

§ 54a.6 Employment practices.

(a) The participation of a religious organization in or its receipt of funds from an applicable program does not affect that organization's exemption provided under 42 U.S.C. 2000e-1 regarding employment practices.

(b) Nothing in this section shall be construed to modify or affect any State law or regulation that relates to discrimination in employment.

§ 54a.7 Nondiscrimination requirement.

A religious organization that is a program participant shall not, in providing program services or engaging in outreach activities under applicable programs, discriminate against a program beneficiary or prospective program on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

§ 54a.8 Right to services from an alternative provider.

(a) *General requirements.* If an otherwise eligible program beneficiary or prospective program beneficiary objects to the religious character of a program participant, within a reasonable period of time after the date of such objection, such program beneficiary shall have rights to notice, referral, and alternative services, as outlined in paragraphs (b) through (d) of this section. With respect to SAMHSA discretionary programs, for purposes of determining what is the appropriate Federal, State, or local government, the following principle shall apply: When SAMHSA provides funding directly to another unit of government, such as a State or local government, that unit of government is responsible for providing the alternative services. When SAMHSA provides discretionary grant funding directly to a nongovernmental organization, SAMHSA is the responsible unit of government.

(b) *Notice.* Program participants that refer an individual to alternative providers, and the appropriate Federal, State, or local governments that administer the applicable programs, shall ensure that notice of the individual's rights to services from an alternative provider is provided to all program

beneficiaries or prospective beneficiaries. The notice must clearly articulate the program beneficiary's right to a referral and to services that reasonably meet the requirements of timeliness, capacity, accessibility, and equivalency as discussed in this section. A model notice is set out in appendix A to this part.

(c) *Referral to services from an alternative provider.* If a program beneficiary or a prospective program beneficiary objects to the religious character of a program participant that is a religious organization, that participating religious organization shall, within a reasonable time after the date of such objection, refer such individual to an alternative provider.

(1) When the State or local government is the responsible unit of government, the State shall have a system in place to ensure that such referrals are made. That system shall ensure that the following occurs:

(i) The religious organization that is a program participant shall, within a reasonable time after the date of such objection, refer the beneficiary to an alternative provider;

(ii) In making such referral, the religious organization shall consider any list that the State or local government makes available to entities in the geographic area that provide program services, which may include utilizing any treatment locator system developed by SAMHSA;

(iii) All referrals are to be made in a manner consistent with all applicable confidentiality laws, including, but not limited to, 42 CFR part 2 ("Confidentiality of Alcohol and Drug Abuse Patient Records");

(iv) Upon referring a program beneficiary to an alternative provider, the religious organization shall notify the responsible unit of government of such referral; and

(v) The religious organization shall ensure that the program beneficiary makes contact with the alternative provider to which he or she is referred.

(2) When SAMHSA is the responsible unit of government, the referral process is as follows:

(i) When a program beneficiary requests alternative services, the religious organization will seek to make such a referral.

(ii) If the religious organization cannot locate an appropriate provider of alternative services, the religious organization will contact SAMHSA. They will work together to identify additional alternative providers, utilizing the SAMHSA Treatment Locator system, if appropriate.

(iii) The religious organization will contact these alternative providers and seek to make the referral, in a manner consistent with all applicable confidentiality laws, including, but not limited to, 42 CFR part 2 (“Confidentiality of Alcohol and Drug Abuse Patient Records”).

(iv) In the event the religious organization is still unable to locate an alternative provider, it may again contact SAMHSA for assistance.

(d) *Referral reporting procedures.* The program participant shall notify the appropriate Federal, State or local government agency that administers the program of such referral. If a State or local government is the responsible unit of government, it may determine its own reporting procedures. When SAMHSA is the responsible unit of government, this notification will occur during the course of the regular reports that may be required under the terms of the funding award.

(e) *Provision and funding of alternative services.* The responsible unit of government, as defined in paragraph (a) of this section, shall provide to an otherwise eligible program beneficiary or prospective program beneficiary who objects to the religious character of a program participant, services and fund services from an alternative provider that is reasonably accessible to, and has the capacity to provide such services to the individual. Such services shall have a value that is not less than the value of the services that the individual would have received from the program participant to which the individual had such objection. The appropriate State or local governments that administer SAMHSA-funded programs shall ensure that notice of their right to alternative services is provided to applicants or recipients. The alter-

native provider need not be a secular organization. It must simply be a provider to which the program beneficiary has no religious objection.

(1) When the State receives a discretionary grant from SAMHSA, it shall utilize its own implementation procedures for these provisions and shall use funds from the SAMHSA discretionary grant to finance such alternative services, as needed;

(2) When the local government receives a discretionary grant from SAMHSA, it shall utilize State implementation procedures for these provisions and shall use funds from the SAMHSA discretionary grant to finance such alternative services, as needed;

(3) When a religious organization receives a discretionary grant from SAMHSA, if a publicly funded alternative provider is available that is reasonably accessible and can provide equivalent services, the religious organization shall refer the beneficiary to that provider. However, if such a provider is not available, the religious organization shall contract with an alternative provider to provide such services and may finance such services with funds from the SAMHSA discretionary grant.

§ 54a.9 Oversight of the Charitable Choice requirements.

In order to ensure that program funds are used in compliance with the SAMHSA Charitable Choice provisions, applicants for funds under applicable programs are required, as part of their applications for funding, to certify that they will comply with all of the requirements of the SAMHSA Charitable Choice provisions and the implementing regulations under this part.

§ 54a.10 Fiscal accountability.

(a) Religious organizations that receive applicable program funds for substance abuse services are subject to the same regulations as other nongovernmental organizations to account, in accordance with generally accepted auditing and accounting principles, for the use of such funds.

(b) Religious organizations shall segregate Federal funds they receive