

President Protects Religious Freedom in Social Services

On this Religious Freedom Day, the U.S. Department of Health and Human Services (HHS) is proposing a rule that implements President Trump's [executive order](#) that removes current regulatory burdens on religious organizations and ensures that religious and non-religious organizations are treated equally in HHS-supported programs. This rule protects HHS-supported religious social service providers from discrimination in federal regulations and it guides all federal administrative agencies and executive departments in compliance with federal law.

HHS's proposed rule would eliminate current discriminatory regulations, enacted by former President Obama, that require only religious providers of social services to make referrals under certain circumstances to alternative service providers and post notices regarding this referral procedure. However, as HHS's proposed rule observes, these burdens were not required by any applicable law, and because they were imposed only on religious social service providers, they are in opposition with recent Supreme Court precedent regarding nondiscrimination against religious organizations. The proposed rule also will foreclose other unequal treatment of religious organizations by ensuring that they are not required to provide assurances or notices that are not required of secular organizations.

In addition, the proposed rule will clarify that religious organizations may apply for awards on the same basis as any other organization and that when HHS selects award recipients, HHS will not discriminate based on an organization's religious character. The proposed rule also clarifies that religious organizations participating in HHS-supported programs retain their independence from the government and may continue to carry out their missions consistent with religious freedom protections in federal law, including the Free Speech and Free Exercise Clauses of the First Amendment.