

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

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ADP BULLETIN

Title

**NONDISCRIMINATION AND INSTITUTIONAL SAFEGUARDS FOR RELIGIOUS PROVIDERS,
 TITLE 42 CODE OF FEDERAL REGULATIONS (CFR) PART 54**

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JESSE A. McGUINN, MSW	<input checked="" type="checkbox"/> Administration		
<i>Program Operations Division</i>			

PURPOSE

To inform counties of the requirements contained in Title 42, CFR Part 54, and to establish processes and procedures to ensure compliance with the requirements.

DISCUSSION

Counties should implement processes and procedures as necessary to comply with the provisions of Title 42, CFR Part 54.

REFERENCES

Title 42, United States Code (USC), Section 300x-65; Title 42, CFR, Part 54, and Title 45, CFR, Part 96, Section 96.122.

BACKGROUND

On October 17, 2000, the President signed into law Public Law 106-310, "The Children's Health Act of 2000." Public Law 106-310 amended the Public Health Service Act by adding requirements to: 1) prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide substance abuse services; and 2) allow organizations to accept the funds to provide services to individuals without impairing the religious character of the organization or the religious freedom of the individuals. The statutory requirements can be found in Title 42, USC Section 300x-65. On September 30, 2003, the regulations (Title 42, CFR, Part 54) implementing Section 300x-65 were published in the Federal Register. The

regulations implementing Section 300x-65 also amended Title 45, CFR Part 96, Sections 96.122, and 96.123. Section 96.122 requires the State, as part of its annual Substance Abuse Prevention and Treatment Block Grant application, to describe the activities which it has undertaken to comply with Part 54. Section 96.123 requires the State to assure that it will comply with the Part 54 requirements. These regulations are NOT the President's "Access to Recovery" program. Thus, these regulations are NOT accompanied by additional funding.

Under Part 54 counties are required to:

- Identify religious providers.
- Incorporate the applicable Part 54 requirements into county/provider contracts, including a notice to clients.
- Monitor religious providers for compliance with Part 54.
- Establish a referral process, to a reasonably accessible program, for clients who may object to the religious nature of the program. Such process must include a notice to the county and the funding of alternative services.

In closing, licensing or certification of a program by the Department of Alcohol and Drug Programs is not an indication whether the program is eligible for funding, since the religious character or content of a program do not preclude licensure and certification. Under Part 54, a religious provider can be funded if applicable requirements are met, as long as the funds are not used for religious program content (workshop, proselytizing, or religious instruction).

QUESTIONS/MAINTENANCE

If you have any questions, please contact Mr. Ken DaRosa, Supervisor, Program and Fiscal Policy Branch, at (916) 322-1241, or via e-mail to kdarosa@adp.state.ca.us.

EXHIBITS

Exhibit 1: Copy of Federal Register dated September 30, 2003.

Exhibit 2: Summary of Title 42, CFR, Part 54.

Exhibit 3: Actions Which Counties Need to Take to Implement 42 CFR, Part 54. Exhibit

4: Survey on Ensuring Equal Opportunity for Applicants.

DISTRIBUTION

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Strategic Local Government Services, Inc.
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