

# Charitable Choice Regulations

-- An Annotation --



**Division of Behavioral Health**

# Summary

- Charitable Choice is a group of laws enacted 1996-2000 to clarify the rights and responsibilities of faith-based organizations that receive direct Federal funds.
- Related to four Federal programs:
  1. Temporary Assistance to Needy Families (TANF)
    - Administration for Children and Families
  2. Community Services Block Grant (CSBG)
    - Administration for Children and Families
  3. Welfare to Work
    - Department of Labor
  4. Substance Abuse and Mental Health programs
    - SAMHSA

# Scope

- Applies only to funds provided directly to pay for substance abuse prevention and treatment services under 42 U.S.C. 300x-21 *et seq.*, and 42 U.S.C. 290cc-21 to 290cc-35

# Definition

- The Substance Abuse Prevention and Treatment (SAPT) Block Grant, 42 U.S.C. 300x to 300x-65, and
- The Projects for Assistance in Transition from Homelessness (PATH) Formula Grants, 42 U.S.C. 290cc-21 to 290cc-35 insofar as they fund substance abuse prevention and/or treatment services.

# Nondiscrimination against religious organizations

- Religious organizations are eligible, on the same basis as any other organization, to participate in applicable programs, as long as their services are provided.

- Neither the Federal government nor a State or local government receiving funds under these programs shall discriminate against an organization that is, or applies to be, a program participant on the basis of religion or the organization's religious character or affiliation.

## IN OTHER WORDS –

- *No organization is barred from providing government funded services as long as they do indeed provide those services.*

# Religious activities

- No funds provided directly from SAMHSA or the relevant State or local government to organizations participating in applicable programs may be expended for inherently religious activities, such as worship, religious instruction, or proselytization.

# IN OTHER WORDS –

- *No government funds can be used for religion-based activities.*



- If an organization conducts such activities, it must offer them separately, in time or location, from the programs or services for which it receives funds directly from SAMHSA or the relevant State or local government under any applicable program, and participation must be voluntary for the program beneficiaries.

## IN OTHER WORDS –

- *Faith-based organizations can conduct religious activities, but not at the same time as the government-funded services. Attendance is strictly voluntary.*

# Religious character and independence

- Faith-based organizations may use space in their facilities to provide services supported by applicable programs, without removing religious art, icons, scriptures, or other symbols.

- A SAMHSA-funded religious organization may retain religious terms in its organization's name, select its board members on a religious basis and include religious references in its organization's mission statements and other governing documents.

# IN OTHER WORDS –

- *Faith-based organizations can:*
  - ✓ *keep religious symbols at their facilities*
  - ✓ *keep religious nomenclature in their name/titles/bylaws and statements*
  - ✓ *keep religious criteria to select board members and staff*

# Right to services from an alternative provider

- Providers, and the State government that administers the applicable programs, shall ensure that notice of the individual's right to services from an alternative provider is provided to all program beneficiaries or prospective beneficiaries.

## IN OTHER WORDS –

- *Faith-based providers must make sure that the consumer know he/she can decline services.*

# Fiscal accountability

- Religious organizations shall segregate Federal funds they receive under an applicable program into a separate account from non-Federal funds. Only the Federal funds shall be subject to audit by government under the SAMHSA program.



# Effects on State and local funds

- If a State or local government contributes its own funds to supplement activities carried out under the applicable programs, the State or local government has the option to separate out the Federal funds or co-mingle them.

- If the funds are co-mingled, the provisions of this part shall apply to all of the co-mingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds.

## IN OTHER WORDS –

- *Federal funds are kept separate and are subject to audit.*
- *BUT, if the State or local governments contribute, they can decide to have the funds combined.*
- *AND, if combined, all funds are subject to audit.*

# Treatment of intermediate organizations

- If a nongovernmental organization, acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contact or agreement to select nongovernmental organizations to provide services under any applicable program, the intermediate organization shall have the same duties under this part as the government.

## IN OTHER WORDS –

- *If given the right to select other agencies to perform services, a nongovernment agency becomes equal to a government agency in authority.*

# Educational requirements for personnel in drug treatment programs

- A State or local government shall not discriminate against education and training provided to such personnel by a religious organization, so long as such education and training is comparable to that provided by nonreligious organizations, . . .

. . . or is comparable to education and training that the State or local government would otherwise credit for purposes of determining whether the relevant requirements have been satisfied.

## IN OTHER WORDS –

- *As long as it fulfills all necessary criteria, staff training or education will be considered valid regardless if from a secular or faith-based source.*