

DEPARTMENT OF HUMAN RESOURCES	SUBJECT: <u>NON-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS</u>	NUMBER A-04	PAGE 1 OF 6
	PURPOSE: To outline procedures and policy for civil rights compliance by Dept. of Health and Human Services (DHHS) funded for DHR Divisions	REVISES #01-05 #A-04 DATED: 8/80 7/1/85 Rev. 4-89	
		EFFECTIVE: July 1, 1985	
	AFFECTS: All DHR Divisions receiving DHHS funds.	APPROVED BY: /S/	
Policies & Objectives	STATUTORY AUTHORITY: Title VI Civil Rights Act of 1964, as amended: Section 504 of the Rehabilitation Act of 1973, <u>Age Discrimination Act of 1975.</u>	SECTION Administration	

1. PURPOSE

This plan outlines procedures and policies by which DHHS-(formerly HEW) funded Department of Human Resources Agencies comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 as amended and Age Discrimination Act of 1975.

II. POLICY

Under the provisions of Title VI, Civil Rights Act of 1964 (42 USC 2000 d. et. seq.) with 45 CFR Part 80, Section 504 of the Rehabilitation Act of 1973 (29 USC 706) with 45 CFR Part 84 (Sub-parts A,b,C, and F), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) with 45 CFR Part 90 no individual shall, on the grounds of race, color, national origin, or persons with disabilities, or age shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under federally assisted programs and activities for which the Department of Human Resources (hereinafter called Department) has responsibility. This same policy of non-discrimination is equally applicable to all Department contractors, grantees, agents, and providers of services funded in whole or in part with Federal Funds from the Department of Health and Human Services (formerly Department of Health, Education and Welfare).

- A. This policy encompasses in scope and application the civil rights of employee, clients, recipients, applicants, and beneficiaries of DHHS-funded programs operated by or in behalf of the Department of Human Resources.
- B. Title VI of the Civil Rights Act prohibits acts of discrimination based on race, color, and national origin.

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C. Section 504 of the Rehabilitation Act prohibits discrimination based on handicap. The term "Persons with disabilities" includes such diseases or conditions as: speech, hearing, visual and orthopedic impairments, cerebral palsy, epilepsy, muscular dystrophy, HIV, multiple sclerosis, cancer, diabetes, heart disease, mental retardation, emotional illness; and specific learning disabilities such as brain dysfunction, and developmental aphasia. Alcohol and drug addicts are also considered individuals with disabilities.

D. The age discrimination act prohibits discrimination based on age in programs or activities.

The Age Discrimination Act prohibits discrimination based on age in programs of activities. The Act and the implementing regulations contain certain exceptions to the broad provision against discrimination. A program is permitted to use age distinctions in programs which have been "established under any law" such as the programs authorized by the Older Americans Act.

A facility is also permitted to take action based on age distinctions, if the action reasonably takes into account ages as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor if all the four conditions are met. These factors are referred to as the "Four Part Test".

1. Age is used as a measure or approximation of one of more other characteristics; and
2. The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and
3. the other characteristic(s) can be reasonably measure or approximated by the use of age; and
4. The other characteristic(s) are impractical to measure directly on an individual basis.

III. ASSIGNMENT OF RESPONSIBILITY FOR IMPLEMENTATION OF TITLE VI AND SECTION 504, AND THE AGE DISCRIMINATION ACT.

Director

The Director, Department of Human Resources, shall designate an

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Individual(s) responsible for overseeing department-wide Title VI and 504 and the Age Discrimination Act.

Division Administrator

Each Division Administrator within the Department of Human Resources and the Director shall designate Title VI and Equal Opportunity Coordinators to carry out compliance activities within the Divisions and Central Office of the Department of Human Resources.*

IV. TITLE VI AND SECTION 504 ORIENTATION AND/OR TRAINING

The administrator of a DHHS-funded Division shall be responsible for conveying to all Division staff their responsibilities under Title VI, Section 504 and the Age Discrimination Act. This shall be accomplished by providing, as part of a new employee's orientation and periodic retaining of permanent employee, information regarding the obligation, intent, and meaning of Title VI, Section 504 and the Age Discrimination Act.

The Administrator of a DHHS-funded Division shall ensure that members of his/her staff who have contact with program beneficiaries are aware of the ethnic, cultural, and language differences that may have important impact on the delivery of services to minority persons; and the needs of the handicapped, including any barriers to their full participation in the agency's program; and actions that result in denying or limiting services or otherwise discrimination on the basis of age. This shall be accomplished in a variety of ways, including training sessions and distribution of written information.

