
45 C.F.R. § 260.34

When do the Charitable Choice provisions of TANF apply?

(a) These Charitable Choice provisions apply whenever a State or local government uses Federal TANF funds or expends State and local funds used to meet maintenance-of-effort (MOE) requirements of the TANF program to directly procure services and benefits from non-governmental organizations, or provides TANF beneficiaries with certificates, vouchers, or other forms of indirect disbursement redeemable from such organizations. For purposes of this section:

(1) *Direct funding or funds provided directly* means that the government or an intermediate organization with the same duties as a governmental entity under this part selects the provider and purchases the needed services straight from the provider (e.g., via a contract or cooperative agreement).

(2) *Indirect funding or funds provided indirectly* means placing the choice of service provider in the hands of the beneficiary, and then paying for the cost of that service through a voucher, certificate, or other similar means of payment.

(b)

(1) Religious organizations are eligible, on the same basis as any other organization, to participate in TANF as long as their Federal TANF or State MOE funded services are provided consistent with the Establishment Clause and the Free Exercise Clause of the First Amendment to the United States Constitution.

(2) Neither the Federal government nor a State or local government in its use of Federal TANF or State MOE funds shall, in the selection of service providers, discriminate for or against an organization that applies to provide, or provides TANF services or benefits on the basis of the organization's religious character or affiliation.

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