

- All group-care facilities may also provide additional notice through the use of insertions in patient brochures, media advertising, and yellow-page advertisements.
  - Personnel will be given notice of the requirements through the use of posted notices, orientation sessions, policy handbooks or combination thereof at least annually.
- 70-32
- iii - Posted notices are assumed to be left in place on an on-going basis.
  - In those cases where the notice is verbal or made in a single day's publication, the provider is expected to periodically reissue the policy at least annually.
  - In those instances where an employee group is to be notified verbally, steps must be taken to inform all new employees when they begin service and all continuing employees at least annually in the course of regular staff briefings.
  - iv - It is the responsibility of the individual providers and/or the administrators of group-care facilities to see that verbal and written notices are made available to consumers and employees within the guidelines contained herein. Assistance in deciding among alternative methods or assisting in selecting materials will be made available through the local CRC's and/or Office of Personnel Policy and Civil Rights Compliance - ODPW.

2. PROVIDER ASSURANCE SUBPROGRAM  
(Sec. 602, 78CTAT. 252; 45CFR90.4)

Each party who applies to the Department for approval to serve as a provider of services under the programs listed herein must also provide assurances of his or her intention to comply with Title VI of the Act and related regulations. Such a requirement shall apply also to corporations, partnerships, proprietorships and institutions which make such applications. All applications for or renewals of provider status shall be denied unless the assurance of non-discrimination is completed in a manner specified by the Department.

a. Content

The assurances of compliance will be offered to potential providers in a form that clearly and concisely specifies the nature of the policy of non-discrimination and the required implementation of all of its provisions.

For purposes related to the Department's Title XIX (Medicaid) or Title V (Crippled Children's Services) programs the requirement will be satisfied by the bona fide signature of the provider or an officer of the corporation or one of the members of a partnership. Signatures of those having power-of-attorney or similar representative status in respect to the applicant/provider will not satisfy the requirements. Signatures of acceptable signators must be affixed directly to ODPW 6172 (10/73) or those forms designated as revisions thereof.

I. Ohio in compliance 12/15/80  
effective 1/1/81 ODPW APPROVED 2/2/81

for purposes related to the Department's programs conducted under Social Services (Titles I, IV-A, IV-F, XIX and XVI of the Social Security Act the providers must sign those assurances of compliance or those contract forms containing such assurances that are provided by the Department. (Ohio Purchase of Services Agreement.)

7-32

All such assurances of compliance will minimally state that the provider and/or contractor agrees that services or materials will be provided to all eligible and qualified persons without regard to race, color or national origin and that related facilities will be operated similarly.

b. Frequency

The assurance of compliance will be signed by all parties who file an initial application for provider status in any of the programs to which the Title VI requirement applies.

The assurance of compliance will be signed by all continuing providers at such time as they may have to renew this status, change the terms of their participation, assume the operation of new facilities or begin operation of a facility previously held by another party.

Past providers will again have to sign the assurance of compliance in the course of being reinstated regardless of whether their past provider status was terminated voluntarily or involuntarily.

3. CLIENT COMPLAINT SUBPROGRAM  
(Sec. 602, 78STAT. 252; 45CFR 80.7)

Any person who believes himself or herself or any specific class of individuals to be subjected to discrimination prohibited by the policy of nondiscrimination may himself or herself or by a representative file with the local agency CRC, the Office of Personnel Policy and Civil Rights Compliance - ODFW, State Fair Hearings, or the Office of Civil Rights, HEW directly a written complaint.

All initial complaints to the above authorities may be transmitted by letter, by telephone or in person. However, all complaints must be reduced to writing not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by any of the responsible agencies.

Upon receipt of a compliance review, report, complaint or general information which indicates a possible failure to comply with the policy, the Office of Personnel Policy and Civil Rights Compliance - ODFW will promptly initiate an investigation. The investigation will include, when appropriate, a review of the pertinent practices and policies of the provider, contractor or agency, the circumstances under which the alleged noncompliance occurred, and such other factors as may be relevant to a determination as to whether the provider, contractor or agency named has failed to comply with Title VI and the related regulations.

a. Content

All complaints filed with the State agency should include specific information as to the events, parties and dates involved in the alleged discriminatory patterns, practices or actions.

