

Civil Rights: Federal Laws and Regulations Regarding Nondiscrimination

Rhode Island Department of Children, Youth and Families

Policy: 100.0140

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The Department of Children, Youth, and Families (DCYF), in the administration of its federally-assisted programs, shall ensure nondiscrimination and equal opportunity to all persons in accordance with the United States Constitution, the Social Security Act, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 as amended (42 U.S.C. 6101 et seq.), and other relevant federal laws and their implementing regulations.

Each program or activity for which the Department of Children, Youth, and Families receives federal financial assistance is operated in accordance with this policy. No individual, on the grounds of race, color, national origin, age, handicap (including impaired vision or hearing), sex, sexual orientation, religious belief, or political belief, is excluded from participation in, denied the benefits of, or subjected to discrimination under any of the Department's programs or activities.

Pertinent Federal Nondiscrimination Regulations:

1. Title VI prohibits discrimination on grounds of race, color, or national origin. The Department of Health and Human Services (HHS) regulations implementing Title VI appear in 45 C.F.R. Part 80. Each application by the Department of Children, Youth, and Families for HHS funds contains or is accompanied by a written assurance that the assisted program will be conducted or the assisted facility operated in compliance with all requirements imposed by or pursuant to 45 C.F.R. Part 80. With respect to any program involving continuing federal financial assistance, HHS must also find that the Department of Children, Youth, and Families' methods of administration give "reasonable assurance" that the State and other entities involved in the program will comply with all requirements imposed by or pursuant to the regulations.
2. Section 504 prohibits discrimination against any "otherwise qualified handicapped individual ... solely by reason of his handicap" under any program, or activity receiving federal financial assistance. The HHS regulations implementing Section 504 appear in 45 C.F.R. Part 84.
3. The Age Discrimination Act prohibits discrimination, in specified circumstances, on the basis of age under any program or activity receiving federal financial assistance. The HHS regulations implementing this Act appear in 45 C.F.R. Part 91.
4. The Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) contains additional civil rights provisions that may apply to the Department of Children, Youth, and Families.

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Civil Rights Coordinator

Procedure From Policy 100.0140: Civil Rights Federal Laws and Regulations Regarding Nondiscrimination

- A. The Department's civil rights officer has been designated to coordinate the Department's compliance with the federal statutes and regulations identified above. He/she is responsible for:
1. Dissemination of civil rights information to staff, beneficiaries, and the general public;
 2. Providing training and technical assistance to staff on civil rights obligations and cultural awareness;
 3. Disseminating civil rights information to service providers and assuring that they meet affirmative action requirements;
 4. Handling or having a significant role in the resolution of complaints of discrimination, both service and employment related;
 5. Maintaining and evaluating records related to civil rights requirements;
 6. Servicing as the principal contact between the Department and federal funding agencies on civil rights matters. Copies of the pertinent federal statutes and regulations described above are available in his/her office.

Prohibited Practices

Procedure From Policy 100.0140: Civil Rights: Federal Laws and Regulations Regarding Nondiscrimination

- A. The following discriminatory practices are prohibited in the administration of the programs in which there is federal financial assistance administered by the Department of Children, Youth, and Families. On grounds of race, color, national origin, handicap, age, religious belief, or political belief, the Department of Children, Youth, and Families will not:
1. Deny an individual aid, care, services, or other benefits provided under the program if that individual meets the eligibility requirements;
 2. Provide aid, care, services, or other benefits to an individual which is different from that provided to others under the program, or which is provided in a different manner, or which is provided in a manner that is not as effective;
 3. Subject an individual to segregation or separate treatment in any matter related to his/her receipt of aid, care, services, or other benefits provided under the program;
 4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others;
 5. Treat an individual differently from others in determining whether he/she satisfies eligibility or other requirements or conditions which individuals must meet to receive aid, service, care, or other benefits provided under the program;
 6. Deny an individual an opportunity to participate in the program through the provision of services or afford him/her an opportunity to do so which is different from that afforded to others under the program;
 7. Distinguish in relation to the use of physical facilities, intake and application procedures, caseload assignments, determination of eligibility, the amount and type of aid, care, services, and other benefits provided under the program and the use thereof.
- B. The prohibition against discriminatory practices extends also to services purchased or obtained by the Department for other agencies, organizations, and institutions; for the beneficiaries of the program; and for the treatment of clients in facilities in which such services are provided.
- C. The Department of Children, Youth, and Families is prohibited from establishing and applying policies and practices which would have the effect of discriminating against individuals because of race, color, national origin, sex, sexual orientation, religious belief, political belief, or handicap (including impaired vision or hearing) or which would have the effect of defeating or substantially impairing accomplishments of the objectives of the program and respect to the individual.

Dissemination of Civil Rights Information

Procedure From Policy 100.0140: Civil Rights Federal Laws and Regulations Regarding Nondiscrimination

- A. The provisions of the Civil Rights Act require that information about the purpose of the Act, the rights of individuals under the Act, and the remedies in the event of discrimination and noncompliance be sent in writing to all participants in the Department of Children, Youth, and Families' programs for which federal financial assistance is obtained.
- B. The Department of Children, Youth, and Families includes notice of clients' rights under the Act and the Department's compliance with those provisions in the information pamphlets and on the forms notifying clients about the Department's decisions with respect to their application for, and continuing receipt of, assistance and/or services.

