

**WEST TENNESSEE HEALTHCARE
MANAGEMENT GUIDEBOOK POLICY**

SUBJECT: Civil Rights/Nondiscrimination Policy		POLICY NO.: 7800
APPLICATION: System-Wide		PAGE(s): 1 of 10 + Attachments
DEPT. RESPONSIBLE: Compliance		EFFECTIVE: 05/13/03
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APPROVED BY:		
	President/CEO	Date:

PURPOSE: Every patient has the right to competent, considerate, and respectful care that fosters their dignity and comfort and is free from all forms of discrimination. As a recipient of Federal financial assistance, West Tennessee Healthcare (WTH) does not exclude, deny benefits to, or otherwise discriminate against any person on the grounds of race, color, national origin, age, religion, disability, Limited English Proficiency or sex in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by WTH directly or through a contractor or any other entity with which WTH arranges to carry out its programs and activities. This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, the Community Service Assurance Provisions of the Hill-Burton Act, Section 1557 of the Affordable Care Act, and Regulations of the U.S. Department of Health and Human Services (DHHS) issued pursuant to these statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

POLICY:

- The **Age Discrimination Act of 1975** prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Age Discrimination Act applies to persons of all ages. It does not cover employment discrimination. (The Age Discrimination in Employment Act applies specifically to employment practices and programs, both in the public and private sectors, and applies only to persons over age 40. Complaints under the Age Discrimination in Employment Act should be sent to the U.S. Equal Employment Opportunity Commission, Washington, D.C. 20506.) The Age Discrimination Act and HHS age regulation (which can be found at 45 CFR Part 91) do apply to each Department of Health and Human Services recipient. The Age Discrimination Act also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.
- **Title VI of the Civil Rights Act of 1964** prohibits discrimination on the basis of race, color, and national origin in all programs and activities receiving Federal financial assistance. There are many forms of illegal discrimination based on race, color, or national origin that frequently limit the opportunities of minorities to gain equal access to services. A recipient of Federal financial assistance may not, based on race, color, or national origin:
 - Deny services, financial aid or other benefits provided as a part of health or human service programs.
 - Provide a different service, financial aid or other benefit, or provide them in a different manner from those provided to others under the program.
 - Segregate or separately treat individuals in any matter related to the receipt of any service, financial aid or other benefit.
 - Utilize criteria or methods of administration which subject individuals to discrimination.

- Select a facility's site or location that excludes individuals or denies them benefits.
- Deny an individual an opportunity to participate on a planning or advisory board.
- Fail to take reasonable steps to ensure meaningful access by limited English proficient (LEP) persons to the recipient's programs or activities.

More common discriminatory practices are identified in the DHHS Title VI regulation found at 45 CFR Part 80.

- **Section 504 of the Rehabilitation Act of 1973** prohibits discrimination on the basis of disability, in all programs and activities receiving Federal financial assistance. Section 504 protects qualified individuals with disabilities. Under this law (which can be found in the DHHS Section 504 regulation at 45 CFR Part 84), individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. Major life activities include caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks and learning. Some examples of impairments that may substantially limit major life activities include: HIV/AIDS, blindness or low vision, cancer, deafness, diabetes, heart disease, intellectual disabilities and mental illness. This also includes people who have a history of a physical or mental impairment that substantially limits one or more major life activities or who have been subjected to a discriminatory action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.
- **Title II of the Americans with Disabilities Act** is another law that prohibits disability discrimination. It applies to all state and local government agencies and offers protections similar to Section 504 whether or not they receive Federal financial assistance. Public entities must consider the ability to access services and benefits and reasonable accommodations (such as interpreters, television captioning, telecommunications devices, accessible sidewalks/doors & water fountains, Braille materials, larger print, auxiliary aids, etc.).
- **Title IX of the Education Amendments of 1972** applies to education programs and activities and prohibits discrimination based on an individual's gender. The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services has jurisdiction over Title IX claims of discrimination against entities that receive federal financial assistance through HHS. Such entities include: Education programs and activities of entities that are not colleges or universities but receive federal financial assistance from HHS for their educational program or activity. For example:
 - Head Start educational programs for young children funded by the Administration for Children & Families
 - Hospital professional training clinical programs that receive HHS funding;
 - Fatherhood programs providing job training, financial education and other educational programs that receive grants through the Administration for Children & Families.
- **The Hill-Burton Act** authorizes assistance to public and other nonprofit medical facilities such as acute care general hospitals, special hospitals, nursing homes, public health centers, and rehabilitation facilities. The Community Service Assurance under Title VI of the Public Health Service Act requires recipients of Hill-Burton funds to make non-emergency services provided by the facility available to persons residing in the facility's service area without regard to race, color, national origin, creed, or any other ground other than the ability to pay or the ability of the facility to provide the needed services. However, facilities that receive Hill-Burton funds must make emergency services available to any person residing in the Hill-Burton facility's service area, without regard to the person's ability to pay.
- **Section 1557 of the Patient Protection and Affordable Care Act** (42 U.S.C. 18116), which provides that an individual shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (race, color, national origin), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. (sex), the Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq. (age), or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (disability), under any health program or activity, any part of which is receiving federal financial assistance, or under any program or activity

