



NORTH DAKOTA DEPARTMENT *of* HEALTH

Non-Discrimination to Applicants, Clients, and Other Beneficiaries

Purpose

This document seeks to prevent and eliminate discrimination against individuals in employment and in the delivery of programs and services administered and supervised by the North Dakota Department of Health (DOH or Department) and to make all programs and activities accessible to persons with disabilities.

This document also aims to provide policies and procedures to assure that organizations receiving state or federal financial assistance through the DOH comply with anti-discrimination provisions under applicable state and federal law.

Policy

It is the policy of the DOH to provide employment, as well as all programs and services, without regard to race, color, religion, national origin, age, sex, sexual orientation or gender identity, disability, status with respect to marriage or public assistance, or participation in lawful activity off the Department's premises during non-working hours which is not in direct conflict with the essential business-related interests of the DOH. The Department also makes its programs accessible to persons with disabilities under the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973. Persons needing accommodation should contact the Department Civil Rights Officer or ND Relay Services at 1-800-366-6888.

Organizations that contract with or receive state funds to provide services to the DOH are obligated to abide by the nondiscrimination provisions of state law including:

- **North Dakota Human Rights Act of 1983**, N.D.C.C. 14-02.4-01, (state law prohibiting discrimination on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer; to prevent and eliminate discrimination in employment relations, public accommodations, housing, state and local government services, and credit transactions; and to deter those who aid, abet, or induce discrimination or coerce others to discriminate.)

Organizations that receive federal financial assistance from the Department of Health are subject to the following:

- **Title VI of the Civil Rights Act (Title VI) of 1964**, as amended, 42 U.S.C. § 2000d, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpts. C & D (prohibiting discrimination in federally assisted programs based on race, color, and national origin in the delivery of services or benefits);
- **Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968**, as amended, 34 U.S.C. §§ 10228(c) & 10221(a), and the DOJ implementing regulations, 28 C.F.R. pt. 42, subpts. D (prohibiting discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, sex, and religion) & E (requiring certain DOJ-funded programs subject to the administrative provisions of the statute to prepare, maintain, and submit an Equal Employment Opportunity Plan (EEOP));
- **Section 504 of the Rehabilitation Act (Section 504) of 1973**, as amended, 29 U.S.C. § 794, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpt. G (prohibiting discrimination in federally assisted programs based on disability both in employment and in the delivery of services or benefits);
- **Title IX of the Education Amendments (Title IX) of 1972**, as amended, 20 U.S.C. § 1681, and the DOJ implementing regulations, 28 C.F.R. pt. 42, subpt. D & pt. 54 (prohibiting discrimination in federally assisted education programs based on sex both in employment and in the delivery of services or benefits);
- **Title II of the Americans with Disabilities Act of 1990**, as amended, 42 U.S.C. § 12132, and the implementing regulation at 28 C.F.R. § 35.171(a)(1)(i), (3)(i) (prohibiting discrimination based on disability both in employment and in the delivery of services or benefits);
- **Age Discrimination Act (Age Act) of 1975**, as amended, 42 U.S.C. § 6102, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpt. I (prohibiting discrimination in federally assisted programs based on age in the delivery of services or benefits);
- **Juvenile Justice and Delinquency Prevention Act (JJDP A) of 1974**, as amended, 34 U.S.C. § 11182(b), and the DOJ implementing regulations, 28 C.F.R. §§ 31.202, .403 & pt.42, subpt. D (prohibiting discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, sex, and religion);
- **Victims of Crime Act (VOCA) of 1984**, as amended, 34 U.S.C. § 20110(e) and the regulation implementing the Victim of Crime Act Victim Assistance Program, 28 C.F.R. § 94.114 (prohibiting discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, sex, religion, and disability);
- **Violence Against Women Act (VAWA) of 1994**, as amended, 34 U.S.C. § 12291(b)(13) (prohibiting discrimination in programs either funded under the statute or administered by the Office on Violence Against Women, both in employment and in the delivery of services or benefits, based on actual or

perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity) (referring to the Safe Streets Act for enforcement); and

- **Executive Order 13,559**, amending Executive Order 13,279, and the DOJ implementing regulation, Partnerships with Faith-Based and Other Neighborhood Organizations, 28 C.F.R. pt. 38 (prohibiting discrimination in federally assisted social service programs based on religion in the delivery of services or benefits).

