

**Pt. 86, App. A**

**45 CFR Subtitle A (10–1–20 Edition)**

APPENDIX A TO PART 86—GUIDELINES FOR ELIMINATING DISCRIMINATION AND DENIAL OF SERVICES ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, AND HANDICAP IN VOCATIONAL EDUCATION PROGRAMS [NOTE]

NOTE: For the text of these guidelines, see 45 CFR part 80, appendix B. [44 FR 17168, Mar. 21, 1979]

**PART 87—EQUAL TREATMENT FOR FAITH-BASED ORGANIZATIONS**

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SOURCE: 81 FR 19426, Apr. 4, 2016, unless otherwise noted.

**§ 87.1 Definitions.**

(a) These are the definitions for terms used in this part. Different definitions may be found in Federal statutes or regulations that apply more specifically to particular program or activities.

(b) The terms *direct Federal financial assistance*, *Federal financial assistance provided directly*, *direct funding*, and *directly funded* mean that the government or a pass-through entity (under this part) selects the provider and either purchases services from that provider (e.g., via a contract) or awards funds to that provider to carry out a service (e.g., via grant or cooperative agreement). In general, Federal financial assistance shall be treated as direct, unless it meets the definition of “indirect Federal financial assistance” or “Federal financial assistance provided indirectly.”

(c) The term *indirect Federal financial assistance* or *Federal financial assistance provided indirectly* means that the choice of the service provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of government-funded payment.

(1) Federal financial assistance provided to an organization is considered indirect when:

(i) The Government program through which the beneficiary receives the

voucher, certificate, or other similar means of Government-funded payment is neutral toward religion;

(ii) The organization receives the assistance as a result of a decision of the beneficiary, not a decision of the government; and

(iii) The beneficiary has at least one adequate secular option for the use of the voucher, certificate, or other similar means of Government-funded payment.

(2) The recipients of sub-grants that receive Federal financial assistance through State-administered programs are not considered recipients of “indirect Federal financial assistance” [or recipients of “Federal funds provided indirectly”] as those terms are used in this part.

(d) *Pass-through entity* means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

(e) *Recipient* means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

**§ 87.2 Applicability.**

This part applies to grants awarded in HHS social service programs governed by either the Uniform Administrative Requirements, Cost Principles, and Audit Requirements at 45 CFR part 75 or Block Grant regulations at 45 CFR part 96, except as provided in paragraphs (a) and (b) of this section.

(a) *Discretionary grants*. This part is not applicable to the discretionary grant programs that are governed Substance Abuse and Mental Health Services Administration (SAMHSA) Charitable Choice regulations found at 42 CFR part 54a. This part is also not applicable to discretionary grant programs that are governed by the Community Services Block Grant (CSBG) Charitable Choice regulations at 45 CFR part 1050, with the exception of §§ 87.1 and 87.3(i) through (l) which do apply to such CSBG discretionary grants. Discretionary grants authorized by the Child Care and Development Block Grant Act are also not governed by this part.