

## **Milwaukee Jewish Council for Community Relations**

### **POSITION STATEMENT ON CHARITABLE CHOICE/ FAITH BASED INITIATIVES**

April 14, 1999 Approved by Executive Committee

April 21, 1999 Approved by Board of Directors

The Milwaukee Jewish Council for Community Relations regards efforts to implement charitable choice, the public funding of social service programs operated by pervasively sectarian organizations, as a critical church-state issue confronting the Jewish community. Despite the fact that the U.S. Supreme Court ruled in *Bowen v. Kendrick* that such funding violates the Establishment Clause, Congress included charitable choice provisions in its 1996 overhaul of federal welfare reform legislation. Pressure is mounting to implement charitable choice for publicly funded programs throughout the country. In Wisconsin, such efforts are underway as well. The clear distinction between "religiously affiliated" and "pervasively sectarian" organizations has become blurred. Our concern about this issue stems from the Council's longstanding support for and commitment to the separation of church and state.

Historically, religiously affiliated organizations such as, but not limited to, Jewish Family Services, Lutheran Social Services and Catholic Charities, have been eligible to receive public funding because the primary mission of these agencies has not been to promote religious practice or belief. These institutions were not faith-based. Religiously affiliated institutions provide valuable and efficient social services to clients regardless of religious affiliation and should continue to qualify for government funding for such programs. However, public funding of social services through religiously affiliated organizations must contain appropriate and effective First Amendment safeguards, such as those that prevent proselytization, coercion or indoctrination and that safeguard against discrimination on the basis of religion against beneficiaries and direct providers of funded services.

Public funding of social services through pervasively sectarian organizations, such as churches, synagogues and mosques, necessarily and unavoidably violates both the U.S. and Wisconsin Constitutions. Pervasively sectarian institutions include those whose primary mission is to promote religious practice or belief. Charitable choice legislation which permits pervasively sectarian organizations to receive public funding inherently sanctions proselytizing, coercion, indoctrination and discrimination on the basis of religion against both beneficiaries of the service and direct providers. Because such constitutional infringements are so fundamentally unavoidable when public funds are disbursed to pervasively sectarian organizations, no form of enabling legislation, no matter how carefully crafted in a professed attempt to provide first amendment safeguards, can effectively or realistically avoid such constitutional infringements.

Therefore, the Milwaukee Jewish Council for Community Relations will continue to oppose the passage of charitable choice and similar legislative efforts. The Council will remain vigilant and vocal in monitoring the implementation of all publicly funded programs in order to prevent First Amendment violations as well as to protect the religious freedom of program beneficiaries and

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employees of service providers. We believe that all publicly funded programs that involve religious organizations must adhere to the following requirements:

- Public monies may not be used to fund any religiously oriented program, including those programs that integrate worship, religious instruction or adherence to any religious tenet. Public funds may be used to fund secular programs of religiously affiliated agencies; they may not fund *faith* based programs.
- Public funds must not be used to contract with, make referrals to, or provide direct grants to pervasively sectarian organizations. These are defined as having a primary or substantial goal of conversion or proselytization.
- Government may not encourage participation in any faith-based program, favor any one denominational approach, or limit referrals solely to religious providers when non-sectarian alternatives are available.
- Neither the government nor any recipient of funds may require participation in any religious activity. Neither can the state mandate or enforce any religious requirement of an optional faith based program.