that is administered by an Executive Agency or any entity established under Title I of the Affordable Care Act or its amendments.

The final rule prohibits sex discrimination in health care including by:

- Requiring that women must be treated equally with men in the health care they receive. Other provisions of the ACA bar certain types of sex discrimination in insurance, for example by prohibiting women from being charged more than men for coverage. Under Section 1557, women are protected from discrimination not only in the health coverage they obtain but in the health services they seek from providers.
- Prohibiting denial of health care or health coverage based on an individual's sex. It also includes important protections for individuals with disabilities and enhances language assistance for people with Limited English Proficiency including by:
- Requiring covered entities to make electronic information and newly constructed or altered facilities accessible to individuals with disabilities and to provide appropriate auxiliary aids and services for individuals with disabilities.
- Requiring covered entities to take reasonable steps to provide meaningful access to individuals with Limited English Proficiency.

DEFINITIONS:

A. **Gender-based discrimination** is a form of sex discrimination, and refers to harassment or unlawful differential treatment of an individual based on an individual's sex, including gender identify, gender expression, and nonconformity with gender stereotypes. Gender-based discrimination also may refer to unlawful disparate impact on the basis of sex as a result of a facially neutral policy or procedure. Conduct may constitute gender-based discrimination regardless of the actual or perceived sex, gender identify, or sexual orientation of the persons experiencing or engaging in the conduct.

B. **Sex assigned at birth** and **assigned sex** refers to the gender designation listed on one's original birth certificate.

C. **Gender expression** refers to external cues that one uses to represent or communicate one's gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms or body characteristics.

D. **Gender identity** refers to ones' internal sense of gender, which may be different from one's assigned sex, which consistently and uniformly asserted, or for which there is other evidence that the gender identity is sincerely held as part of the individual's core identity.

E. **Transgender** describes an individual whose gender identify is different from the individual's assigned sex. An individual can express or assert a transgender identity in variety of ways, which may but do not always include undergoing specific medical treatments or procedures. Medical treatment or procedures are not considered a prerequisite for one's recognition as transgender. For purposes of this policy, a "transgender individual" is an individual who consistently and uniformly maintains a gender identity different from the individual's assigned sex, or for which there is other evidence that the gender identity is sincerely held as part of the individual's core identity.

F. **Gender stereotypes** refers to stereotypical notions of masculinity and femininity, including expectations of how males or females represent or communicate their gender to others, such as behavior, clothing, hairstyles, activities, voice mannerisms, or body characteristics.

G. **Gender nonconformity** refers to one's gender expression, gender characteristics, or gender identity that does not conform to gender stereotypes.

H. **Staff member** means all WTH employees, physicians with staff privileges, contractors and sub-recipients who work for WTH, including, without limitation, nurses, physicians, social workers, technicians, admitting personnel, orderlies, security staff, counselors, therapists, and volunteers, who have or are likely to have direct contact with Patients as defined herein.

I. **Patient** is broadly construed to mean any individual who is seeking or receiving health care services from WTH.

J. **Disability** is a physical or mental impairment that substantially limits one or more major life activities of a person; a person's record of having an impairment; or being regarded as having an impairment. A person with a disability can be a person with a mobility or physical disability, sensory (vision or hearing),

intellectual, psychiatric, or other mental disability. People with medical conditions such as HIV/AIDS, epilepsy, rheumatoid arthritis, and cancer may also be covered under the ADA.

K. **Reasonable accommodations** as required by the ADA, Section 504, and Section 1557, must be linked to the patient's disability-related needs; are necessary to afford an equal opportunity to enjoy the services or benefits; and are possible to implement.

