

What Does Compliance with Charitable *Choice* Require?

To be compliant, states have to *go beyond* their past practice of contracting with religiously affiliated providers to obtain secular services. Nonprofit organizations with a religious background already could collaborate with government, as long as religion was marginalized. Houses of worship already could sponsor secular programs. Charitable Choice lays down *new* rules for government contracting, which are now obligatory for states that accept TANF and Welfare-to-Work funds. To be compliant, states must follow the new rules when they use the federal money to buy services:

- *Eligibility*—religious organizations, even if “pervasively sectarian,” can compete for funds to provide services (churches can be required to set up separate nonprofits, but the nonprofits don’t have to be secular).

- *New Freedoms*—religious organizations can display religious symbols, use religious and moral concepts, and use religious standards for hiring staff.

- *Limitations*—religious organizations must serve clients without regard to religion, allow clients to sit out religious activities, and not use government contract funds for worship, doctrinal instruction, or proselytizing.

- *Client Rights*—clients have a right to service without religious coercion and must be given an alternative by the government if they object to a faith-based service provider.

Because these are new rules, different from the old restrictive rules, in order to be in compliance with Charitable Choice, states must *evaluate* their procurement policies and practices and *change* those that conflict with Charitable Choice.

What is Charitable *Choice*?

Charitable Choice is a section of the 1996 federal welfare reform law (PRWORA), which changed the main welfare program from Aid to Families with Dependent Children to Temporary Assistance for Needy Families (TANF). Charitable Choice enables faith-based organizations to compete for government funds to provide welfare services “on the same basis” as other providers but without sacrificing their “religious character.” It also includes strong protections for the religious freedom of clients.

Many religious organizations have honorably teamed with government to help the needy before Charitable Choice, but government rules usually pressed them to become secular (a religious motivation was OK but not a faith dimension). Charitable Choice says religious providers getting government funds need not sideline religion. And faith-based organizations that feared

secularization or that were prevented from participating now can compete for funds.

Charitable Choice applies to TANF spending (1996); the Welfare-to-Work program (1997); and Community Action Agencies (1998). This report covers TANF and W-t-W funds. Similar rules apply to federally funded certificates for child care and to Refugee Resettlement. Congress is considering extending Charitable Choice to programs for fatherhood, at-risk juveniles, substance abuse treatment, and adoption, and to all federally funded procurement of human services.

Charitable Choice is a federal law applying to state procurement of services using federal funds. To make a difference for poor families and faith-based organizations, states must reform their policies and practices: they must become compliant.

Resources

- *A Guide to Charitable Choice* (The Center for Public Justice and the Christian Legal Society, 1997)
- Amy Sherman, *The Growing Impact of Charitable Choice: A Catalogue of New Collaborations Between Government and Faith-Based Organizations in Nine States* (The Center for Public Justice, March 2000)

The *Guide* and other Charitable Choice resources are available on the Center’s website: www.cpjustice.org

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






















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CharitableChoice Compliance: A National Report Card

Charitable Choice can revolutionize welfare. This new federal rule busts the barriers that excluded many religious providers from state procurement of welfare services. But states have to put the new rule into effect by getting rid of old restrictive policies and practices. While many states are now reaching out to faith-based groups, the law requires that they must also come into compliance with Charitable Choice.

	A ⁺	First and most aggressive compliance with Charitable Choice. Gov. Bush (R) initiated taskforce, rewrite of procurement rules, and redesign of procurement process and spending programs to maximize openness to faith-based organizations (FBOs).
	A	Under Gov. O'Bannon (D) the state has clarified the rights of religious groups in contracts and established FaithWorks Indiana to facilitate collaboration, provide technical assistance, and conduct outreach to identify effective FBOs.
	A	The state took early notice of Charitable Choice and distributed Legal Brief 98-04 to inform county welfare agencies about the new contracting rules and ensure that they follow the new law. To expand collaboration the state provided training for agency staff.
	A	Charitable Choice was adopted into state law in 1997. Gov. Thompson (R) made faith-based subcontracts a key performance indicator for W-2 (welfare) contractors in 1998. Assembly Speaker Jensen pushed faith-based initiatives in new areas in 1999.
	B	Adopted HB 2423 just last year to make Charitable Choice cover all contracting by the Department of Economic Security and the Department of Human Services (includes all federal, state, and local funds).
	B	The state is aware of Charitable Choice requirements and is slowly reforming restrictive practices. Project Hope reaches out to faith groups, but without taking account of Charitable Choice.
	B	Welfare leadership is committed to Charitable Choice rules. One model collaboration with a Philadelphia church. Outreach by state-level liaison communicates new opportunities for faith communities to participate.
	B	Lt. Gov.'s taskforce (1999) made Charitable Choice a key tool to bust barriers to collaboration. Human Services Secretary has now made compliance a priority and has required procurement review.
	C	Until recently, little notice taken of Charitable Choice. As of August 2000, the state plans to inform county Transitional Economic Assistance coalitions of the requirement to abide by Charitable Choice guidelines.
	C	Welfare was devolved to counties without requiring Charitable Choice. Knowledge and compliance varies. A new law (SB 516) requires the development of Charitable Choice regulations. Future impact uncertain.
	C	Some respectful financial relations with FBOs. But state leadership has ignored Charitable Choice as a chance to fix policies that impede equal opportunity for faith groups. Some legislators are pressing for change.
	C	Compliance is uneven across the state, but counties have been informed about Charitable Choice and some have changed procurement practice.

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