



February 18, 2020

Lynn Mahaffie
Deputy Assistant Secretary for Policy, Planning, and Innovation
Office of Postsecondary Education
Department of Education
400 Maryland Avenue SW
Washington DC, 20202

Re: Reject New Proposed Faith-Based Regulations Under Executive Order 13831
RIN: 1840-AD45

Dear Ms. Mahaffie,

On behalf of the Hindu American Foundation (HAF), we write to offer comments on the new proposed faith-based regulations, as published in the Federal Register on January 17, 2020.

Specifically, we write to strongly urge you to reject these proposed regulations, which are an attack on religious freedom and will remove important religious freedom protections for not only religious minorities, including Hindu Americans, who access government-funded social services, but all such Americans.

HAF is a non-partisan non-profit advocacy organization for the Hindu American community. The Foundation educates the public about Hinduism, speaks out about issues affecting Hindus worldwide, and builds bridges with institutions and individuals whose work aligns with HAF's objectives and guiding principles. HAF focuses on the areas of education, policy, and community building, and works on a range of issues from an accurate understanding of Hinduism, civil and human rights, and addressing contemporary problems by applying Hindu philosophy.

With regard to issues of religious accommodation and religious discrimination to defending fundamental constitutional rights such as equal protection and due process domestically, and religious freedom and human rights globally, HAF has stood up for the rights of Hindus and other communities.

We hold that religion and state are healthiest at a distance, acknowledging one another's positive roles in society and in the daily lives of people, but independent of one another. As such, HAF supports the separation of church and state at all levels, and the right of every individual and community to religious belief and expression.

The Hindu American Foundation is not affiliated with any religious or political organizations or entities. HAF seeks to serve Hindu Americans across all sampradayas (Hindu religious



traditions) regardless of race, color, national origin, citizenship, caste, gender, sexual orientation, age, and/or disability.

Hindu American Demographics

Hindu Americans, estimated at 3.2 million, represent diverse ethnic backgrounds, including but not limited to individuals of Indian, Pakistani, Bangladeshi, Malaysian, Indonesian, Afghani, Nepalese, Bhutanese, Sri Lankan, Fijian, Caribbean, and European descent. The majority of Hindus, however, are of Indian ethnic origin and are largely an immigrant community. It was only after the lifting of the Asian Exclusion Act of 1924 in 1943 and the abolishment of quotas for immigrants based on national origin in 1965 that Hindus came to the United States in increasing numbers.

Most Hindus have come to the U.S. as students, high skilled workers, or family members in search of better economic opportunities and unification. And there are others who have arrived in this country after facing religious persecution in their country of origin, such as Afghanistan, Bangladesh, Pakistan, Sri Lanka, and Bhutan. In the last few years, for example, more than 90,000 mostly Hindu Bhutanese have been resettled across the country after being forcibly evicted from Bhutan in the 1990s and living in refugee camps in Nepal for nearly 20 years.

There are also thousands of Hindus from South Asia and other parts of the world who are undocumented and living in this country without legal status.

Many South Asian subgroups such as Bhutanese residents (who are predominantly Hindu) have significant English language barriers. And three specific South Asian-American subgroups with large numbers of practicing Hindus — Bhutanese, Bangladeshi, and Nepalese — experience high poverty rates. The Bhutanese, further, have low education levels, with only nine percent of Bhutanese adults having a college degree.¹ Some of these groups thus utilize government-funded social services.

As an advocacy organization working on both human rights and religious liberty issues, and with these diverse ethnic and immigrant communities in the U.S., we believe those in need should never have to make the impossible choice between receiving the critical social services they need or retaining their religious freedom, religious identity, or other rights.

¹ Lopez, Gustavo, Ruiz, Neil G., and Patten, Eileen, "Key facts About Asian Americans, a diverse and growing population," September 8, 2017, Pew Research Center, <http://www.pewresearch.org/fact-tank/2017/09/08/key-facts-about-asian-americans/>.



The Alternative Provider and Written Notice Requirements Provide Important Religious Freedom Protections for Beneficiaries

Under the current regulations, social service providers are required to: (1) refer beneficiaries to alternative providers if beneficiaries are uncomfortable with a provider's religious nature; and (2) give beneficiaries written notice of their religious freedom rights. This includes notice that a provider cannot discriminate against beneficiaries based on their religion, force beneficiaries to participate in religious activities, and that beneficiaries have a right to seek an alternative provider.

These important religious freedom protections would be removed under the new regulations, however, leaving beneficiaries at significant risk of losing benefits or being forced to compromise their religious rights and identity.