Grievance Procedures

Procedure From Policy 100.0140: Civil Rights: Federal Laws and Regulations Regarding Nondiscrimination

- A. An individual who wishes to allege discrimination has several options. One or more of which may be pursued simultaneously:
 - 1. File a complaint with the Department's civil rights coordinator pursuant to the attached internal grievance procedure;
 - 2. File a complaint with the State Equal Opportunity Office;
 - 3. File a complaint with the Rhode Island Commission for Human Rights;
 - 4. Appeal an agency decision to the Department Administrative Hearing Officer. He/she may raise civil rights issues through the Administrative Hearing Process;
 - 5. File a complaint with the office of the appropriate federal funding agency; and
 - 6. File a lawsuit alleging civil rights violations in State or Federal Court.
- B. The Rhode Island Department of Children, Youth, and Families has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the US Department of Health and Human Services regulation (45 C.F.R. Part 80) implementing Title VI or the Department of Health and Human Services regulation (45 C.F.R. Part 84) implementing Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. 794).
- C. Title VI states, in part, that "no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies."
- D. Section 504 states, in part, that "no otherwise qualified handicapped individual...shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance..."
- E. The laws and regulations may be examined in the Office of the Coordinator of Title VI and Section 504 who has been designated to coordinate the efforts of DCYF to comply with this regulation:
 - 1. A complaint should be in writing, contain the name and address of the person filing it, and briefly describe the action alleged to be prohibited by the regulations;
 - 2. A complaint should be filed in the Office of the Title VI Coordinator or the Section 504 Coordinator, as appropriate, within a reasonable time after the person filing the complaint becomes aware of the action alleged to be prohibited by the regulations;
 - 3. The Title VI Coordinator or the Section 504 Coordinator, as appropriate, or his/her designee shall conduct such investigation of a complaint as may be appropriate to determine its validity. These rules contemplate informal but thorough investigations, affording all interested persons and their

representatives, if any, an opportunity to submit evidence relevant to a complaint;

4. The DCYF Director or his/her designee shall review the results of the Coordinator's investigation and shall issue a written decision determining the validity of the complaint no later than thirty (30) days after its filing;
5. The Title VI Coordinator or the Section 504 Coordinator, as appropriate, shall maintain the files and records of DCYF relating to complaints filed hereunder. The Title VI and Section 504 Coordinators may assist persons with the preparation and filing of complaints, participate in the investigation of complaints, and advise concerning resolution;
6. The right of a person to prompt and equitable resolution of a complaint filed thereunder shall not be impaired by the person's pursuit of other remedies such as the filing of a Title VI or Section 504 complaint with the Office for Affirmative action of the US Department of Health and Human Services. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies; and
7. These rules shall be liberally construed to protect the substantial rights of interested persons, to meet appropriate due process standards, and to ensure DCYF's compliance with Title VI, Section 504 and their implementing regulations.

Filing Complaints

Procedure From Policy 100.0140: Civil Rights Federal Laws and Regulations Regarding Nondiscrimination

- A. The State Equal Opportunity Office will accept from both State employees and applicants for State employment, complaints of discrimination that are based on race, sex, sexual orientation, national origin, age, religion, political belief, color, handicap (including impaired vision or hearing), and sexual harassment:
1. A complaint must be filed formally on the "Complaint of Discrimination Form" available through the State Equal Opportunity Office within ten (10) working days from the knowledge of the alleged incident of discrimination unless it is an ongoing discrimination;
 2. An Equal Opportunity Officer will be assigned to investigate the complaint;
 3. The Agency Director (respondent) will be notified of the alleged charge;
 4. Upon the completion of the investigation the State Equal Opportunity Office will make a determination as to probable cause based on the summary of facts;
 5. When probable cause is not evident, the parties are so informed by the State Equal Opportunity Office;
 6. When there is probable cause of discrimination, the State Equal Opportunity Office will try to conciliate the complaint;
 7. If an agreement between both parties is not reached, a formal hearing will be scheduled and a Hearing Officer will be assigned by the State Equal Opportunity Office;
 8. When it has been determined by the Hearing Officer that discrimination exists, the Hearing Officer will advise the State Equal Opportunity Office in writing. The State Equal Opportunity Office will then by written notification present the findings and recommend corrective action to both parties; and
 9. If the corrective action is not implemented within the specified time frame, the State Equal Opportunity Office will notify the Governor.

Processing a Charge

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- A. The Rhode Island Commission for Human Rights encourages all parties to consider an amicable settlement of a charge of discrimination before the investigation commences. A mutual settlement would close the case.
- B. A complainant is not required to have a lawyer during the investigation of his/her charge; however, he/she may be represented by counsel if he/she wishes. Complainant must obtain his/her own attorney. The Commission strongly urges parties to obtain a lawyer if the case is going to a hearing.
- C. There is to be no publicity regarding the charge filed with the Commission. This includes the press, broadcast media, disinterested individuals or groups.
- D. A complainant may file his/her case in State court after one hundred twenty (120) days with the Commission, and in certain circumstances he/she may file in federal court. (State right to sue must be requested within two (2) years of filing a charge.):
 - 1. Inquiry: call to the Commission;
 - 2. Questionnaire: sent to complainant;
 - 3. Intake: meeting at commission, formal charge drafted, signed;
 - 4. Copy of charge sent to the company (respondent);
 - 5. Fact-finding conference held at the Commission with complainant, respondent, and Witnesses (if any), or on-site investigation visits conducted;
 - 6. Evidence obtained in the form of records, statements, etc.;
 - 7. Case analyzed and summarized for a Commissioner's ruling. Investigator will either recommend "No Probable Cause" or "Probable Cause" based on the evidence obtained;
 - 8. A Commissioner reviews the entire case and rules either "no probable cause (insufficient evidence, case closed) or "probable cause" (sufficient evidence of discrimination, Commission attempts to conciliate the case);
 - 9. Conciliation: successful (case closed) or unsuccessful (case scheduled for a hearing); and
 - 10. Hearing: formal proceeding, testimony under oath. If discrimination is determined at hearing, remedies orders for complainant. If discrimination is not determined at hearing, case closed.