PROCEDURE:

1. No consumer of services within WTH will be denied any service or discriminated against on grounds of race, color, national origin, age, religion, disability, Limited English Proficiency or sex.
2. WTH will provide services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.
3. WTH will not provide services or benefits to individuals with disabilities through programs that are separate or different, unless the separate programs are necessary to ensure that the benefits and services are equally effective.
4. WTH will not apply eligibility criteria for participation in programs, activities, and services that screen out or tend to screen out individuals with disabilities, unless WTH can establish that such criteria are necessary for the provision of services, programs, or activities.
5. WTH will make reasonable modifications in policies, practices, and procedures to avoid discrimination on the basis of disability unless it is demonstrated that a modification would fundamentally alter the nature of the service, program, or activity; would result in undue financial and administrative burdens; or is unreasonable.

Examples:

- Granting an early appointment to a patient with anxiety so that fewer people will be in the office and noise will be minimal.
- Allowing a companion to assist a person with a mobility disability when positioning the patient for a radiology scan.
- Modifying a policy requiring patients to complete their own paperwork so that staff can complete intake paperwork for a person with a brain injury or dyslexia who requests the assistance to fill out the paperwork. Allowing additional time to explain care to a patient with an intellectual disability.
- Allowing a service dog that has been trained to alert their handler with a seizure disorder at the onset of a seizure to be present in an exam room.

If a decision is made that a request for a reasonable accommodation would cause WTH to fundamentally alter a program or benefit, WTH must offer the person another accommodation.

6. WTH will provide auxiliary aids at no additional cost to individuals with disabilities, where necessary, to ensure effective communication with individuals with hearing, vision, or speech impairments. See WTH Management Guidebook Policy No. 8210, *Language Barriers/Limitations*.

Examples:

- For a person who is Deaf and uses sign language, providing a qualified sign language interpreter for a scheduled or non-emergency appointment.
- For a person with low vision, providing a qualified reader for written information and providing post-op discharge instructions and medication management in large print.
- For a patient with a speech disability who is not understood by clinicians on the phone, use the relay service 711 for speech-to-speech translation services.
- Digital accessibility is also required for effective communication and includes, but is not limited to: websites; medical kiosks; electronic health records; telecommunications; and telephonic health (which includes telepsychology and telemental health).

WTH must ensure that their facilities are accessible to people with disabilities. When possible, medical equipment should also be accessible. Examples include accessible examination tables, accessible imaging machines, accessible scales, and patient lifts. WTH must have accessible

facilities that meet the 2010 ADA Standards for Accessible Design and have accessible exam/treatment/procedure rooms available. (Note: a facility that was constructed before the ADA is not “grandfathered.”)

Examples of features of accessible facilities, as defined by the 2010 ADA Standards for Accessible Design, include:

- Accessible parking spaces and entry;
- Doors with lever handles;
- Wheelchair accessible bathrooms with clear turning space, grab bars, and accessible sinks; and
- No objects that protrude more than 4 inches along the routes of travel.

Accessible examination rooms include, for example:

- Clear pathways of travel to the rooms;
- Entry doors that meet width requirements; and
- Clear floor and turning space inside the rooms (which may be easily achieved by moving objects like a garbage can, sharps container, or a chair that is behind a door).

7. Reasonable accommodation requests should be reviewed as follows:
 - a. Contact your manager, supervisor, or director
 - b. Contact your Civil Rights Coordinator
 - c. Ask the person if they would like to be sent a request for a discrimination/reasonable accommodation form (<https://www.wth.org/nondiscrimination-policy/>)
 - d. Once an accommodation request has been received, the Civil Rights Coordinator may request help with gathering whatever information is necessary to process the request
 - e. Depending on the request, the Civil Rights Coordinator may request certain staff members to collaborate on developing a solution for the person.
 - f. This group will work together to review the evidence and explore options for the person's circumstances.
8. The Civil Rights Coordinator will be as follows:
 - The Chief Compliance Officer of WTH will serve as the Civil Rights Coordinator for all affiliates of West Tennessee Healthcare.
 - The Grants/Licensure Coordinator for all grant programs, outside of Pathways. This position will also provide assistance to the Civil Rights Coordinator. The Grants/Licensure Coordinator will obtain annual training and will coordinate grant staff training with the Civil Rights Coordinator.
9. Training on nondiscrimination for new staff will occur during orientation and online annually thereafter. Training will be a component of the Compliance training for all employees and volunteers.
10. WTH will advise patients and grant program consumers of their civil rights upon admission to the services by use of brochures and/or posters. WTH will prominently display nondiscrimination posters in admitting areas and departments conducting grant programs. Brochures will also be located in strategic locations accessible to patients and grant consumers. Posters and brochures should be displayed in English and Spanish. The Civil Rights Coordinator (or his/her designee) and the Grants/Licensure Coordinator will be responsible for developing and distributing posters and brochures.
11. The name and telephone number of the Civil Rights Coordinator or Office of Civil Rights are identified on the nondiscrimination posters.
12. WTH will address all patients and grant consumers on a first name basis, without regard to race, color, ethnic origin, sexual orientation, or Limited English Proficiency.
13. All subcontracts of the Jackson-Madison County General Hospital District will contain a nondiscrimination clause. All subcontractors will be expected to provide staff training on nondiscrimination; develop a plan for complaint resolution process that complies with civil rights requirements; and maintain records of complaints and resolutions.
14. See specific departmental policies for admission, transfer, and discharge procedures regarding nondiscrimination.