9  
Ohio  
active 1/1/81  
AD APPROVED 12/18/80  
AD APPROVED 2/2/81

In those cases where the complaint fails to include the above essentials, the investigator will contact the complainant and attempt to learn the specifics before proceeding further with the investigation.

All written complaints must be signed by an actual complaining party or representative thereof. No actions or investigations will be commenced by the State agency in those instances where anonymous complaints are received.

80-32

b. ALTERNATE PROCEDURES FOR COMPLAINTS

The Department recognizes three complaint channels through which it may come to participate in an investigation of alleged discriminatory conduct. The Department may respond to a request by the Office for Civil Rights - HEW to assist an investigation that the latter may be conducting pursuant to a complaint filed with it directly. The Department may commence an OPPCRC investigation in response to a complaint filed with it. The Department may commence an investigation in those instances where a complainant has filed an allegation of discrimination within the State Fair Hearings process.

i - Complaints Filed with the Office for Civil Rights - HEW

In those instances where a complainant files an allegation of discrimination with the Office for Civil Rights - HEW and that agency requests the assistance of the Office of Personnel Policy and Civil Rights Compliance - ODPW, the state enforcement unit will move to facilitate the investigation.

The State unit will make such personnel and such information available to the investigation as are appropriate and available. In such cases the State unit will also continue to provide advice to a provider, contractor or agency supplying services to the Public Welfare System even though they may be the subject of the complaint.

The State unit expects the OCR-HEW to notify it as soon as the Federal unit begins a complaint investigation within the Ohio Welfare System. In those situations where the Federal unit has begun an investigation the State unit will refrain from investigating a complaint filed by the same party until the matter has been discussed between the units.

When investigation by the Federal unit has resulted in a finding of unlawful conduct and the subject of the complaint refuses to accept an informal solution, the State unit will not execute a termination of the party's participation in a Federally assisted program until there has been a finding on the record or a judgement entered or all remedies available under 45CFR81 have been exhausted.

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ii - Complaints Filed with the Ohio Department of Public Welfare

Within the Department, two complaint channels exist for the hearing of complaints alleging Title VI discrimination within the Public Welfare System.

17-32

A. Complaints Filed Under Jurisdiction of Office of Personnel Policy and Civil Rights Compliance - ODFW

Those complaints filed with or forwarded to the Office of Personnel Policy and Civil Rights Compliance - ODFW will be investigated by the Office and resolved with the approval of the Director of Public Welfare. When an investigation results in the conclusion that the subject did violate Title VI and the policies and regulations of the Department on nondiscrimination, the Office will attempt to informally resolve the matter. Informal resolution shall include elimination of the discriminatory patterns or practices, the establishment of procedures/policies to prevent . recurrences and attempts to erase the consequences of past discriminatory patterns or practices.

If the subject of the complaint refuses to abandon the discriminatory patterns or practices in an informal resolution attempt, the Office will convene formal hearings with the assistance of the Office of Legal Affairs for the purpose of terminating the provider's participation in the Public Welfare System.

Upon the Department's terminating a subject's provider status the Office of Civil Rights Compliance will notify OCR-NEW of the action.

At any point or time in a investigation, informal resolution stage or formal hearing stage the subject of a complaint may voluntarily withdraw from the provider file. Upon such a withdrawal, the case will be closed and a record made of the case to date. If a withdrawing subject subsequently reapplies for admission to provider status, the terms of such reinstatement shall be exceptional in a manner determined by the Office of Personnel Policy and Civil Rights Compliance - ODFW.

B. Complaints Filed Under Jurisdiction of Fair Hearing Section - ODFW

Applicants for and/or current consumers in Public Welfare programs may file appeals to negative actions taken on their cases on the local level. Pursuant to 45CFR 205.10 and Title 51 OAC the State must provide and supervise structures designed to insure due process hearings for deciding these complaints. Among the grounds upon which a person can file for a due process hearing is discrimination on the basis of race, color or national origin.

