

Procedures for Responding to Discrimination Complaints from Clients, Customers, Program Participants, or Consumers of the New Hampshire Department of Health and Human Services and the New Hampshire Department of Health and Human Services Contractors and Subrecipients

I. Purpose

The purpose of this document is to establish the written procedures for New Hampshire Department of Health and Human Services (Department) employees to follow when they receive a complaint alleging discrimination from clients, customers, program participants, or consumers of the Department, or of a Department contractor or subrecipient implementing funding from the United States Department of Health and Human Services, or any other federal agency.

II. Policy

The Department adheres to the policy that all individuals have a right to participate in programs and activities operated by the Department and the Department's contractors and subrecipients, regardless of race, color, national origin, sex, religion, disability, age, or physical or mental disability.

To that end, the Department will ensure that it and its contractors and subrecipients are in compliance with the following statutes and regulations:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in the delivery of services (42 U.S.C. Section 2000d et seq., and Section 2000e et seq.);
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion or sex in the delivery of services and employment practices (42 U.S.C. Section 3789(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. Section 794), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. Section 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;
- Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. Section 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54; and

- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. Section 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I.
- The Department of Justice regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using Department of Justice funding on inherently religious activities (28 C.F.R. Part 38).
- New Hampshire RSA 354-A, State Commission for Human Rights.

These laws prohibit agencies from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.

III. Definitions

- A. Contractor means any entity that performs work or services on behalf of the New Hampshire Department of Health and Human Services under a contractual agreement or reimbursement agreement, which includes reimbursements from monies allocated to New Hampshire Department of Health and Human Services as Federal financial assistance from USDHHS.
- B. Sub-recipient means an entity that expends Federal assistance received as a pass-through from New Hampshire Department of Health and Human Services to carry out a federally-funded program, in which the sub-recipient provides services to and has contact with applicants and participants in the same manner as New Hampshire Department of Health and Human Services if New Hampshire Department of Health and Human Services were to administer the program directly, but does not include an individual applicant or participant who is a beneficiary of the program.
- C. Participant means the primary applicant for public assistance benefits or services under any New Hampshire Department of Health and Human Services program or service.
- D. Discrimination means the unfair treatment or consideration of, or making a distinction in favor of or against, a person based on that group, class, or category to which that person belongs rather than on individual merit. Discrimination can be the effect of some law or established practice that confers privileges on a certain class or denies privileges to a certain class because of race, age, sex, nationality, religion, or handicap.

IV. Complaint Procedures

The following are New Hampshire Department of Health and Human Services procedures for accepting and responding to a complaint from clients, customers, program participants, or consumers of the Department, and the Department's contractors and subrecipients:

1. The New Hampshire Civil Rights Office located in the Office of the Ombudsman is responsible for coordinating the series of actions described in these procedures. The Office of the Ombudsman responds to complaints and requests for assistance from clients, customers, program participants, and consumers to resolve disagreements in matters that involve the Department and Department contractors and subrecipients. The Office of the Ombudsman is dedicated to maintaining an environment that supports the civil rights of all served.
2. Clients, customers, program participants, and consumers of the Department and the Department's contractors and subrecipients may file a complaint of discrimination with the Civil Rights Office at the Office of the Ombudsman in a variety of ways. These include, but are not limited to, in a letter, in an email, in person, or over the telephone.
3. If a Department employee, contractor or subgrantee receives a complaint directly from a client, customer, program participant, or consumer, said individual shall promptly forward the complaint to the Civil Rights Office at the Office of the Ombudsman for investigation and response;
4. The Civil Rights Office or designee will conduct an intake interview and make a determination as to the validity of the complaint and whether an investigation is warranted. If the Civil Rights Office determines that an investigation is warranted, the case will be assigned to an investigator for an internal investigation;
5. At the various stages of the investigation, the complainant will be notified in writing of the determination and the next steps, if any;
6. Upon conclusion of the investigation, the Civil Rights Office will issue a report and recommendations based on the facts uncovered, and will notify all parties of the outcome. The Commissioner will issue a ruling based on the investigation report and recommendation.
7. Contractors and subrecipients are required to notify the Department's Civil Rights Office at the Office of the Ombudsman of any discrimination complaints that the contractor or subrecipient does not forward.
8. Contractors and subrecipients are required to notify the complainant that he or she may file a complaint directly with the Department's Civil Rights Office at the Office of the Ombudsman, the New Hampshire Commission for Human Rights, and/or with the U.S. Office for Civil Rights.

V. Notification Procedures

The Department will notify its clients, customers, program participants and consumers, of the prohibited discrimination, and the procedures for filing discrimination complaints by: (1) posting these procedures on its website; (2) posting these procedures in Department facilities; (3) including reference to the discrimination policy and procedures in program materials, and (4) providing clients, customers, program participants or consumers with a written copy of these complaint procedures, upon request.

The Department will ensure that contractors and subrecipients have procedures in place for notifying clients, customers, program participants and consumers of prohibited discrimination, and for responding to discrimination complaints that clients, customers, program participants, and consumers file directly with the contractor or subrecipient, by: (1) posting these procedures in the Vendor/RFP section of the department's website; (2) referring to these procedures during the mandatory federal civil rights laws training; and (3) and by hand delivering a copy of these procedures during the annual onsite monitoring visit. To view the list of questions used to assess compliance, please refer to the Federal Civil Rights Compliance Checklist.

VI. Training

The New Hampshire Department of Health and Human Services provides mandatory federal civil rights training to relevant staff, and to all contractors, and subrecipients. The training includes a review of these complaint procedures, and the responsibility of Department and contractor/subrecipient staff to refer discrimination complaints from clients, customers, program participants or consumers to the Civil Rights Office at the Office of the Ombudsman.