

TEACH Grants and Eligibility of Faith-Based Entities to Participate in Title IV, HEA Programs

Summary of the Final Rule

Eligibility of Faith-Based Institutions

In light of the recent United States Supreme Court decision in *Trinity Lutheran Church of Columbia, Inc. v. Comer*¹ and the United States Attorney General’s October 7, 2017, Memorandum on Federal Law Protections for Religious Liberty pursuant to Executive Order No. 13798,² the Department revises the existing regulations regarding the eligibility of faith-based entities to participate in the Federal Student Aid programs authorized under title IV of the Higher Education Act of 1965, as amended, and the eligibility of students to obtain certain benefits under those programs. The existing regulations could be interpreted to discriminate against otherwise eligible students and faith-based entities by disqualifying them from title IV, HEA programs solely because of their religious beliefs or status, in violation of the Free Exercise Clause of the First Amendment to the United States Constitution. The revisions guard against such discrimination and make clear that title IV, HEA programs remain available to all eligible entities without singling out persons and institutions of faith for unequal burdens and treatment.

Need for Regulatory Reform

In *Trinity Lutheran*, the Supreme Court held that laws and policies which provide public benefits in a way that is “neutral and generally applicable without regard to religion” do not offend the First Amendment, but policies that “single out the religious for disfavored treatment” violate the Free Exercise Clause. The Free Exercise Clause “protect[s] religious observers against unequal treatment” and “guard[s] against the government’s imposition of ‘special disabilities on the basis of religious views or religious status.’” Accordingly, the government cannot categorically exclude faith-based entities from a neutral and generally available government benefit program.

Additionally, the Attorney General’s Memorandum provides that “individuals and organizations do not give up their religious-liberty protections by providing or receiving social services, education, or healthcare.” For example, the government may not “deny religious schools—including schools whose curricula and activities include religious elements—the right to participate in a voucher program.” The Attorney General admonishes executive agencies not “to discriminate against religious organizations in their contracting or grant-making activities” but to give “[r]eligious organizations . . . the opportunity to compete for government grants or contracts and participate in government programs on an equal basis with nonreligious organizations.”

In accordance with the Supreme Court’s holding in *Trinity Lutheran* and the Attorney General’s Memorandum on Federal Law Protections for Religious Liberty, the Department’s revisions affirm that eligible students or faith-based entities need not disavow their religious beliefs or status to participate in title IV, HEA programs.

Significant Policy Changes

These regulations provide greater clarity to ensure that institutions with a faith-based mission and individuals do not give up their religious-liberty protections when participating in Federal Student Aid programs and the GEAR UP program. The regulations also level the playing field to ensure that institutions are not barred from competing for GEAR UP grants simply because they may have a religious mission. In particular, the regulations would:

¹ 137 S. Ct. 2012 (2017).

² U.S. Att’y Gen. Memorandum on Federal Law Protections for Religious Liberty (Oct. 6, 2017) (hereinafter “Mem.”), <https://www.justice.gov/opa/press-release/file/1001891/download>.

- Eliminate the presumption that members of religious orders have no need for funding in certain circumstances under the Federal Pell Grant Program, the Federal Perkins Loan Program, the Federal Work-Study Program (FWSP), the Federal Supplemental Educational Opportunity Grant (FSEOG) Program, the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program;
- Allow borrowers working as full-time volunteers to defer repayment of Federal Perkins Loans, National Defense Student Loans (NDSLs), and FFELs in certain circumstances, if those borrowers also engage in giving religious instruction, conducting worship services, engaging in religious proselytizing, or engaging in fundraising to support religious activities as part of their assigned volunteer duties;
- Permit borrowers who work for employers that engage in religious instruction, worship services, or proselytizing to qualify for Public Service Loan Forgiveness so long as they meet the applicable standards for full-time employment when those religious activities are excluded from their work hours; and
- Eliminate arbitrary limitations on the ability of postsecondary faith-based educational institutions to participate in the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) and ensure equal treatment of faith-based and secular secondary institutions that participate in the program.

Separately, the [final regulations](#) on accreditation and State authorization effective July 1, 2020, affirm that accreditors must respect the mission of an institution of higher education that includes, refers to, or is predicated upon religious tenets, beliefs, or teachings.

In response to public comment, the Department has further improved the regulation by:

- Specifying a narrow definition of sectarian instruction with regard to employment opportunities for Federal Work Study recipients to ensure alignment with congressional intent and alignment with the Religious Freedom Restoration Act.
- Ensuring consistent treatment of loan deferments across loan programs, including Public Service Loan Forgiveness.

TEACH Grant Program

The TEACH Grant program was established in 2007 to increase the number of teachers serving in high-need fields in low-income schools. The program provides a grant of up to \$4,000 for each year in which an undergraduate or graduate student is enrolled in an eligible program that prepares him or her to teach in a high-need area in a high-need school, and regardless of the number of grants received, the recipient is required to teach for a total of four years out of eight in a high-need subject in a high-need school, as defined by the Nationwide List³. Grant recipients who leave a qualifying program and do not intend to fulfill the service obligation, who do not meet the requirements of fulfilling the obligation, or who do not complete the required certifications of intent and employment by their respective deadlines have their TEACH grants converted to unsubsidized loans, with interest applied back to the date of disbursement of the grant.