In those cases where a complainant files with the State Fair Hearing unit and alleges that their participation was determined on the basis of race, color or national origin, the Hearing Officer assigned the case will refer said case through appropriate

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channels to Office of Personnel Policy and Civil Rights Compliance - ODPW. Upon receipt of the case the latter unit will treat the allegation as a duly filed complaint, will investigate the facts and return the case to the Hearing Officer with findings and recommendations. If Office of Personnel Policy and Civil Rights Compliance - ODPW receives a complaint that is not Title VI related, but pertains to a local agency determination, it will refer said complaint to State Fair Hearings which shall treat the allegation as an appeal, if appropriate, and hear same in the regular course of operations. 80-32

In all cases where the Office of Personnel Policy and Civil Rights Compliance has conducted an investigation and issued findings and recommendations to a Hearing Office, said Officer will notify the Office of his/her final determination on the case within 30 days. The Office will maintain a file of such cases, subject them to analysis, and make them available to representatives of OCR-HEW upon request.

iii - Complaints Filed With County Welfare Departments and Children's Services Boards

Where applicants or current consumers file a complaint alleging unlawful discrimination with a county welfare department or children's services board, such agency may make an attempt to informally resolve the complaint. Such agency may also refer the complainant or the complaint to the attention of OCRC-ODPW or OCR-HEW.

In no case may the resolution attempts made by a county welfare department or children's services boards serve as a bar to the complainant filing complaints with the State or Federal enforcement units.

iv - Self-initiating Investigations Into Agency or Provider Practices

In those instances where the regular flow of compliance data, annual reports, correspondence and the like alerts the State unit to a breach of the policy or a threatened breach of the policy the State unit may initiate its own investigation into the matter. All such investigations shall be conducted in the standard fashion, but shall not result in an adverse notice to the subjects without the approval of the Director of Public Welfare. Parties under such self-initiated investigations will be subject to the same standards, procedures and sanctions as investigations in which a complainant has filed an allegation.

4. PROVIDER REVIEW SUBPROGRAM  
(Sec. 602, 78STAT. 252, 45CFR 80.7)

Under the cited provisions of Chapter 45 of the Code of Federal Regulations, the Department is required to periodically review the compliance status of the programs' providers and contractors. Such reviews are intended to verify that these parties are, in fact, notifying all consumers of their rights, serving all consumers equitably regardless of race, color and national origin and discharging their general obligations under Title VI of the Act. To

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active 1/1/81 APPROVED 2/2/81

structure and assist the administration of this segment of the State Plan, the Department has devised the Provider Review Subprogram.

2032

a. Content

The Office of Personnel Policy and Civil Rights Compliance - Ohio Department of Public Welfare will verify the compliance of providers and contractors by reviewing the policies adopted by the parties, the procedures used by the parties to serve consumers, the methods used to provide required notices to consumers, and the records of services provided so as to establish, quantitatively, the mix of consumers served. The Office reserves the right to perform its lawful obligations by inspecting sites and practices and materials that include, but are not limited to the following:

- Appointment books to verify that no distinction is made as to the hours or days during which minority-group persons are served.
- Case files or patient rosters to establish that the group of patients being served is not under representative to a great degree of the general population in the service area.
- Physical facilities to verify that consumers are not segregated in separate waiting rooms, service areas, room assignments, and/or not served inequitably through the use of dissimilar equipment, food, medicines, teaching materials, office supplies, furnishings, etc.
- Personnel records and files to ascertain the equal employment opportunity practices that allow for consumers to be served by persons of all races, colors or national origins.
- Sources of income/revenue in reference to the major ways in which persons served by the facility pay for services so as to ascertain the socio-economic characteristics of the group served by the facility.
- Official and standard documents, records and policy statements of the contractor/provider to establish his adoption of a policy of nondiscrimination on the ground of race, color or national origin.
- Publications, brochures, advertisements, policy manuals, employee handbooks, and training - orientation curriculum materials to ensure that the provider/contractor has notified staff, referral sources, the general public and patients of the policy of nondiscrimination.

b. Review Procedures

The Department will review all group-care facilities participating in FFA Programs on on-going basis to verify their compliance status. These annual reviews will be scheduled in hospitals, nursing homes, ambulatory clinics, HMO's home health care agencies, and day care centers. It is, additionally, the intent of the Department to establish a scientific or random sample review schedule for the verification of the compliance status held by individual practitioners such as physicians, dentists, optometrists, podiatrists, therapists counselors and the like.

