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Office for Civil Rights

Frequently Asked Questions with Answers

- **Q. What are civil rights?**
- A. Civil rights are personal rights guaranteed and protected by the U.S. Constitution and by subsequent acts of Congress, such as the Civil Rights Act of 1964. They include, for example, the right to free speech, due process, equal protection of the laws and to be free from discrimination. Our office enforces part of certain statutorily-created civil rights. As far as HHS goes, all persons in the United States have a right to receive services in a nondiscriminatory manner from state and local social and health services agencies, hospitals, clinics, nursing homes or other agencies receiving funds from HHS. For example, you cannot be denied services or benefits, simply because of your race, national origin, or disability.

- **Q. How does one file a complaint at the Office for Civil Rights?**
- A. If you believe discrimination has happened to you or any specific class of individuals because of race, color, national origin, age, sex, disability or religion by a health care or human services provider (such as hospitals, nursing homes, social service agencies, etc.), you or your representative may file a complaint with the Office for Civil Rights (OCR). Complaints against the U.S. Department of Health and Human Services alleging discrimination in services on the basis of disability may also be filed with OCR.

- **Q. Is there a timeframe for filing a complaint with the Office for Civil Rights?**
- A. Complaints usually must be filed within 180 days from the date of the alleged discriminatory act. (OCR may extend the 180-day period if good cause to do so is shown.)

- **Q. What information is needed for one to file a complaint?**
- A. Include the following information in your written complaint (request a Discrimination Complaint Form from OCR or at <http://www.hhs.gov/ocr/disform.html>. You will need to save the form to a disk):
 - Your name, address and telephone number. You must sign the complaint. (If you file a complaint on someone's behalf, include his/her name, address and telephone number and state your relationship to that person - e.g., spouse, attorney, friend, etc.)

- Name and address of the institution or agency you believed discriminated against you.
- How, why and when you believe you were discriminated against. - Any other relevant information.

- **Q. What happens with my complaint once the Office for Civil Rights receives it.**

- A. Determining Jurisdiction - Once a complaint is received, OCR must determine if it has the legal authority to review and investigate the complaint. Our authority primarily is over those entities (known as "Recipients") receiving federal financial assistance from the Department of Health and Human Services (DHHS) and in certain cases over entities for which OCR has been designated enforcement responsibility by another agency.

- **Q. How does your office respond to my concern for privacy and confidentiality.**

- A. Privacy Act Notice/Confidentiality - In OCR investigations, the name of the complainant usually is kept confidential unless its' disclosure is necessary to the case. If OCR determines that release of your identity is required for the processing of the case, you will be asked to sign a release. If you choose not to provide a release, the investigation may be impeded or terminated.

- **Q. How does the Office for Civil Rights conduct an investigation of my complaint?**

- A. Once it is clear that OCR has jurisdiction to handle your complaint, the investigator will gather information through interviewing witnesses, obtaining documentation, and making visits to appropriate sites. You may be interviewed again as information is gathered.

- **Q. What kind of notification do I receive, when the Office for Civil Rights has completed an investigation?**

- A. At the conclusion of an investigation, OCR issues a Letter of Findings, which presents OCR's decision on whether there has been a violation of a federal statute or regulation. If there is a violation finding, the recipient is then allowed a specific time period, usually 60 days, to correct the violation or provide OCR with a plan of correction. Corrective action may involve a change in policy or procedure, provision of a service, reinstatement to a job, backpay, restoration of lost benefits, or a notice to clients and employees that a recipient has taken steps to comply with with a federal statute or regulation. If a recipient is unwilling to take corrective action to come into compliance, OCR will recommend that enforcement proceedings be initiated. A final decision upholding a finding of a violation may result in the termination of Federal financial assistance to the recipient.

- **Q. Am I able to initiate a private court action?**

- A. Under most of the statutes enforced by OCR, a complainant who has been discriminated against may initiate private court action instead of, or in addition to filing a complaint with OCR. If you are interested in doing so, you should consult an attorney as soon as possible to ensure that the action will be timely filed.

- **Q. If I believe that I have been denied health or human services or treated in an unfair manner because of my race, color, national origin, disability or age, where do I go and what do I do?**

- A. Contact the OCR regional office that serves your state. Describe your situation in writing to the OCR regional staff and they will advise you and if necessary assist you in filing a civil

rights complaint with the office. They will then investigate the complaint and issue a Letter of Findings to you and the alleged discriminating party. If the alleged discriminating health or human service agency has violated your civil rights, the Office for Civil Rights will seek an appropriate remedy in an attempt to rectify the discrimination.

