

Religious Guidance (Last Updated on 8/17/2018):

During our monthly check-in calls, many subgrantees inquired about hosting events or programs during the Jewish holidays. Following the calls, we relayed the inquiries to the Administration for Community Living (ACL). In response, ACL stresses the importance of preventing the impression that Federal funding is being used for religious activities. We must adhere to the following policy from the U.S. Department of Health and Human Services (HHS). The excerpt below is from 45 CFR § 87.3 Grants. (a) Faith-based or religious organizations are eligible, on the same basis as any other organization, to participate in any HHS awarding agency program for which they are otherwise eligible. Neither the HHS awarding agency, nor any State or local government and other pass-through entity receiving funds under any HHS awarding agency program shall, in the selection of service providers, discriminate for or against an organization on the basis of the organization's religious character or affiliation. As used in this section, "program" refers to activities supported by discretionary, formula or block grants. (b) Organizations that apply for or receive direct financial assistance from an HHS awarding agency may not support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), as part of the programs or services funded with direct financial assistance from the HHS awarding agency, or in any other manner prohibited by law. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance from the HHS awarding agency, and participation must be voluntary for beneficiaries of the programs or services funded with such assistance. The use of indirect Federal financial assistance is not subject to this restriction. Religious activities that can be publicly funded under the Establishment Clause, such as chaplaincy services, likewise would not be considered "explicitly religious activities" that is subject to direct Federal financial assistance restrictions. The following paragraph contains an interpretation of this regulation drafted by the U.S. Department of Health and Human Services, as contained in their proposed rule published in the Federal Register on 5 August 2015: This terminology is fairly interpreted to prohibit the Government from directly subsidizing any "explicitly religious activity," including activities that involve overt religious content. Thus, direct Federal financial assistance should not be used to pay for activities such as religious instruction, devotional exercises, worship, proselytizing or evangelism; production or dissemination of devotional guides or other religious materials; or counseling in which counselors introduce religious content. Similarly, direct Federal financial assistance may not be used to pay for equipment or supplies to the extent they are allocated to such activities. Activities that are secular in content, such as serving meals to the needy or using a nonreligious text to teach someone to read, are not considered "explicitly religious activities" merely because the provider is religiously motivated to provide those services. Secular activity also includes the study or acknowledgement of religion as a historical or cultural reality. 8 Follow up Guidance: This memo is meant to respond to the many questions we received about the memo on religious guidance we issued below. As you know under terms of the grant, federal funds and funds obtained as matching funds for the program may not be used to support "explicitly religious activities, such as worship, religious instruction, or proselytization." If the grantee offers or engages in explicitly religious activities, the activities must occur separately in time or location from the funded program, must be voluntary, and must occur in a manner that protects beneficiaries of and participants

in the funded program from any pressure or coercion to take part in the activity. For example, a Shabbat service or other inherently worship service would have to be conducted in a separate room and at a distinct time from a Saturday afternoon lunch or information session conducted in the temple social hall. Attendance must be voluntary. However, grantees can retain their independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use grant funds for prohibited activities mentioned above. It is permissible to use the facilities of a religious organization without removing religious art, icons, scriptures, or other religious symbols. Further such organizations 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. Thus, as noted above, it would be permissible to fund a nonworship activity that takes place in a synagogue. The line between carrying out mission that includes expression of belief and explicitly religious activities is not easily drawn. As such de minimis reference to "Jewish" in a program carried out by Jewish organizations and agencies should clearly be permissible, while conduct of a Shabbat or Passover Seder would seem to cross the line. Similarly, references to holidays in program titles or at the beginning of a program would seem to be permissible. For example, it should be permissible to use funds to conduct a "Purim party," while it would not appear to be permissible to "read the Megillah" at such event. Further, while the recitation of an introductory blessing over the meal at the beginning of a program might be viewed by some to be "worship," such voluntary prayers led by program participants should be permissible as such individuals clearly retain the right to engage in prayer while attending funded programs.