Ohio  
11/18/80  
Approved 2/2/81

i - Assignments of Responsible Parties

80-32

- Office of Personnel Policy and Civil Rights Compliance - Ohio Department of Public Welfare - the Office will assign its personnel to the overall administration of the compliance program, the maintenance of central records function, the investigation of complaints, the following-up of problems noted in regular reviews, the supplying of forms and materials, the orientation of agencies' personnel and individual providers, and the supervision of regular compliance reviews.
- Executive Office, Medical Assistance Supervisors. Office of Personnel Policy and Civil Rights Compliance will accept the on-going assistance of these staff members as the Assistant Director specifies. In the course of their regular duties they will remain alert for suspected violations of Title VI and are expected to raise apparent violations to the attention of the Office of Personnel Policy and Civil Rights Compliance through the Assistant Director. Thereafter, an investigation into the suspicions will be made for the protection of welfare consumers.
- Division of Planning and Programs, Day Care Program Development Specialists. The Office of Personnel Policy and Civil Rights Compliance will enlist the support of the Day Care Program Development Specialists on an on-going basis for the review of day care centers providing services under contract to the Public Welfare System. The Specialists will collect the standard data and specify problem areas. The Office's staff will perform follow-up, corrective action, and complaint/investigation functions that relate to day care contractors.
- Field Personnel, Ohio Department of Health. Under the terms of the Inter-Agency Working Agreement that exists between the Department and the Ohio Department of Health, the appropriate members of the latter's field personnel will assist in reviews of the remaining group-care facilities; i.e. nursing homes, hospitals, ambulatory clinics and home health care activities as specified by terms of the inter-agency agreement. Health's personnel will collect the standard data and specify problem areas. The Office's staff will perform follow-up, corrective action, and complaint investigation functions that relate to facilities/providers contacted by Health.

ii - Review Format

- The Department has adopted interim forms to be used for the reviews of group-care facilities and a standard process for the review of individual's, providers' or practitioners' compliance status.

*Ohio*  
effective 1/1/81 12/18/80 REJ APPROVED 2/2/81

70 32

- All annual reviews are to be performed with the use of the appropriate official forms designed for the type of facility/contractor/provider involved. The reviewers are to vary from the items and order found in the forms only if they feel that more detailed data or other data is needed to confirm or deny the presence of a violation or threatened violation of the nondiscrimination policy.
- In those cases where the reviewer is refused information needed to complete the minimum form questions, the reviewer is to prepare a written statement of the attempts that he or she made to obtain such information, sign it and submit it as an attachment to the standard form as returned to the Office of Civil Rights Compliance, ODPW. The central office staff will again try to complete the review. If this second effort does not succeed, the incident will be referred for action within ODPW or HEW.
- Where the provider, contractor or facility serves a large number of persons and/or employs a great many personnel the reviewer may at his/her own discretion mail the review form to the subject ahead of the review date. At least three days will be allotted to a large nursing home or clinic for the preparation of the statistical data. At least one work week will be allotted to large hospitals, joint practices etc. for the same purpose.

When pre-mailing the review form to facilitate the compilation of statistical data, the reviewer will include a copy of the appropriate cover letter adopted by the Office. Other standardizing regulations applicable to pre-mailed reviews will be adopted by the Office and observed by the reviewers in all normal cases.

In those reviews where the contractor or facility or provider has a past history of violations of Federal or State regulations, the reviewer need not allow the courtesy of scheduling the review ahead or pre-mailing the review form ahead. Such "no-notice" reviews are to be conducted in only those cases where the reviewer and/or his or her superior believes the subject may vary his regular practices to present an atypical appearance during the review.

iii - Review Frequency

All the providers, contractors and facilities specified herein for individual reviews are to be reviewed at least once a year on an on-going basis.

