

(3) We must separate in time or location any privately funded explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction or proselytization) from activities supported with direct Federal financial assistance;

(4) You may report violations of these protections, including any denials of services or benefits by an organization, by contacting or filing a written complaint with [identify the HHS awarding entity, or the pass-through entity that awarded funds to your organization, and the phone number and physical street and/or email address of the identified office]. The HHS awarding entity will address the complaint in consultation with the HHS Office for Civil Rights;

[When required by the HHS awarding agency, the notice must also state:] (5) If you would like to seek information about whether there are any other federally funded organizations that provide these kinds of services in your area, please use the contact information set forth above.

We must give you this notice before you enroll in or receive services from the program, unless the nature of the service provided or exigent circumstances make advanced notice impracticable. In that case, this notice must be given to you at the earliest available opportunity.

[89 FR 15723, Mar. 4, 2024]

APPENDIX B TO PART 87—NOTICE OR ANNOUNCEMENT OF AWARD OPPORTUNITIES

(a) Faith-based organizations may apply for this award on the same basis as any other organization, as set forth at, and subject to the protections and requirements of, this part and any applicable constitutional and statutory requirements, including 42 U.S.C. 2000bb *et seq.* HHS will not, in the selection of recipients, discriminate for or against an organization on the basis of the organization's religious character, motives, or affiliation, or lack thereof, or on the basis of conduct that would not be considered grounds to favor or disfavor a similarly situated secular organization.

(b) A faith-based organization that participates in this program will retain its independence from the Government and may continue to carry out its mission consistent with religious freedom, nondiscrimination, and conscience protections in Federal law.

(c) A faith-based organization may not use direct Federal financial assistance from HHS to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) except when consistent with the Establishment Clause of the First Amendment and

any other applicable requirements. Such an organization also may not, in providing services funded by HHS, or in their outreach activities related to such services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

[89 FR 15723, Mar. 4, 2024]

APPENDIX C TO PART 87—NOTICE OF AWARD OR CONTRACT

(a) A faith-based organization that participates in this program retains its independence from the Government and may continue to carry out its mission consistent with religious freedom, nondiscrimination, and conscience protections in Federal law.

(b) A faith-based organization may not use direct Federal financial assistance from HHS to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization) except when consistent with the Establishment Clause of the First Amendment and any other applicable requirements. Such an organization also may not, in providing services funded by the Department, or in their outreach activities related to such services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

[89 FR 15723, Mar. 4, 2024]

PART 88—ENSURING THAT DEPARTMENT OF HEALTH AND HUMAN SERVICES FUNDS DO NOT SUPPORT COERCIVE OR DISCRIMINATORY POLICIES OR PRACTICES IN VIOLATION OF FEDERAL LAW

Sec.

88.1 Purpose.

88.2 Complaint handling and investigating.

88.3 Notice of Federal conscience and nondiscrimination laws.

88.4 Severability.

APPENDIX A TO PART 88—MODEL TEXT: NOTICE OF RIGHTS UNDER FEDERAL CONSCIENCE AND NONDISCRIMINATION LAWS

AUTHORITY: 5 U.S.C. 301.

SOURCE: 89 FR 2107, Jan. 11, 2024, unless otherwise noted.

§ 88.1

45 CFR Subtitle A (10–1–24 Edition)

§ 88.1 Purpose.

The purpose of this part is to provide for the enforcement of the Church Amendments, 42 U.S.C. 300a–7; the Coats-Snowe Amendment, section 245 of the Public Health Service Act, 42 U.S.C. 238n; the Weldon Amendment, e.g., Consolidated Appropriations Act, 2023, Public Law 117–328, div. H, title V General Provisions, section 507(d)(1) (Dec. 29, 2022); Sections 1303(b)(1)(A), (b)(4), and (c)(2)(A), and 1411(b)(5)(A), and 1553 of the ACA, 42 U.S.C. 18023(b)(1)(A), (b)(4), and (c)(2)(A), 18081(b)(5)(A), and 18113; certain Medicare and Medicaid provisions, 42 U.S.C. 1320a–1(h), 1320c–11, 1395i–5, 1395w–22(j)(3)(B), 1395x(e), 1395x(y)(1), 1395cc(f), 1396a(a), 1396a(w)(3), 1396u–2(b)(3)(B), 1397j–1(b), and 14406; the Helms, Biden, 1978, and 1985 Amendments, 22 U.S.C. 2151b(f), *accord, e.g.*, Consolidated Appropriations Act, 2023, Public Law 117–328, div. K, title VII, section 7018 (Dec. 29, 2022); 22 U.S.C. 7631(d); 42 U.S.C. 280g–1(d), 290bb–36(f), 1396f, 1396s(c)(2)(B)(ii); 5106i(a)); and 29 U.S.C. 669(a)(5), referred to collectively as the “Federal health care conscience protection statutes.”