The DOH has assured the federal government that it will administer programs that are federally-funded in a non-discriminatory manner. Within the authority of the Department, disciplinary actions or sanctions may be taken to meet that assurance, including the suspension of funds or the suspension of payment on the contract or grant until compliance is achieved.

Compliance Program

1. The State Health Officer will designate a person within the DOH to serve as the Department Civil Rights Officer. The person assigned to this role will act as the overall administrator of the compliance program.
2. Divisions and recipients will designate a contact to work with the Civil Rights Officer on civil rights issues for that group.
3. The Civil Rights Officer will maintain name, title, address, and contact phone number information for these contacts.
4. The Department will evaluate, on an annual basis, its current civil rights services, policies, and practices.
5. Training for managers, supervisors, employees, and recipients will be provided regarding civil rights awareness and responsibilities by the Civil Rights Officer.
6. The Civil Rights Officer will maintain a log reflecting the receipt of complaints, completion of investigations, communications of the results of the investigations, and the resolution of any complaint.
7. An annual report will be created based on the complaint log by the Civil Rights Officer.
8. The DOH will have an established complaint procedure for all civil rights related issues.

Complaints

The DOH is authorized to receive, investigate, make findings about, and conciliate the following complaints:

- Complaints made by applicants, clients, or other beneficiaries of the DOH or any state-funded program administered through the Department alleging discrimination, including retaliation, in the provision of services or programs on

the basis of race, color, religion, national origin, sex, age, disability, political beliefs, status with respect to marriage or public assistance, or participation in lawful activity off the DOH's premises during non-working hours which is not in direct conflict with the essential business-related interests of the Department. The complaint may be made against any office of the DOH or any organization receiving state funds from the Department. DOH employee complaints must follow the internal complaint process identified in the DOH Personnel policy manual.

- Complaints made by applicants, clients, or other beneficiaries of any federally-funded program administered through the Department alleging discrimination, including retaliation, in the provision of services or in job employment applications on the basis of race, color, religion, national origin, sex, or disability; or alleging discrimination in the provision of services on the basis of age. If the organization receives funding under the Violence Against Women Act, these protections apply to alleged discrimination based on sexual orientation or gender identity. The complaint may be made against any office of the DOH or any organization receiving federal financial assistance from the Department.

An organization receiving U.S. Department of Justice funds from the DOH shall advise the Department Civil Rights Officer of any employment or services discrimination complaint filed against it within 10 business days of receiving the complaint.

The DOH will endeavor to resolve all discrimination complaints as expeditiously as possible. Before filing a complaint, an individual may find it beneficial to contact the DOH Civil Rights Officer to obtain policy clarification, advice, or assistance.

Time Limits for Complaints

Potential complainants have either 180 days or a year to file their complaint, depending on the relevant statute.

Complaint Form

Complaints may be filed by eligible applicants, clients, or other beneficiaries by completing the Department's complaint form. The complaint form may be obtained by contacting the DOH Human Resources Department or the Department Civil Rights Officer. The complaint form is also available on the DOH Web site at www.ndhealth.gov/.

Where to File Complaints with the DOH

Civil Rights Officer
North Dakota Department of Health
600 East Boulevard Avenue, Dep't 301
Bismarck, ND 58505-0340
Phone: (701) 328-2372
Fax: (701) 328-4727

Content of Complaint

The complaint shall contain the following information:

1. Name, address, and phone number of the complainant;
2. Subject of alleged discrimination if other than complainant;
3. Basis of complaint (for instance, is the complaint based on race, color, religion, national origin, sex, age, disability, political beliefs, or status with respect to marriage or public assistance);
4. Date the alleged incident occurred;
5. Nature of the complaint described in as much detail as possible. (Identify the who, what, when, where, and how of the particular situation complained about. Include any supporting documentation.);
6. Name and title or organization's name against whom the complaint is made; and
7. Date the complaint was written and signed.

Complaint Procedure

The following is the DOH's procedure for investigating and resolving employment and services discrimination complaints from applicants, clients, and other beneficiaries of the DOH or organizations receiving state or federal financial assistance through the Department.