- **Q. What is the extent of your geographical coverage?**

- A. If a complainant alleges discrimination by a DHHS funded health or human services entity in:

1. Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, and/or Vermont, the Boston Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
2. New Jersey, New York, Puerto Rico and/or the Virgin Islands, the New York Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
3. Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and/or West Virginia, the Philadelphia Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
4. Alabama, Florida, Georgia, Kentucky, Mississippi, North and South Carolina, and/or Tennessee, the Atlanta Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
5. Illinois, Indiana, Michigan, Minnesota, Ohio, and/or Wisconsin, the Chicago Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
6. Arkansas, Louisiana, New Mexico, Oklahoma, and/or Texas, the Dallas Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
7. Iowa, Kansas, Missouri, and/or Nebraska, the Kansas City Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
8. Colorado, Montana, North and/or South Dakota, Utah, and/or Wyoming, the Denver Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
9. Arizona, California, Hawaii, Nevada, Guam, Pacific Islands, and/or American Samoa, the San Francisco Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.
10. Alaska, Idaho, Oregon, Washington, the Seattle Regional Office will handle the complaint. If the entity is outside of these states, the office will forward the complaint to the appropriate OCR regional office.

- **Q. What happens if the Office for Civil Rights cannot help me?**

- A. The Office for Civil Rights will try to identify the appropriate state or federal agency and refer your case unless you tell us not to.

- **Q. Are there other federal agencies that protect my rights?**

- A. Other Federal and State agencies exist to protect your rights. Some are:
Education - Office for Civil Rights, U.S. Department of Education
Employment - Equal Employment Opportunity Commission (EEOC); Office of Federal Contract Compliance Programs, U.S. Department of Labor
Housing - Office of Fair Housing, U.S. Department of Housing and Urban Development.
More than one agency may be able to help you.

- **Q. I've talked to one of your representatives about a problem with the police harassing my son because he is African American and was told that your office cannot take the case. Why can't your office do something? His civil rights are being violated!**
- A. This office is a civil rights office within the U.S. Department of Health and Human Services. As such, our jurisdiction is generally limited to complaints of discrimination filed against providers of health and social services who receive Federal financial assistance from our Department. The Department of Justice (DOJ) usually handles complaints against law enforcement agencies. You may wish to call DOJ at 1-800-869-4499.

- **Q. What is Federal financial assistance?**
- A. Examples of Federal financial assistance as defined by our regulations include Medicaid, Medicare Hospital Insurance (Part A), Public Health Service grants, Aid to Families with Dependent Children. These funds are given to a facility (such as a hospital, social service agency) or an individual service provider (such as a doctor, dentist) by the government for services provided or to provide a service. Social security benefits, Supplemental Security Income, Medicare Supplemental Medical Insurance (Part B) are not considered Federal financial assistance when applying the civil rights laws OCR enforces. Generally speaking, the reason for this is that these sources of funding are paid directly to an individual beneficiary by the government.

- **Q. I inquired about filing a complaint against a major university and was told that I should file with the Department of Education's Office for Civil Rights. I was not given a reason for this referral. I know that the university receives millions from your agency, so why can't your agency accept the complaint?**
- A. It is possible for several Departments to have provided Federal financial assistance to that University. In order to avoid duplication of effort and to be more efficient, we coordinate our activities with other agencies to determine which agency would be the most appropriate agency to handle your complaint. This decision is made on a case by case basis with many factors considered. Some of these factors include, the subject matter, which department provides the largest portion of Federal financial assistance, whether an agency has started an investigation. Generally, DHHS does not investigate educational institutions unless the complaint is against a health related portion of the University, e.g., the University's School of Medicine.

- **Q. Do I have to be a minority person in order to have "civil rights"?**
- A. All persons in the United States have civil rights under the constitution and appropriate laws. DHHS is charged with enforcing only a few of these civil rights laws. For example, Title VI of the Civil Rights Act of 1964 prohibits discrimination on the ground of race, color, and national origin. A common misperception is that this law is for the exclusive use of

"minorities." This law does not exclude non-minority persons. In other words, this law provides protection to all persons living in the United States from discrimination on the basis of race, color, or national origin. In addition, we enforce other laws that protect persons from discrimination on the bases of disability, sex, age, etc. A person of any race can have a disability, and sex and age are not exclusive characteristics of a minority person. As such, laws prohibiting discrimination protect ALL persons.