Belonging to a small religious minority, Hindu Americans would be particularly vulnerable under the new regulations. For instance, Bhutanese Hindu refugees, who have already suffered immense trauma from being forcibly evicted from their home country on account of their culture and religion, and have reported tremendous obstacles to retaining their cultural and religious identity in the U.S., would no longer have the right to seek an alternative provider and would be stripped of protections against discrimination, proselytization, or religious coercion in government-funded social services.

Studies have found that Bhutanese refugees face a significantly higher suicide rate than every other refugee group as well as the general population. The Bhutanese rate has been found to be 16/100,000 while the rate for the general population is 12.4/100,000. Moreover, a prevalence of other mental health conditions have also been reported amongst this particular population, including depression, symptoms of anxiety, post-traumatic stress disorder, and suicide ideation.² Under such extenuating circumstances, beneficiaries receiving full information to their rights and having access to all possible services for their mental and physical well-being becomes all the more important. Service providers refusing to provide information about certain services because of their personally held religious beliefs or beneficiaries not being informed of their own rights, the absence of which may lead to feeling pressured to convert to Christianity or attend Christian religious services because they incorrectly believe either is required to continue receiving services risks exacerbating already concerning health trends.

For instance, a Bhutanese Hindu refugee student participating in an Upward Bound program for college readiness preparation may be forced to accept it from a faith-based service provider that

² Suicidal Ideation and Mental Health of Bhutanese Refugees in the United States, [J Immigr Minor Health. 2016 Aug; 18\(4\): 828–835. doi: 10.1007/s10903-015-0325-7](#)



continuously invites them to participate in additional religious activities. The student feels uncomfortable but doesn't know that they can access an alternative provider or how to find one.

Furthermore, the burden and costs imposed on faith-based providers to inform beneficiaries of their rights is minimal. On the other hand, the new regulations would place an unjustifiable and significant burden on beneficiaries and their right to receive appropriate and effective services.

Expanding Religious Exemptions will Lead to Discrimination in Government Funded Programs

The new proposed regulations expand the existing religious exemption that allows religious organizations to accept grants and to discriminate in employment with taxpayer funds.

Faith Based Organizations Seeking Additional Religious Exemptions

By adding special notices to grant announcements and awards to inform faith-based organizations that they can seek additional religious exemptions from federal laws and regulations governing the programs, the government is putting the interests of social service organizations over people in need and dependent on such services.

This will further empower faith-based service providers to openly discriminate in the provision of key services and deny services to religious minorities or others that do not conform to their religious beliefs.

No one should be denied services they are entitled to receive in a government program because the taxpayer-funded provider that voluntarily applied for a grant has a religious objection.

Taxpayer Funded Employment Discrimination

Allowing social service providers to use a religious exemption to discriminate in their hiring practices violates the Establishment Clause of the Constitution and will lead qualified applicants being denied government-funded jobs because they belong to the "wrong" religion or cannot meet a "religious litmus test." This will have a disproportionate impact on minority religious groups, such as Hindus, who already face significant stereotypes and misconceptions about their religious beliefs. According to a recent survey by Pew Research Institute, Americans as a whole know little about Hinduism, and many that do have negative impressions of Hindu Americans.³

Consequently, under the new regulations, Hindu Americans could be fired or denied employment opportunities in government-funded jobs for the sole reason that they do not

³ "How Americans Feel About Religious Groups," July 16, 2014, Pew Research Forum, <https://www.pewforum.org/2014/07/16/how-americans-feel-about-religious-groups/>.



belong to the same religious tradition of the service provider or refuse to adhere to the provider's religious tenets.

This sets a dangerous precedent and violates constitutional protections for religious freedom.

The Proposed Regulations Remove Important Safeguards for Beneficiaries of Voucher Programs

The new proposed rules undermine important safeguards for beneficiaries of voucher programs and explicitly allow service providers to require individuals in voucher programs to participate in religious activities.

For religious minorities in particular who have to use a voucher to get services and have no available secular option to choose from, they may be coerced into participating in religious activities. For instance, a Hindu American who is forced to utilize a voucher to a religious school may be forced into taking part in Christian religious services and face pressure to compromise or hide his own religious beliefs.

Consequently, a voucher program that offers no true genuine and independence private choices that are secular, violate basic constitutional protections against the establishment of religion and the government funding of religious programs.

Overall, these new proposed regulations are un-American and unconstitutional, as they enable discrimination and force individuals to participate in religious programs, attend worship, or pray in order to obtain vital government-funded services.

Sincerely,

Samir Kalra, Esq.
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