1. Upon receipt of a written complaint or documented verbal complaint, the DOH will note when it was received and notify the complainant that it received the complaint. The DOH will also notify the complainant if it determines that the complaint is not within its jurisdiction. In those cases, the DOH may advise or refer the complainant to another, appropriate agency and, at that point, conclude its internal handling of the complaint. A complainant may not appeal a DOH determination that the Department lacks jurisdiction over a complaint. If, however, the DOH determines that it has jurisdiction, the Department will handle the complaint as specified in this Complaint Procedure.
2. The DOH will investigate the complaint or assign investigation responsibilities to another agency. The investigation will be completed within 60 business days. The investigator may request and shall receive records deemed appropriate to

conduct the investigation, except those deemed to be confidential by legal counsel. Records may be used in determining facts surrounding a specific complaint.

3. At the conclusion of an investigation, the Department will make findings and may make recommendations regarding the complaint. The DOH will, at times, recommend that the administrative unit take specific actions. The Civil Rights Officer will notify the complainant in writing of the determination and advise the complainant of his or her right to appeal that determination to the State Health Officer within fifteen calendar days. The State Health Officer must resolve and notify the complainant regarding his or her request for reconsideration within fifteen calendar days of receiving the appeal. Either party may request a maximum of two fifteen-day extensions.

While the DOH encourages individuals to file employment or services discrimination complaints with it, the Department's policies and procedures are not intended to impair or limit the rights of anyone seeking a remedy otherwise available under state or federal law. As a result, the filing of a complaint with the DOH does not preclude the complainant from filing a complaint with a federal or another state agency. If the parties cannot resolve a complaint, the complainant will be notified of his or her right to file the complaint with an appropriate external state or federal agency.

Alternative Avenues

As an alternative or in addition to filing a complaint with the DOH, an individual may wish to file a complaint with an appropriate external state or federal agency for investigation.

A complainant may file certain employment or services discrimination complaints with:

North Dakota Department of Labor
Division of Human Rights
600 East Boulevard Avenue, Dep't 406
Bismarck, ND 58505-0340
Phone: (701) 328-2660
Toll Free: (800) 582-8032
TTY: (701) 328-2660 or (800) 582-8032.
Website: <https://www.nd.gov/labor/human-rights>

A complainant may file certain employment discrimination complaints with:

Equal Employment Opportunity Commission
Denver District EEOC Office
303 East 17th Ave,
Suite 510

Denver, CO 80203

Phone: (800) 669-4000

TTY: (800) 669-6820

Website: <https://www.eeoc.gov/employees/charge.cfm>

If a covered employment or services discrimination complaint involves a program receiving federal financial assistance from the U.S. Department of Health and Human Services, a complainant may file his or her complaint with:

U.S. Department of Health and Human Services

Office for Civil Rights, Region VIII

Federal Office Building

1961 Stout Street

Denver, CO 80294

Phone: (303) 844-4774

Website: <https://www.hhs.gov/hipaa/filing-a-complaint/index.html>

If a covered employment or services discrimination complaint involves a program receiving federal financial assistance from the U.S. Department of Justice (DOJ), a complainant may file his or her complaint with:

U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

810 7th Street, N.W.

Washington, D.C. 20531

Phone: (202) 307-0690

TTY: (202) 307-2027

Website: <https://ojp.gov/about/ocr/complaint.htm>

If the DOH elects to investigate a complaint that involves a federal civil rights law over which the DOJ has jurisdiction, the DOJ retains the authority (1) to conduct supplementary or *de novo* investigations; (2) to approve, modify, or reject recommended findings; (3) to approve, modify, or reject proposed voluntary resolutions; and (4) to initiate formal enforcement action.

Employee Discipline

Any Department employee that intentionally does not carry out the provisions of this policy within the scope of his or her responsibility will be disciplined. In addition, if there is sufficient evidence to conclude that an employee (1) engaged in prohibited discrimination or (2) failed to ensure that a respondent implemented specific recommendations in response to a finding of discrimination, the Department will report that information to the State Health Officer and the responsible employee may be subject to discipline, up to and including separation.

Record Keeping

The DOH shall maintain records regarding all discrimination complaints filed pursuant to this policy for a minimum of six years or until the complaint is finally resolved, whichever is longer. The Department will also retain its self-evaluation plan and make it available for public inspection for at least three years following completion.

Training

Training for managers, supervisors, employees, and recipients will be provided regarding civil rights awareness and responsibilities. This training will be provided on an annual basis to ensure updated and consistent information regarding civil rights awareness and responsibilities.

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