§ 88.2 Complaint handling and investigating.

(a) *Delegated authority.* The Office for Civil Rights (OCR) has been delegated the authority to facilitate and coordinate the Department’s enforcement of the Federal health care conscience protection statutes, which includes the authority to:

- (1) Receive and handle complaints;
- (2) Initiate compliance reviews;
- (3) Conduct investigations;
- (4) Consult on compliance within the Department;
- (5) Seek voluntary resolutions of complaints;
- (6) Consult and coordinate with the relevant Departmental funding component, and utilize existing enforcement regulations, such as those that apply to grants, contracts, or other programs and services;
- (7) In coordination with the relevant component or components of the Department, coordinate other appropriate remedial action as the Department deems necessary and as allowed by law and applicable regulation; and

(8) In coordination with the relevant component or components of the Department, make enforcement referrals to the Department of Justice.

(b) *Complaints.* Any entity or individual may file a complaint with OCR alleging a potential violation of Federal health care conscience protection statutes. OCR shall coordinate handling of complaints with the relevant Department component(s). The complaint filer is not required to be the entity whose rights under the Federal health care conscience protection statutes have been potentially violated.

(c) *Compliance reviews.* OCR may conduct compliance reviews of an entity subject to the Federal health care conscience protection statutes, where authorized for the funding at issue, to determine whether they are complying with Federal health care conscience protection statutes. OCR may initiate a compliance review of an entity subject to the Federal health care conscience protection statutes based on information from a complaint or other source that causes OCR to suspect non-compliance by such entity with the Federal health care conscience protection statutes.

(d) *Investigations.* OCR shall make a prompt investigation of a complaint alleging failure to comply with the Federal health care conscience protection statutes. This investigation may include a review of the pertinent practices, policies, communications, documents, compliance history, circumstances under which the possible noncompliance occurred, and other factors relevant to determining whether the Department, Department components, recipient, or sub-recipient has failed to comply. OCR may use fact-finding methods including site visits; interviews with the complainants, Department components, recipients, sub-recipients, or third parties; and written data requests. OCR may seek the assistance of any State agency.

(e) *Failure to respond.* OCR will adopt a negative inference if, absent good cause, an entity that is subject to the Federal health care conscience protection statutes fails to respond to a request for information or to a data or document request within a reasonable timeframe.

(f) *Supervision and coordination.* If, as a result of an investigation, OCR makes a determination of noncompliance with responsibilities under the Federal health care conscience protection statutes, OCR will coordinate and consult with the Departmental component responsible for the relevant funding to undertake appropriate action with the component to assure compliance.

(g) *Resolution of matters.* (1) If an investigation reveals that no action is warranted, OCR will in writing so inform any party who has been notified by OCR of the existence of the investigation.

(2) If an investigation indicates a failure to comply with the Federal health care conscience protection statutes, OCR will so inform the relevant parties and the matter will be resolved by informal means whenever possible.

(3) If a matter cannot be resolved by informal means, OCR will coordinate with the relevant Departmental component to:

(i) Utilize existing enforcement regulations, such as those that apply to grants, contracts, or other programs and services, or

(ii) Withhold relevant funding to the extent authorized under the statutes listed under § 88.1.

(4) If a matter cannot be resolved by informal means, OCR may, in coordination with the Office of the General Counsel, refer the matter to the Department of Justice to the extent permitted by law for proceedings to enforce the statutes listed under § 88.1.

§ 88.3 Notice of Federal conscience and nondiscrimination laws.

(a) *In general.* OCR considers the posting of a notice consistent with this part as a best practice towards achieving compliance with and educating the public about the Federal health care conscience protection statutes, and encourages all entities subject to the Federal health care conscience protection statutes to post the model notice provided in appendix A to this part. OCR will consider posting a notice as a factor in any investigation or compliance review under this rule.

(b) *Placement of the notice text.* The model notice in appendix A to this part

should be posted in the following places, where relevant:

(1) On the Department or recipient's website(s);

(2) In a prominent and conspicuous physical location in the Department's or covered entity's establishments where notices to the public and notices to its workforce are customarily posted to permit ready observation;

(3) In a personnel manual, handbook, orientation materials, trainings, or other substantially similar document likely to be reviewed by members of the covered entity's workforce;

(4) In employment applications to the Department or covered entity, or in applications for participation in a service, benefit, or other program, including for training or study; and

(5) In any student handbook, orientation materials, or other substantially similar document for students participating in a program of postgraduate or study, including for postgraduate interns, residents, and fellows.

(c) *Format of the notice.* The text of the notice should be large and conspicuous enough to be read easily and be presented in a format, location, and manner that impedes or prevents the notice being altered, defaced, removed, or covered by other material.

