



Food and
Nutrition
Service

Park Office
Center

3101 Park
Center Drive
Alexandria
VA 22302

DATE: November 28, 2016

POLICY NO: FD-142: The Emergency Food Assistance Program (TEFAP),
Commodity Supplemental Food Program (CSFP)

SUBJECT: Further Clarification on the Prohibition Against Explicitly Religious
Activities As Part of TEFAP and CSFP Activities

The purpose of this memorandum is to provide clarification on “explicitly religious activities” per 7 CFR Part 16 and provide specific examples related to The Emergency Food Assistance Program (TEFAP) and the Commodity Supplemental Food Program (CSFP). The U.S. Department of Agriculture’s (USDA) overarching regulation on equal opportunity for religious organizations to participate in USDA assistance programs can be found at 7 CFR Part 16. The final rule entitled [*Federal Agency Final Regulations Implementing Executive Order 13559: Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations*](#) (Final Rule) amended 7 CFR Part 16. The preamble to that Final Rule directed agencies to provide policy guidance or reference materials on a number of program-specific topics, including program specific examples of explicitly religious activities.

Consistent with that direction, FNS issued [*Policy Memorandum FD-138: Written Notice and Referral Requirements for Beneficiaries Receiving TEFAP and CSFP Benefits from Religious Organizations*](#) in order to provide policy guidance on the regulation’s written notice and referral requirements for religious organizations that receive USDA Foods or administrative funding as part of TEFAP or CSFP. At this time, we are providing additional policy guidance in this memorandum and in [*Policy Memorandum FD-141: Questions and Answers Related to the 7 CFR Part 16: Equal Opportunity for Religious Organizations Final Rule*](#).

Explicitly Religious Activities

The Final Rule amended 7 CFR Part 16 by replacing the term “inherently religious activities” with the term “explicitly religious activities” throughout the regulation. Per federal regulations at 7 CFR Part 16.4:

- Organizations may not engage in explicitly religious activities as part of TEFAP or CSFP. This includes activities that involve overt religious content, such as worship, religious instruction, or proselytization.
- If there is an explicitly religious activity that takes place at the distribution site, it must be separate in time or location from the provision of TEFAP or CSFP services.
 - Separate in time or location means that if there is an explicitly religious activity happening in the same location it must be at a different time than

the provision of TEFAP or CSFP services or if an explicitly religious activity is happening at the same time it must be in a different location than the provision of TEFAP or CSFP services. There can be no overlap.

- Organizations must not require program beneficiaries or prospective beneficiaries to participate in explicitly religious activities in order to receive TEFAP or CSFP services. Participation in any explicitly religious activities must be voluntary.
- Organizations cannot use TEFAP or CSFP funds to support any explicitly religious activities, speech, or materials.

Program Specific Examples for Organizations Operating TEFAP or CSFP

| <i>It is acceptable to...</i> | <i>It is unacceptable to...</i> |
|---|--|
| Have a cross hanging on a wall at the food distribution facility. | Require beneficiaries to stand by the cross and recite a prayer prior to receiving USDA Foods. |
| Have a menorah on a table at the USDA Foods distribution facility during the holiday season. | Refuse USDA Foods to beneficiaries who do not practice the Jewish faith. |
| Have a display stand at the front/back of the USDA Foods distribution facility that contains faith-based pamphlets for anyone interested. | Insert faith-based pamphlets in bags or boxes when distributing USDA Foods. |
| Have a pastor or other religious official assist with the distribution of USDA Foods. | Require or encourage beneficiaries to have a religious conversation with the pastor or official prior to receiving USDA Foods. |
| Have a prayer service on the second level of a church building while the distribution of USDA Foods is happening on the lower level. | Have a prayer service in the same room and at the same time as the distribution of USDA Foods. |
| Invite beneficiaries to participate in a voluntary prayer before, and clearly separate from, the distribution of USDA Foods. | Lead beneficiaries in a prayer at the beginning of the distribution of USDA Foods. |

If a local or eligible recipient agency is unsure of whether or not a specific activity is explicitly religious, they can contact their State agency, which can in turn contact the appropriate FNS regional office for assistance.

/s/ Original Signature on File
 Laura Castro
 Director
 Food Distribution Division