Need for Regulatory Reform

In 2015, a GAO report found that approximately 36,000 out of more than 112,000 TEACH Grant recipients had not fulfilled the requirements of the program and, as a result, had their grants converted to loans. The report also found that 2,252 TEACH Grants were improperly converted to loans as of 2014. In 2018, the American Institutes for Research (AIR) found that 63 percent of TEACH Grant recipients who began their required eight-year service obligation before July 2014 had their grants converted to unsubsidized loans because they did not meet the annual service obligation or certification requirements. Borrowers reported confusion about the

³ Department's annual Teacher Shortage Area Nationwide Listing (Nationwide List).

program's service obligation as well as the requirements and timelines for certification of employment. Further, the Department's current regulations lack sufficient provisions to permit a borrower's request for reconsideration of the conversion from a grant to a loan, or to correct an improper conversion as identified by the Department.

In 2018-2019, the Department implemented corrective action to restore to the correct status those grants that were improperly converted to loans, and to restore time to those recipients to complete the service obligation following correction of the error. These regulations codify those changes that further simplify the process to document that a recipient is meeting or has met the required service obligation, and they also expand the fields in which a grant recipient can teach in fulfillment of the service obligation to include all elementary school teachers, and not just those who are reading or English as a Second Language (ESL) specialists, if elementary school teachers are included in the Nationwide List as a shortage area.

Significant Policy Changes

The regulations expand the fields in which grant recipients can work to fulfill their service obligation, simplify the employment certification requirements, require more information to be provided to recipients as part of entrance and exit counseling, create conversion counseling to education borrowers when their grants convert to loans, and provide processes to correct improper conversions of TEACH grants to loans. In particular, the regulations would:

- Define the term "highly qualified" as it refers to teaching assignments that fulfill the service obligation and to clarify inconsistencies in current law;
- Clarify and expand the conditions under which a TEACH Grant recipient may satisfy the TEACH Grant service obligation when teaching in a high-need field to include elementary school teachers if listed in the Department's annual Teacher Shortage Area Nationwide Listing (Nationwide List);
- Clarify the service obligation requirements for TEACH Grant recipients who withdraw from the institution where they received a TEACH Grant before completing the program for which they received the grant, then later re-enroll in the same program or in a different TEACH Grant eligible program at the same academic level;
- Expand and amend the information that is provided to TEACH Grant recipients during initial, subsequent, and exit counseling, and add a new conversion counseling requirement for grant recipients whose TEACH Grants are converted to Direct Unsubsidized Loans;
- Add new conditions under which a TEACH Grant recipient may receive a temporary suspension of the eight-year period for completing the service obligation;
- Remove the current regulatory requirement for TEACH Grant recipients to certify, within 120 days of completing the program for which they received TEACH Grants, that they have begun qualifying teaching service, or that they have not yet begun teaching, but they intend to satisfy the service obligation;
- Simplify the regulations specifying the conditions under which TEACH Grants are converted to Direct Unsubsidized Loans so that for all grant recipients, loan conversion will occur only if the recipient asks the Secretary to convert his or her TEACH Grants to loans, or if the recipient fails to begin or maintain qualifying teaching service within a timeframe that would allow the recipient to satisfy the service obligation within the eight-year service obligation period;
- Specify that the Secretary will send grant recipients, at least annually, a notice containing detailed information about the TEACH Grant service obligation requirements, a summary of the grant recipient's progress toward satisfying the service obligation, and an explanation of the process by which a grant recipient whose TEACH Grants are converted to Direct Unsubsidized Loans may request reconsideration of the conversion if he or she believes that the grants were converted in error;
- Describe the actions that the Secretary will take if a grant recipient's request for reconsideration of the conversion of the grant to a loan is approved or denied; and

- Specify that the Secretary will notify a grant recipient in advance of the date by which he or she will be subject to loan conversion for failure to begin or maintain qualifying teaching service within a timeframe that would allow the recipient to complete the service obligation within the eight-year service obligation period, and inform the recipient of the final date by which he or she must provide documentation of teaching service to avoid having his or her grants converted to loans.

In response to public comment, the Department has further improved the regulation by:

- Ensuring TEACH Grant recipients who have had their grant improperly converted to a loan will be given additional time (eight years minus the number of full academic years of qualifying teaching that the recipient had already completed) to complete the remainder of their service.
- Requiring automatic notification to a TEACH Grant recipient if their grant is converted to a loan in error.
- Providing additional flexibility to TEACH Grant recipients to reconvert a loan back to a grant if they initially requested conversion to a loan, but their life circumstances have changed and they now intend to meet the service obligation. This will further help the nation address teacher shortage areas.

The Secretary is using her authority to allow voluntary early implementation of these regulations to ensure the changes can benefit those affected as soon as possible.