

The Equal Treatment Regulations In a Nutshell and Other Helpful Information
Task Force for Faith-Based and Community Initiatives
U.S. Department of Justice

Application of Equal Treatment Regulations

To whom do the Equal Treatment Regulations (and their non-discrimination provisions) apply? **1) The federal government and 2) state and local governments and private organizations that administer financial assistance from the federal government.** (See the Equal Treatment Regulations (28 CFR 38.1(a), 38.2(a)) <http://www.usdoj.gov/fbci/about.html>)

Equal Treatment

May the federal government or any state or local government or private entity that administers federal financial assistance discriminate for or against an organization in awarding federally-funded grants, contracts, or cooperative agreements on the basis of the organization's religious character or affiliation? **No.** (28 CFR 38.1(a), 38.2(a), <http://www.usdoj.gov/fbci/about.html>)

Special Assurances

May the federal government or any state or local government or private entity that administers federal financial assistance require *only* faith-based groups to give assurances that they will comply with the law? **No.** (28 CFR 38.1(e), 38.2(e), <http://www.usdoj.gov/fbci/about.html>)

Tax-Exempt Status

Do formula grants administered by DOJ and open to non-profit organizations require applicants to have been granted federal tax-exempt status? **No, with one exception:** the Juvenile Justice and Delinquency Prevention Act formula grant program. (See "Memorandum to Directors of State Administering Agencies," http://www.usdoj.gov/fbci/for_state_admin.html)

Religious Hiring by Grantees

May a faith-based organization take religious affiliation into account when it is hiring staff for a program for which it is receiving federal funding? **Yes, either through 1) Title VII (Section 702) of the Civil Rights Act of 1964 or 2) the Religious Freedom Restoration Act of 1993 (RFRA).** (Under RFRA, simple self-certification is required if a particular law, like the Omnibus Crime Control and Safe Streets Act of 1968, explicitly bans hiring based on religious affiliation. See "Effect of the Religious Freedom Restoration Act on Faith-Based Applicants for Grants," <http://www.usdoj.gov/fbci/do-dont.html>)

Religious Activities by Funded Grantees

Inherently Religious Activities: May an organization that receives federal funding engage in inherently religious activities (scripture study, worship, prayer meeting, evangelization, etc.)? **Yes—if these activities are privately funded and separated in either time or place from the government services it provides.** (28 CFR 38.1(b)(1), 38.2(b)(1), <http://www.usdoj.gov/fbci/about.html>)

Time and Place Restrictions: May a faith-based organization engage in an inherently religious activity in the same room in which it provides federally funded services? **Yes—if the activities are held at different times.** (28 CFR 38.1(b)(1), 38.2(b)(1), <http://www.usdoj.gov/fbci/about.html>)

May a faith-based organization engage in an inherently religious activity at the same time it provides federally-funded services? **Yes—if the simultaneous activities are each held in different rooms.** (28 CFR 38.1(b)(1), 38.2(b)(1), <http://www.usdoj.gov/fbci/about.html>)

Invitations to Participate: May a faith-based provider invite a person to whom it is providing federally-funded services to attend an inherently religious activity? **Yes—if the person's participation is voluntary and if lack of participation will in no**

way affect his/her ability to receive the federally-funded service. (28 CFR 38.1(b)(1), 38.2(b)(1), <http://www.usdoj.gov/fbci/about.html>)

Preserving Identity: What else may faith-based organizations do while receiving funding from the federal government?
They may keep: their religious name, their board membership (even if chosen based on religious affiliation), their mission statement, as well as religious symbols, wording, icons, etc., in rooms where federally-funded services are being provided.
(28 CFR 38.1(c), 38.2(c), <http://www.usdoj.gov/fbci/about.html>)

Other Resources

Booklet “Guidance to Faith-Based and Community Organizations on Partnering with the Federal Government”
(<http://www.whitehouse.gov/government/fbci/guidance/index.html>)

Task Force PowerPoint Tutorial on the Equal Treatment Regulations (<http://www.usdoj.gov/fbci/do-dont.html>)

“Touching Lives and Communities” Training Video Workshops produced by the Department of Labor. Workshop topics include Capacity Building and Strategic Planning, Corporation and Foundation Giving, Board Development and Individual Giving, and Program Evaluation (<http://www.usdoj.gov/fbci/apply.html>)

Frequently Asked Questions about partnering with faith-based organizations (<http://www.usdoj.gov/fbci/faq.html>)

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