

## ADAD POLICY AND PROCEDURES FOR CHARITABLE CHOICE

**Purpose: Charitable Choice provisions [Sections 581-584 and Section 1955 of the Public Health Services (PHS) Act, 42 USC 290k, et seq., and 42 USC 300x-65 et seq., respectively] ensures that religious organizations are able to provide SAMHSA-funded substance abuse services without impairing their religious character and without diminishing the religious freedom of those who receive their services.**

- I. Religious organization is defined as a non-profit religious organization (42 CFR Parts 54 and 54a).
  - A. Working definitions of faith-based organization (FBO)—an organization that has a connection to an organized faith community. (Source: Nelson Rockefeller Institute of Government Webpage: [www.rockinst.org](http://www.rockinst.org)).
  - B. Congregation-based FBO is a house of worship that provides treatment or prevention services, e.g. church, synagogue, mosque.
  - C. Religiously-affiliated non-profit agency is a service provider that has 501(c) (3) status and a connection to a religious community at the local (individual congregation), regional (e.g. western states of the U.S.) or national level.
  - D. Faith-based coalition is a coalition of several organizations, some or all of which are faith-based.
  - E. Faith-based intermediary is an organization that provides administrative, fiscal, operational, technical or training assistance to an FBO.
- II. Program beneficiary is an individual who receives substance abuse services under a program funded in whole or in part by applicable programs.
- III. Program participant is a public or private entity that has received funding under an applicable program.
- IV. Religious organizations may participate in applicable programs as long as they meet the same eligibility requirements applied to any other non-profit private organization and provide services in a manner consistent with the First Amendment of the U.S. Constitution (Establishment and Free Exercise Clauses).
- V. No Federal, State or local government agency that receives applicable SAMHSA funds shall discriminate against an organization that is or applies to be a program participant on the basis of its religious character or affiliation.

- VI. A program participant that receives funds directly from SAMHSA or from State or local governments under applicable programs may not spend such funds on inherently religious activities such as worship, religious instruction or proselytization. Inherently religious activities must be offered separately in time or location from its SAMHSA-funded substance abuse treatment or prevention services. Participation in religious activities must be voluntary for the program beneficiary.
- VII. A program participant will retain its independence from Federal, State and local governments, including control over the practice and expression of its religious beliefs and internal governance. A program participant may provide substance abuse services in its facilities without having to remove religious art, icons, scriptures or other religious symbols.
- VIII. Religious nondiscrimination requirements of 42 U.S.C. 300x-57(a)(2) and 42 U.S.C. 290cc-33(a)(2) that relate to employment practices do not apply to a program participant if it is a religious corporation, association, educational institution, or society and can demonstrate that its religious exercise would be substantially burdened by application of the religious nondiscrimination requirements to its employment practices. To make this demonstration, a religious program participant must be able to certify that it sincerely believes that employing individuals of a particular religion is important to the definition and maintenance of its religious identity, autonomy, and/or communal religious exercise; it makes employment decisions on a religious basis in analogous programs; the SAMHSA funds would materially affect its ability to provide the type of substance abuse services in question; and that providing the services in question is expressive of its values or mission. Documentation to support these determinations must be maintained and available to SAMHSA upon request.
- IX. The program participant who identifies themselves as a religious organization is required to provide a Notice of Charitable Choice Rights to all existing and potential program beneficiaries.
  - A. In the provision of substance abuse treatment and/or prevention services and outreach activities, a religious program participant shall not discriminate against any prospective or actual program beneficiary on the basis of:
    - 1. Religion
    - 2. Religious belief
    - 3. Refusal to hold a religious belief

4. Refusal to actively participate in a religious practice
- B. If a program beneficiary or prospective beneficiary objects to the religious character of a program participant, such individual is entitled to a referral to another provider of substance abuse services to which that individual has no religious objection.
- X. Religious program participant's responsibilities to provide Referral for alternative services.
- A. Each religious program participant receiving SAPT Block Grant funds through the Alcohol and Drug Abuse Division (ADAD) shall e-mail the following information to the ADAD monitor within seven working days from date of the request for a referral:
    1. Data on every program beneficiary for whom a Charitable Choice referral was made. The program participant shall completely fill out a form, noting the date of the request for alternative services, the date and type of contact made with the alternative program, and the status of admission into the alternative program.
    2. Such individual shall be referred to an alternative provider of services within **two working days** after the date of the objection and shall be provided with the alternative services within a two week period of time.
    3. A monthly report consisting of the number of Notice of Charitable Choice Rights distributed and the number of referrals made shall be reported to the ADAD monitor via e-mail, by the last working day of the month.
  - B. The alternative provider must be located on the same island as the referring program participant and have the capacity to provide comparable services that have a value that is not less than the value of services of the program to which the individual had objected.
  - C. In making such referral, the program participant may refer to the ADAD-designated alternate service provider or consider any list that the State (ADAD) makes available to entities in the geographic area that provides program services.
  - D. Make all such referrals in accordance with all applicable Federal and State confidentiality laws, including, but not limited to, 42 CFR Part 2 ("Confidentiality of Alcohol and Drug Abuse Patient Records").

- E. Ensure that the referred program beneficiary makes contact with alternate service provider.
- XI. A CCSB Program Specialist will be designated as the Charitable Choice Monitor and will collect incoming data, monitor compliance, contact program participants not in compliance and notify the Branch Chief of any irregularities. The Branch Chief will notify the Division Chief of all instances of referral irregularities. The Charitable Choice Monitor has the following responsibilities:
- A. Establish a list of program participants required to report on Charitable Choice referrals and check monthly that each program participant has sent in Charitable Choice Referral Reports within seven days of receiving a request.
  - B. Issue a written warning to agencies not responding on time, and notify the Branch Chief. The Branch Chief will then notify the Division Chief.
  - C. Keep a running log of data on each program participant which includes the following information:
    - 1. Number of Notices provided to all potential beneficiaries.
    - 2. Number of referrals made by religious objection.
    - 3. Number of referrals made within 2 working days.
    - 4. Number of referrals made in excess of 2 days.