

Clarifying The Emergency Food Assistance Program (TEFAP) Written Notice of Beneficiary Rights



Background

An amendment in 2016 to Section 7 of the Code of Federal Regulations, part 16.4 (7 CFR 16.4) requires faith-based or religious organizations that receive USDA food or federal funding to provide a written notice of rights to all clients. Faith based organizations operating or managing a hot meal program or food pantry program must post the written notice of beneficiary protections in a prominent place visible to all clients and prospective clients upon entrance into the distribution site.

The Emergency Food Assistance Program (TEFAP) Written Notice of Beneficiary Rights posting will be supplied by the Akron-Canton Regional Foodbank and cannot be altered or modified in any way without prior written approval by the Akron-Canton Regional Foodbank.

Questions and Answers

The following questions and answers are provided to help clarify this policy change and to help guide faith-based organizations in the proper implementation of the new requirements.

Q. Do the requirements of this rule apply to all religious organizations?

A. Yes. There are no exceptions. State agencies are required to ensure that all applicable agencies are aware of the requirement and are following the guidelines.

Q. Can my volunteers gather to participate in a prayer before we begin the food distribution?

A. Yes, at the volunteer's personal discretion. The amendment to 7 CFR Part 16.4 is not intended to impact the religious activities and services of faith-based organizations. Rather the amendment is intended to ensure that clients are not required to participate in explicitly religious activities in order to receive federal benefits.

Q. Is it acceptable to have a moment of silence, rather than a prayer?

A. Yes, if the moment of silence is not accompanied with any explicitly religious activity.

Q. Are we required to prohibit a client from saying a personal prayer during a meal service or food distribution?

A. No. The regulations do not pertain to personal prayer. Please note, a client should not lead a group prayer during the meal or food distribution since prayer is a personal choice for each individual.

Q. Do we have to provide the Written Notice of Beneficiary Rights in a paper format to each client? Should clients sign and date the notice to prove they have been informed?

A. No. The written notice requirement can be met by posting the Written Notice of Beneficiary Rights provided by the Foodbank in a location visible to all clients prior to the food program intake process. Federal regulations do not require a signed copy however, clients should be given the option to receive a copy upon request.

Q. Can we play religious music during our food distribution?

A. Yes, if the music is intended as background sound for enjoyment and not proselytizing. In other words, the audio cannot be a recorded sermon or prayer and cannot be so loud in volume that it restricts conversation.

Q. Can a pastor announce to all clients that a prayer is about to take place in 5-10 minutes so clients who do not want to participate can leave the room?

A. No. Per 7 CFR Part 16.4(b), services funded with USDA direct assistance (USDA products) must be kept separate in time or location from explicitly religious activities. Although clients are given the option to “leave the room,” this scenario violates the requirement to keep explicitly religious activities separate in time or location from the provision of services.

The faith-based organization can meet the requirements by scheduling the prayer at a different time or in a different location than the food program and making it very clear to clients that participation in the prayer **is not** a condition to receive food.

If the option to meet the requirement is a different time, there must be a sufficient amount of time allotted to establish a clear separation between the explicitly religious activity and the food distribution. As a best practice, the time separation should be no less than 15 minutes between the two activities.

If the option to meet the requirement is a different location, the religious activity must be held in a separate closed-room from the food program and clients may be invited to join as long as it is made clear that participating in the religious activity is 100% voluntary.

In both examples, clients can decide for themselves whether to attend both the religious activity and the food distribution. Importantly, in either case, the agency needs to make sure that clients do not receive additional benefits or are shown preferential treatment for participating in the religious activity.

Q. The Written Notice of Beneficiary Rights says that we must make reasonable efforts to identify an alternative food provider if a client requests. Is this true? Can a referral be made to another faith-based organization?

A. Yes. The Foodbank will assist your organization in finding other food programs and resources for clients. The amendment requirements do not state that the alternate provider be a nonfaith-based organization. If an alternate provider cannot be identified, your organization must document the date of the request, who made the request and steps taken to identify an alternative provider. A copy of this documentation must be sent to the Foodbank who will in turn provide it to the Ohio Department of Job and Family Services.

Q. How will the Foodbank and the Ohio Department of Job and Family Services monitor compliance with the new requirement? What will happen if we are noncompliant?

A. The Foodbank and the Department of Job and Family Services will primarily use a standard site visit to ensure the proper posting of The Written Notice of Beneficiary Rights and the documentation of any requests for an alternate provider. However, compliance may be monitored by unscheduled site visits and case record reviews. Failure to comply with the requirements will result in the loss of USDA and State.

If you have any additional questions or concerns regarding the amendment to 7 CFR Part 16.4 and the new requirements, please contact the Network Partners and Programs Department at the Akron-Canton Regional Foodbank at 330.535.6900.