

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

GUIDANCE DOCUMENT

“This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Nebraska Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.”

Pursuant to
Neb. Rev. Stat. § 84-901.03

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES

**COMPLAINT PROCEDURE UNDER TITLE II of AMERICANS WITH
DISABILITIES ACT and SECTION 504 of the REHABILITATION
ACT of 1973 and SECTION 1557 of the AFFORDABLE CARE ACT**

It is the policy of the Nebraska Department of Health and Human Services (DHHS) not to discriminate on the basis of race, color, national origin, sex, age, or disability. DHHS has adopted the following Complaint Procedure to provide for the prompt and equitable resolution of complaints alleging any action prohibited under Title II of the Americans with Disabilities Act (ADA) or Section 504 of the Rehabilitation Act of 1973 (Sec. 504), or Section 1557 of the Affordable Care Act (ACA/Sec. 1557) (42 U.S.C §18116) and its implementing regulations at 45 C.F.R. pt. 92, issued by the U.S. Department of Health and Human Services. ACA/Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities. ACA/Section 1557 and its implementing regulations may be examined in the Compliance Coordinators office. Any person who believes he or she has been subjected to discrimination on the basis of race, color, national origin, sex, age or disability in the provision of services, activities, programs or benefits by DHHS may file a complaint with DHHS under this procedure. It is against the law for DHHS to retaliate against an individual for filing a complaint or cooperating in the investigation of a complaint alleging discrimination.

The following individual has been designated by DHHS to coordinate the efforts of DHHS to comply with the ADA, Sec. 504, and the ACA/Sec. 1557. Any questions, complaints or requests for additional information regarding the ADA, Sec. 504, and the ACA/Sec. 1557 may be forwarded to the designated Compliance Coordinator.

ADA, Sec. 504, and ACA/Sec. 1557 Compliance Coordinator
Nebraska Department of Health and Human Services
301 Centennial Mall South
Lincoln, NE 68509
Phone: (402) 471-4731

COMPLAINT PROCEDURE

1. Complaints must be submitted to the Compliance Coordinator.
2. Complaints can be filed orally or in writing. Any individual who needs assistance or accommodation to file a complaint may contact the Compliance Coordinator.

3. Complaints should contain the following:
 - a. Name, Address and Telephone number of the individual or representative filing the complaint. If a complaint is filed by a representative, it should also include information identifying the alleged victim(s) of the discrimination.
 - b. A detailed explanation of the alleged discrimination or denial of services. The explanation should include how, why and when you believe you were subjected to discriminatory action based on a disability.
 - c. The date(s) and location(s) the alleged violation(s) occurred. To the extent possible, include the name of the person(s) you believe discriminated against you.
 - d. The corrective action being sought.
 - e. Signature of the person filing the complaint.
4. If you need special accommodation to enable the Compliance Coordinator to communicate with you regarding this complaint, or if there is someone else that you would like the Compliance Coordinator to communicate with regarding this complaint in the event you cannot be reached directly, please provide that information.
5. DHHS will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed to participate in this complaint process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing audio recording of material for individuals with low vision, or assuring a barrier-free location for the proceedings. The Compliance Coordinator will be responsible for such arrangements.
6. ADA and Section 504 complaints must be submitted to the Compliance Coordinator as soon as possible, but no later than one hundred-eighty (180) days after the date the person alleging discrimination becomes aware of the alleged discriminatory action. ACA/Section 1557 complaints must be submitted within 60 days of the date the complainant becomes aware of the alleged discriminatory action.
7. The Compliance Coordinator, or his or her designee, will conduct an investigation into the complaint. The investigation will afford all interested persons an opportunity to submit evidence relevant to the complaint. The Compliance Coordinator will communicate with the Complainant or his or her representative to confirm receipt of the complaint within ten days of receiving a complaint pursuant to this procedure. The Compliance Coordinator will work to complete the investigation within thirty (30) days of receipt. In the event that the investigation cannot be completed within thirty (30) days, the Compliance Coordinator will communicate to the Complainant or his or her representative within thirty (30) days regarding the status of the investigation and the estimated timeframe for completion.
8. The Compliance Coordinator will issue a written decision to the Complainant after the completion of the investigation. An ACA/Section 1557 decision will include a notice to the complainant of their right to pursue further administrative or legal remedies.

9. The Complainant may appeal the decision of the Compliance Coordinator by requesting a review of the decision by the DHHS CEO or his or her designee within thirty (30) days of receiving the decision of the Compliance Coordinator. The DHHS CEO or his or her designee shall issue a written decision in response to the appeal no later than 30 days after its filing.
10. The Compliance Coordinator will maintain the files and records of DHHS relating to all complaints in compliance with the DHHS records retention policy or for a period of not less than four (4) years from the date the Complaint was received, whichever period is longer. To the extent possible, and in accordance with applicable law, the Compliance Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to complaints and will share them only with those who have a need to know.

***Nothing in this Complaint Procedure shall prevent or preclude an individual from pursuing other remedies provided by state or federal agencies or from filing a lawsuit alleging discrimination or filing a complaint with the U.S. Department of Health and Human Services, Office of Civil Rights Complaint Portal, which is available at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at:**

U.S. Department of Health and Human Services
200 Independence Avenue, SW
Room 509F, HHH Building
Washington D.C. 20201
1-800-368-1019, 800-537-7697 (TDD)

Complaint forms are available at <http://www.hhs.gov/ocr/office/file/index.html>

Such complaints must be filed within 180 days of the alleged discrimination.