protect religious student groups’ access to the same benefits accorded other student groups, which is a [good thing for students and their campuses](#).

Have the regulations helped religious student groups?

Yes, they have been a tremendous help. On several campuses, religious student groups who have encountered problems have had recognition and benefits granted or restored, after the regulations have been brought to their college administrators' attention.

What is the actual text of the current regulations?

Regulation [34 C.F.R. § 75.500 \(d\)](#) 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.

Companion regulation, [34 C.F.R. § 76.500 \(d\)](#), is basically identical and governs Department grants channeled through a State or a subgrantee. The Department proposes to rescind both regulations.

Do the regulations apply to private colleges, including religious colleges?

No. The regulations apply only to public institutions of higher education. They do not apply to religious or other private colleges.

What reasons does the Department give for rescinding the regulations?

In its [Notice of Proposed Rulemaking \(NPRM\)](#), the Department gives four reasons for rescinding the regulations. Each reason is flimsy and contradicted by the facts. The basic arguments are:

- the regulations are too burdensome for the Department to administer;
- the regulations create confusion for college administrators;
- the courts, not the Department, should protect students' religious freedom; and
- the Department lacks evidence that anyone has benefited from the regulations.

Are the regulations really too burdensome for the Department of Education to administer?

No. The Department of Education's Office of Civil Rights has an annual budget of approximately [\\$ 130 million dollars](#) and over [500 full-time employees](#) and receives thousands of complaints annually. The Department itself admits it "has not received any complaints regarding alleged violations of" the regulations protecting religious student groups. [88 Fed. Reg. 10863](#).

Have the regulations really created confusion for college administrators?

No. The regulations are simple and straightforward. Colleges can adopt any policy they wish as long as they apply their policy in a way that ensures that religious student groups have the same access to benefits that other student groups enjoy.

Why can't religious student groups just go to court to remain on campus?

Encouraging litigation is an odd position for an Administration that claims to be concerned about the high cost of college for students. Litigation is expensive for everyone involved. By decreasing the likelihood of litigation, the regulations save taxpayers and college administrators scarce dollars. If it rescinds the regulations, the Department makes litigation the only option for religious student groups who are threatened with loss of access to their campuses. This is a lose-lose-lose option for students, college administrators, and taxpayers.

Religious students don't want to sue their colleges. They don't want to spend their college years in litigation simply to obtain what should be a given: fair treatment at the public college they pay tuition to attend.

Does the Department of Education really lack evidence that anyone has benefited from the regulations?

No. During the 2020 comment period, religious campus organizations and other commenters provided numerous examples of situations where religious student groups had been threatened with exclusion from their public college campuses, necessitating the regulations.

What can an organization or person do to help?

Submit comments to the [government portal](#) through [campusaccess.us](#) or the [Christian Legal Society](#) website. Ask your friends, family, congregations, and networks to comment.