(d) *Content of the notice text.* A recipient or the Department should consider using the model text provided in appendix A to this part for the notice but may tailor its notice to address its particular circumstances and to more specifically address the Federal health care conscience protection statutes covered by this rule that apply to it. Where possible, and where the recipient does not have a conscience-based objection to doing so, the notice should include information about alternative providers that may offer patients services the recipient does not provide for reasons of conscience.

(e) *Combined nondiscrimination notices.* The Department and each recipient may post the notice text provided in appendix A of this part, or a notice it drafts itself, along with the content of other notices (such as other nondiscrimination notices).

§ 88.4

§ 88.4 Severability.

Any provision of this part held to be invalid or unenforceable either by its terms or as applied to any entity or circumstance shall be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be severable from this part, which shall remain in full force and effect to the maximum extent permitted by law. A severed provision shall not affect the remainder of this part or the application of the provision to other persons or entities not similarly situated or to other, dissimilar circumstances.

APPENDIX A TO PART 88—MODEL TEXT: NOTICE OF RIGHTS UNDER FEDERAL CONSCIENCE AND NONDISCRIMINATION LAWS

[Name of entity] complies with applicable Federal health care conscience protection statutes, including the Church Amendments, 42 U.S.C. 300a-7; the Coats-Snowe Amendment, section 245 of the Public Health Service Act, 42 U.S.C. 238n; the Weldon Amendment, e.g., Consolidated Appropriations Act, 2023, Public Law 117-328, div. H, title V General Provisions, section 507(d)(1) (Dec. 29, 2022); Sections 1303(b)(1)(A), (b)(4), and (c)(2)(A), and 1411(b)(5)(A), and 1553 of the ACA, 42 U.S.C. 18023(b)(1)(A), (b)(4), and (c)(2)(A), 18081(b)(5)(A), and 18113; certain Medicare and Medicaid provisions, 42 U.S.C. 1320a-1(h), 1320c-11, 1395i-5, 1395w-22(j)(3)(B), 1395x(e), 1395x(y)(1), 1395cc(f), 1396a(a), 1396a(w)(3), 1396u-2(b)(3)(B), 1397j-1(b), and 14406; the Helms, Biden, 1978, and 1985 Amendments, 22 U.S.C. 2151b(f), *accord*, e.g., Consolidated Appropriations Act, 2023, Public Law 117-328, div. K, title VII, section 7018 (Dec. 29, 2022); 22 U.S.C. 7631(d); 42 U.S.C. 280g-1(d), 290bb-36(f), 1396f, 1396s(c)(2)(B)(ii); 5106i(a)); and 29 U.S.C. 669(a)(5). More information to help entities determine which statutes are applicable to them is available at <https://www.hhs.gov/conscience/conscience-protections/index.html>. You may have rights as a provider, patient, or other individual under these Federal statutes, which prohibit coercion or other discrimination on the basis of conscience, whether based on religious beliefs or moral convictions, in certain circumstances. If you believe that [Name of entity] has violated any of these provisions, you may file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights, electronically through the Office for Civil Rights Complaint Portal, available at [## 45 CFR Subtitle A \(10-1-24 Edition\)](https://www.hhs.gov/ocr/com-</p></div><div data-bbox=)

[plaints/index.html](#) or by mail or phone at: U.S. Department of Health and Human Services, 200 Independence Avenue SW, Room 509F, HHH Building, Washington, DC 20201, 1-800-368-1019, 800-537-7697 (TDD) or by email at ocrmail@hhs.gov. Complaint forms and more information about Federal conscience protection laws are available at <https://www.hhs.gov/conscience>.

PART 89—ORGANIZATIONAL INTEGRITY OF ENTITIES IMPLEMENTING PROGRAMS AND ACTIVITIES UNDER THE LEADERSHIP ACT

Sec.

89.1 Applicability and requirements.

89.2 Definitions.

89.3 Organizational integrity of recipients.

AUTHORITY: Section 301(f) of the Leadership Act, Pub. L. 108-25, as amended (22 U.S.C. 7631(f)) and 5 U.S.C. 301.

SOURCE: 75 FR 18763, Apr. 13, 2010, unless otherwise noted.

§ 89.1 Applicability and requirements.

(a) This regulation applies to all recipients unless they are exempted from the policy requirement by the Leadership Act or other statute.

(b) The Department of Health and Human Services (HHS) components shall include in the public announcement of the availability of the grant, cooperative agreement, contract, or other funding instrument involving Leadership Act HIV/AIDS funds the requirement that recipients agree that they are opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for women, men, and children. This requirement shall also be included in the award documents for any grant, cooperative agreement or other funding instrument involving Leadership Act HIV/AIDS funds entered into with the recipient.

§ 89.2 Definitions.

For the purposes of this part:

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Leadership Act means the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003,