V. TITLE VI, AND SECTION 504 AND AGE DISCRIMINATION ACT COMPLIANCE BY OTHER PARTICIPANTS

The Department recognizes that its obligations for compliance extend to Its service vendors, service contractors, and other providers of services, financial aid, and other covered benefits under the agency's DHHS-funded programs. The Department shall assure that such participants in its DHHS-funded programs comply with Title VI, Section 504, the Age Discrimination Act and their respective Regulations.*

VII. TITLE VI, AND SECTION 504 AND AGE DISCRIMINATION ACT COMPLIANCE POLICY AND PROCEDURE.

Each DHHS-funded Division shall establish a client complaint policy and procedure.*

*Details for implementation an be found in the office(s) of the Division Affirmative Action Officer and Equal Opportunity Coordinator.

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VIII. RECRUITMENT AND EMPLOYMENT PRACTICES (TITLE VI AND SECTION 504)

Regarding Title VI, where the primary objective of the federal financial assistance to a DHR Division is to provide employment, the responsible Division shall develop policies and procedures to assure that all recruitment and employment practices for positions provided with such federal financial assistance do not discriminate on the basis of race, color, or national origin.

Even where the primary objective of the federal financial assistance is not to provide employment, each Division shall develop policies and procedures to help assure that its employment practices do not have the effect of causing discrimination in the delivery of services and benefits under its programs. -

Regarding 504, each DHR Division shall assure that no qualified "persons with disabilities" shall, on the basis of handicap, be subjected to discrimination in employment regardless of the primary objective of the federal financial assistance.

Each DHR Division shall assure that training and educational leave are provided to its employee in a non-discriminatory manner.*

IX. PLANNING, ADVISORY, AND POLICY BOARDS

Each Division shall assure that the opportunity to participate as members of planning, advisory, and policy boards, appointed or recommended by agents of the Division, which are integral parts of its program, is available to all persons in non-discriminatory manner.

X. CONTINUING COMPLIANCE

Each Division shall develop procedures for monitoring all aspects of its operation to assure that no policy or practice is, or has the effect of, discriminating against beneficiaries or other participants on the basis of race, color, national origin, or handicap, or age. Each division shall establish a system to review all new and existing policies to determine compliance of such policies with title VI, and Section 504, and the Age Discrimination Act.*

XI. PROGRAM ACCESSIBILITY

Each Division shall assure that no qualified person with disabilities shall be denied the benefits of, be excluded from

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participation in, or otherwise be subjected to discrimination under any of its programs or those of its vendors, because the facilities are inaccessible to, or unusable by persons with disabilities.

Where program accessibility has not already been achieved, because structural changes are required, each Division of the Department has set forth the steps it will take to develop its transition plan.

A system has been developed to assure that all vendors who have 15 or more employees have completed transition plans it needed.

The department shall set forth procedures for assuring that any facility or part of any facility which is constructed or altered by, on behalf of, or for their use, is made readily accessible to and usable by persons with disabilities.

XII. NEEDS A HEADING

Each Division shall assure that no person, on the basis of age, be denied the benefits of, be excluded from participation in, or be subject to discrimination. Any Policies which omit programs or activities on the basis of age must describe how the policy or practice takes into account age as a factor necessary to the normal operation or the achievement of a statutory objective of the program or activity. The description should include all the factors in the "Four Part Test".

XIII. CORRECTIVE REQUIREMENTS

Each Division shall take corrective action to overcome the effects of prior discrimination in instances where the Division, or its service vendors have previously discriminated against clients on the grounds of race, color, national origin, religion, sex, handicap, or age.

Even in the absence of such prior discrimination, a Division may take corrective action to overcome the effects of conditions which resulted in limiting service participation by persons of a particular race, color, national origin, or handicap, or age.

XIV. COMPLIANCE RECORDS

Each Division of the Department shall be responsible for collection and maintenance of racial/ethnic data which will show

*Details for implementation can be found in the office(s) of the Division Affirmative Action Officer and Equal Opportunity Coordinator.

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the extent to which minority persons are participating in all aspects of the Division's DHHS-funded programs; i.e., day care, clinics, hospitals, sheltered workshops, etc. The Division shall require such data and information from vendors (see section on compliance by other participants).

Each Division shall make available to the Office for Civil Rights all data and information necessary to determine that Divisions compliance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act; and its implementing Regulation, as well as the compliance status of its vendors. This information shall be reviewed by the Director, Department of Human Resources, prior to submission to the Office for Civil Rights.

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Attachment 7.3A

The Governor has delegated authority for approval of plan material which does not have a fiscal impact nor represents a significant new or revised policy, to the Director of the Department of Human Resources.

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