

# 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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States receiving Fs fall short on compliance with Charitable Choice. While some of these states are expanding their work with FBOs, they are ignoring Charitable Choice rules that should guide the new collaborations.

The F states:

- do not protect the rights of FBOs (CT, FL, GA, IA, ID, HI, IL, LA, ME, MO, NH, NJ, NM, UT, WV, WY, Guam, Puerto Rico, Virgin Islands).
- have changed legislation to permit contracting with FBOs and protect clients, but not to protect FBO rights (CO, MD, WA).
- do not have an exemption to contract requirements so that

FBOs can hire by commitment to religious mission (AK, DE, KS, KY, NB, OR, RI, SC, TN).

- have devolved welfare to counties or regional bodies without requiring compliance with Charitable Choice (CO, FL, MN).
- mistakenly claim Charitable Choice is an option they can ignore (DC, MA, MS, VT).
- mistakenly claim they are exempt from Charitable Choice due to the state's constitution (WA).
- are only now beginning to consider what Charitable Choice requires (NV, OK, OR).

\* The state refused to supply sufficient information regarding compliance with Charitable Choice.

## How Does Compliance Differ from Expanded Collaboration?

Welfare reform's requirement to end dependency is reminding welfare officials that helping the poor takes more than government. It requires partnerships with civil society, including churches and other faith-based organizations that offer encouragement and guidance as well as training. Many welfare agencies are reaching out to faith communities to find ways to collaborate for the sake of clients who need more than a check or classroom instruction.

But expanded collaboration is not a substitute for compliance with Charitable Choice. Charitable Choice is a rule about procurement—government purchase of certain services from outside organizations. It differs from agency referrals to faith-based providers, partnerships in which church volunteers agree to mentor welfare families, or giving new religious groups grants for

services—but without protecting their religious integrity or the rights of clients.

Charitable Choice isn't optional. It doesn't matter whether a state is enthusiastic about partnering with faith groups. It must comply with Charitable Choice if it spends its federal welfare funds to buy services. Faith-based groups don't have to compete for funds if they choose not to, but states have no choice: they are obligated to comply with Charitable Choice by removing barriers.

Besides being obligatory, state compliance sends a valuable signal to the faith communities, to the public, and to welfare bureaucracies that barriers to collaboration are being replaced by respectful cooperation.

## 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.cpjjustice.org](http://www.cpjjustice.org)

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## The Center for Public Justice

The Center for Public Justice is a national, non-partisan, Christian policy research and civic education organization. The Center advocates justice for citizens of all faiths, and public policies that acknowledge and strengthen the institutions of civil society.

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