- **Q. Does OCR have the authority to investigate discrimination complaints filed against programs that provide low income persons with free or reduced cost health care?**

- A. Yes, we have the authority to investigate such complaints if the following conditions are met:

- * the facility receives Federal financial assistance from DHHS - in addition, if the alleged discrimination involves disability, we can accept complaints filed against a State or local government entity providing health or social services even if it does not receive Federal financial assistance, and we can accept complaints of disability discrimination in programs conducted by DHHS.

- * the alleged discrimination must be on a basis in which we have authority (e.g., race, disability) the subject matter must be covered by our regulations (e.g., we generally do not accept employment complaints based on race; the Equal Employment Opportunity Commission usually handles such complaints.)

- * the complaint must be filed within 180 days of the alleged discrimination, unless a waiver is granted

- * the complaint must be in writing and signed

- **Q. I have a young child who is occasionally quite sick because he has AIDS. I've tried to enroll him in a day-care center near my house, but was told that they do not take children who have AIDS because of the danger that it would pose to other children. What can I do?**

- A. It is unlawful for a public or private facility to discriminate against a person based solely on his/her disability if that person is a qualified person with a disability and meets the eligibility criteria to receive benefits or services. Each complaint, however, is examined on a case by case basis. Specifically, in cases involving AIDS, an issue that may come up is whether the person poses a significant threat to the health and safety of others. Generally speaking, in a day care setting, having AIDS itself should not disqualify a child from participation. You may contact our office to speak to one of our investigators.

- **Q. I'm a disabled person. I called your office to file a complaint and was told that your office cannot help me. What do I have to do to have a complaint accepted for investigation by your office?**

- A. In order for our office to accept a complaint for investigation, the following conditions must be met:

- * You must identify the alleged discriminating entity or agency, you must identify the alleged injured party (the person who was allegedly discriminated against), the alleged discrimination must be on a basis in which we have jurisdiction (e.g., race, disability).

- * OCR must have authority to investigate the facility you are complaining against. The facility must receive funds from DHHS, OR if the alleged discrimination is on the basis of

disability the facility can also be a DHHS conducted program, or a state or local government entity providing health or social services.

* The subject matter must be covered by our regulations. For example, we generally do not accept employment complaints based on race because the Equal Employment Opportunity Commission usually handles such complaints. The complainant must clearly state why the action taken was based on the complainant's protected basis. For example, having a disability, by itself, does not protect a person from having an adverse action taken against him. It is unlawful only if the adverse action is taken because of the person's disability. A hearing impaired person cannot be denied services solely because a hospital does not want to provide a sign language interpreter. However, a hearing impaired person may be legitimately refused additional non-emergency services by a hospital for failing to pay his bills.

* The complaint must be filed within 180 days of the alleged discrimination, unless a waiver is granted.

* The complaint must be in writing and signed.

- **Q. I called your office regarding being fired from my job at a local supermarket because of age discrimination and your office said that it could not accept my complaint. Whom should I call for assistance?**
- A. Generally speaking, most employment discrimination complaints, especially those against private employers, should be addressed to the local Equal Employment Opportunity Commission that services the state in which you reside.

- **Q. My constitutional, human and civil rights have been violated. Why can't your office help me?**
- A. OCR's charge is to ensure that the civil rights laws under our jurisdiction are not violated. OCR enforces laws prohibiting discrimination on the bases of disability, age, race, color, national origin, sex and religion in the provision of health and social services. OCR can investigate only those matters that are covered by the laws it enforces.

- **Q. Can your office represent me in my complaint?**
- A. No. OCR is a neutral fact finding agency. Our charge is to ensure that the laws under our jurisdiction are not violated. If your complaint is accepted for investigation, we may, for example, obtain a promise that the program will change its practices or provide you with a service. Although we will consult with you, you may not be satisfied with any individual remedies proposed. You should consult an attorney about your right to file a private law suit in court if you wish to protect fully your individual rights and remedies. Delay in doing so may foreclose your right to bring a law suit.

- **Q. If you can't represent me, do you think the ACLU will help?**
- A. The ACLU is not a government agency, and it decides what issues to become involved in on a case by case basis. The concept of civil liberties encompasses many more issues than discrimination prohibited by the laws enforced by OCR. It also concerns individual freedom issues found in the Constitution --freedom of speech, association, religion are counted in the civil liberties category. For further information, call the local ACLU office in your area.

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