

Center of Excellence for Protected Health Information Related to Behavioral Health
[CoE-PHIBH NOFO Announcement](#)

Eligibility

1. Who is eligible to apply?

Eligible applicants are listed on page 15 and in Appendix C (page 43) of the Notice of Funding Opportunity (NOFO).

Eligible applicants include the following:

- States and Territories, including the District of Columbia;
- Political subdivisions of States;
- Indian tribes, or tribal organizations (as such terms are defined in section 5304 of title 25);
- Health facilities, programs operated by or in accordance with a contract or award with the Indian Health Service, or other public or private non-profit entities.

As stated in the application, “For-profit organizations and foreign entities are not eligible to apply for SAMHSA awards.”

Required and Allowable Activities

2. How does SAMHSA envision the Mental Health Parity and Addiction Equity Act interacting with federal health privacy laws?

The application states that the award recipient will be expected to provide “training materials and resources related to pertinent anti-discrimination statutes and regulations,” including the Mental Health Parity and Addiction Equity Act (MHPAEA). MHPAEA requires services and treatment for mental health and substance use disorders provided by most group health plans and health insurers, including Medicaid providers, be similar to that provided for physical health conditions.

Informational resources related to MHPAEA include:

- [HHS’s New Mental Health and Substance Use Disorder Benefit Resources Will Help People Seeking Care to Better Understand Their Rights](#);
- [Mental Health Parity and Addiction Equity Act \(MHPAEA\)](#); or
- [Mental Health and Substance Use Disorder Parity](#)

The Health Insurance Portability and Accountability Act, 42 CFR Part 2 and applicable state parity or privacy laws should ensure that patients with behavioral health conditions are treated fairly and equitably relative to those with other health conditions.

As noted in a recent proposed rule, HHS, under Section 3221 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), is required to include provisions concerning antidiscrimination in 42 CFR Part 2. As stated in the proposed rule, issued in December 2022, “the Department intends to develop a separate rulemaking to implement the CARES Act antidiscrimination prohibitions.” These provisions, once finalized, will directly intersect with Part 2 and other privacy requirements as well as antidiscrimination in the context of Part 2 programs and substance use disorders.

Compliance with such laws and regulations is important because historically persons with behavioral health conditions have faced discrimination and stigma both from the general public and within the health care system. Data sharing about behavioral health conditions consistent with statutory and regulatory requirements and patient needs and preferences can help ensure equitable treatment. However, if privacy statutes and regulations are violated, this can contribute to discrimination and health disparities. Compliance both with parity laws and privacy requirements may reduce discrimination and ensure equitable access to treatment.

3. How does SAMHSA envision other pertinent anti-discrimination statutes and regulations (ADA, CAPTA) interacting with federal health privacy laws?

Compliance with statutory and regulatory requirements referenced in the application also can help further patient privacy and reduce stigma and discrimination.

- The Americans with Disabilities Act helps ensure patients with mental health conditions and those in treatment and recovery from substance use disorders are protected from discrimination in health services ([Justice Department Issues Guidance on Protections for People with Opioid Use Disorder under the Americans with Disabilities Act](#)).
- The Child Abuse Prevention and Treatment Act (CAPTA) ensures confidentiality of child abuse and neglect reports subject to certain exceptions ([2.1A.1 CAPTA, Assurances and Requirements, Access to Child Abuse and Neglect Information, Confidentiality](#)).

Because Part 2 is a privacy regulation and will include forthcoming antidiscrimination requirements, it is important an award recipient be able to discuss and develop materials on other relevant antidiscrimination statutes and regulations as well as applicable privacy requirements.

4. How does SAMHSA envision the CoE-PHIBH addressing the above laws as they relate to sharing substance use disorder (SUD) and mental health treatment information?

- As stated on pages 9 and 10 of the application, SAMHSA would expect the award recipient to implement such activities as: providing “training materials and resources related to pertinent anti-discrimination statutes and regulations” on antidiscrimination laws that may have implications for patient privacy.
- The application discusses that the award recipient may or should provide education materials, training and technical support, including to families, patients and health care practitioners.
- The application also notes that the recipient should work with SAMHSA, the HHS Office for Civil Rights, and other federal and non-federal partners to help develop materials and ensure correct interpretations of relevant statutes and regulations.

5. Should the awardee address the topic of central registries and 42 CFR part 2?

- A central registry is “an organization which obtains from two or more member programs patient identifying information about individuals applying for withdrawal management or maintenance treatment for the purpose of avoiding an individual's concurrent enrollment in more than one treatment program” (42 CFR part § 2.11 Definitions, <https://www.law.cornell.edu/cfr/text/42/2.11>). Identifying information may include patient name, phone number and medication types and doses. Central registries are intended to prevent multiple enrollments by patients in treatment programs that could contribute to substance misuse or abuse ([42 CFR § 2.34 - Disclosures to prevent multiple enrollments](#)).
- Changes to permit non-opioid treatment programs with a treating provider relationship with the patient to access central registry information were made by SAMHSA as part of a 2020 final rule ([Confidentiality of Substance Use Disorder Patient Records](#)).
- The awardee on its own initiative or in response to requests from health providers, patients, family members and others the Center is intended to serve, as described in the NOFO, may develop such resources as fact sheets, present at conferences or workshops or provide 1:1 or small group technical support on the topic of central registries along with other provisions of 42 CFR part 2. As stated in the NOFO “it should be clear in the Center’s materials and other interactions that it is not the Center’s role to provide formal legal advice on any particular legal matter, either on its own behalf under this award or on behalf of HHS, SAMHSA, or any other governmental entity.”