



Counseling And Adoption Services

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February 21, 2019

The Honorable Lynn Johnson Assistant Secretary
Administration for Children and Families
Department of Health and Human Services 330 C Street, SW
Washington, D.C. 20201

Re: Exemption Request Under 45 CFR § 75.102(b)

Dear Ms. Johnson:

Catholic Charities Counseling & Adoption Services, Inc. (CCCAS) of the Erie Diocese has been providing services to children and families for over 65 years. In all of those years, we have strived to fulfill the needs and desires of children seeking forever families and families willing to open their hearts and homes to these children. Our service has always been rooted in the faith and traditions of the Catholic Church and is a manifestation of the Catholic theological principle that "faith without works is dead." James 2:17. CCCAS lives out this service to needy children and families in part through participation in Pennsylvania's Statewide Adoption and Permanency Network (SWAN) program.

The Pennsylvania Department of Human Services (DHS) oversees the administration of the SWAN program with federal HHS funds. In the 2017-18 Pennsylvania State Budget, \$323,812,000 of federal funds received under Title IV-E of the Social Security Act were used to administer the SWAN program through the numerous County Children & Youth Agencies. The 2018-19 Pennsylvania State Budget reflects that \$340,635,000 of federal Title IV-E funds are dedicated to the SWAN program.

Recently, Pennsylvania's DHS notified all SWAN affiliates, including affiliates such as CCCAS, that participation in the SWAN program requires all affiliates to sign a new contract with newly-added and expanded nondiscrimination language. The new contract language mandates that no SWAN affiliate may discriminate in any way in the administration of the service provider agreement on the basis of religion or sexual orientation and gender identity. No accommodation for conscientious religious objection to this provision was granted, even though one was sought.

This demand, it appears, is due to new HHS regulations requiring nondiscrimination on the bases of sexual orientation and gender identity and the recognition of the validity of same-sex marriages. See 45 CFR §75.300 (c), (d). HHS's regulatory additions force Catholic providers to choose between exercising our firmly held religious beliefs and continued participation in an otherwise generally available governmental program. This violates our constitutional rights as well as the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb, et seq. which prohibits the government from substantially burdening the free exercise of religion unless the government uses the least restrictive burden needed to accomplish a compelling governmental interest.

Fortunately, HHS has the authority to stop these unconstitutional violations of religious conscience. 45 CFR §75.102(b) permits "exceptions on a case-by-case basis for individual non-Federal entities. . ." I have had the opportunity to review the thorough description of the source and nature of the unconstitutional regulations with which CCCAS is being forced to comply, as



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well as the legal basis for requesting an HHS exemption, presented to your office via a separate letter from the Most Reverend Lawrence T. Persico, Bishop of Erie. I fully concur with and support the reasoning and legal analysis as presented in Bishop Persico's exemption request and incorporate by reference those legal arguments into this request.

CCCAS serves a thirteen-county area of northwestern Pennsylvania, which comprises the Catholic Diocese of Erie, serving individuals and families of all faiths to help children in need to find a home. It is grievous to think that an arbitrary decision would prevent CCCAS from providing the direct service to clients it has served for decades, due solely to government suppression of our deeply held religious beliefs.

Therefore, under the authority of 45 CFR § 75.102(b), CCCAS hereby formally requests an individual exemption from the nondiscrimination requirements imposed upon them by and through the requirements of 45 CFR § 75.300 (c) and (d).

We anxiously await your favorable reply. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Joseph J. Haas".

Joseph J Haas, LPC
Chief Executive Officer
CCCAS – Diocese of Erie