Those providers, contractors and facilities that present violations will be notified by the Office and requested to submit a plan of corrective action which details the charges and periods of time involved in coming into compliance. When a party is found to be

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In violation they will be informed that there is a probability of them being reviewed on a follow-up basis within the same year. All subjects who refuse to submit a corrective plan or fail to carry out the terms of such a plan will, after a reasonable period of time, be referred to those Office personnel charged with attempting informal resolution of problem cases. If no solution is forthcoming the subject party will become the object of a formal proceeding intended to terminate their participation in the Public Welfare System's programs.

80-32

5. AGENCY REVIEW SUBPROGRAM  
(Sec. 602, 78STAT. 252; 45CFR 80.7)

To further verify that consumers served by the Department's programs are free from unlawful discrimination and violations of the policy, the Office will review each county welfare department and each children's service board and ODPW's own operations at least once a year on an on-going basis. Additional monitoring of these major parties will be accomplished through increased involvement of District Office personnel, the initiation of required periodic compliance reports of a qualified nature, and the activity of the local CRC's operations. To structure and supervise the orderly completion of these activities, the Office has established the Agency Review Subprogram which has the following features:

a. Content

The Office of Personnel Policy and Civil Rights Compliance - ODPW will verify the compliance status of county welfare departments and children's services boards by reviewing the adopted policies of the agency, the working procedures through which the staff implements such policies, the methods used to disseminate the nondiscrimination policy, the rates at which minority groups are served within the respective programs, the content of orientation and training provided personnel, the physical facilities used, and the complaints filed against the agency.

- 1 - For county welfare departments and "merged" children's services units
  - Case records and files to ascertain the mix of consumers being served by the agency.
  - Case assignment patterns or method of administering a case bank to verify that a disproportionate number of minority persons are not being serviced by a select number of personnel, that a disproportionate number of minority persons are not being served by minority/less experienced/overassigned personnel, that a disproportionate number of minority group members is not being served by personnel of the same race, color or national origin, or that minority persons with a limited command of the English language are not being served by personnel having no fluency in the consumers' native tongue.
  - Personnel records to ascertain that minority persons are being served by a staff group that is composed of persons who were hired/trained/promoted on the basis of Merit System - Equal Employment Opportunity principles.

16 *active* 11/18/81 *APPROVED* 12/18/80 *APPROVED* 2/2/81

- Policy manuals, employee handbooks, posted notices, intake procedures, intake materials, training curricula and the like to ascertain that the agency actively informs its consumers and staff of the policy of nondiscrimination and the availability of complaint channels.

ii - For Separated Children's Services Boards

- Case records and files to ascertain the mix of consumers being served by the agency.
- Case assignment patterns or method of administering a case bank to verify that a disproportionate number of minority persons are not being serviced by a select number of personnel, that a disproportionate number of minority persons are not being served by minority/less experienced/overassigned personnel, that a disproportionate number of minority group members is not being served by personnel of the same race, color or national origin, or that minority persons with a limited command of the English language are not being served by personnel having no fluency in the consumers' native tongue.
- Personnel records to ascertain that minority persons are being served by a staff group that is composed of persons who were hired/trained/promoted on the basis of Merit System - Equal Employment Opportunity principles.
- Policy manuals, employee handbooks, posted notices, intake procedures, intake materials, training curricula and the like to ascertain that the agency actively informs its consumers and staff of the policy of nondiscrimination and the availability of complaint channels.

b. Review Procedures

Using the standard forms and outlines adopted by the Office, the reviewers will collect the information necessary to ascertain the compliance status of the subject agency.

- The reviewer will first survey the location of the facility, its proximity to minority neighborhoods, its proximity to public transportation, its waiting and service areas to verify the level equal access of all persons.
- The reviewer will confirm the agency's nondiscrimination policy and how this policy and that of the State and Federal authorities are disseminated to applicants/consumers, Policy manuals, postings, procedures, handouts, verbal notices etc. are to be checked. In those counties where there is any significant foreign - language population the reviewer is to assess whether the agency has provided sufficiently for translation to/from the English in both verbal and printed messages.
- In the course of the review it will be determined whether the agency has adequately informed the members of the staff of their obligations to refrain from executing policies, making decisions, providing services or administering cases on the ground of the race, color or

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