15. Violations of this policy may result in disciplinary action up to and including termination depending upon the severity of the infraction. Any further violations may result in termination. Contact Amy Garner, Chief Compliance and Communications Officer, at 731-541-2970 with questions.
16. Complaints should be handled as outlined below.

Complaint Process for Non-Recipients of Federal Financial Assistance:

- a. Persons wishing to file a complaint may do so in writing on a form supplied by the Civil Rights Coordinator (see attached *WTH Civil Rights Complaint Form*). Copies of the form may be obtained from the Compliance Office and must contain the following:
 - Complainant's name, signature, address, and telephone number. If a complaint is filed on someone's behalf, include person filing complaint's name, address, telephone number, and statement of relationship to that person - e.g., spouse, attorney, friend, etc.
 - Name and address of the facility where discrimination is believed to have taken place.
 - How, why and when discrimination is believed to have occurred.
 - Any other relevant information including the problem or action alleged to be discriminatory and the remedy or relief sought.
- b. Grievances must be submitted within 180 days of the date the person filing the grievance becomes aware of the alleged discriminatory action. The 180-day period may be extended if good cause is shown.
- c. The complaint form should be signed by the Civil Rights Coordinator (or his/her designee) upon receipt, and he/she must log the complaint as well as notify the appropriate state agency coordinator within 24 hours.
- d. The Civil Rights Coordinator (or his/her designee) will determine the jurisdiction, acceptability, and the need for additional information upon receipt in order to investigate the merit of the complaint. (Appropriate state agencies include the Tennessee Department of Health, Department of Human Services, Department of Children's Services, Department of Mental Health and Developmental Disabilities.)
- e. Copies of the complaint must be given to the person making the complaint and sent to the appropriate state agency coordinator.
- f. The Civil Rights Coordinator (or his/her designee) will begin an investigation of the complaint; this investigation may be informal, but it will be thorough and afford all interested persons an opportunity to submit evidence relevant to the complaint. The Civil Rights Coordinator will issue a written decision on the grievance based on a preponderance of the evidence, no later than 30 days after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies. (They are advised of their right to have their complaint reviewed by one of the following agencies if they are not satisfied with WTH's decision—TN Department of Mental Health and Substance Abuse Services Title VI Coordinator, TN Human Rights Commission of Department of Health and Human Services, Office of Civil Rights, Region IV Office.) This decision will also be reported to the appropriate state agency.
- g. The person filing the grievance may appeal the decision of the Civil Rights Coordinator by writing to the Chief Executive Officer within 15 days of receiving the Civil Rights Coordinator's decision. The Chief Executive Officer shall issue a written decision in response to the appeal no later than 30 days after its filing. Appeals will be sent to the appropriate state agency coordinator within 10 calendar days. The final outcome will be logged and the appropriate state agency coordinator notified.
- h. The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination with the U. S. Department of Health and Human Services, Office for Civil Rights (see attached *Office for Civil Rights (OCR) Discrimination Complaint form*). The complaint may be mailed to the attention of the regional manager at the appropriate OCR regional office or to the Washington, D.C. headquarters.

Office for Civil Rights

Centralized Case Management Operations
U. S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509-F HHH Bldg.
Washington, D.C. 20201

The complaint form is also available on the OCR's webpage (www.hhs.gov/ocr) in a number of other languages under the Civil Rights Information in Other Languages section. Or, the complaint may be completed through the OCR's Complaint Portal:

(<https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>).

- i. Parties may withdraw the "Complaint Under the Civil Rights Act of 1964" or the "Appeal From Finding." Reason for withdrawal and signature of the person who chooses to withdraw must be on the form. NOTE: WTH will make appropriate arrangements to ensure that disabled persons are provided other accommodations if needed to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped recordings of material for the blind, or assuring a barrier-free location for the proceedings. The Civil Rights Coordinator will be responsible for such arrangements. The Civil Rights Coordinator must retain copies of all files and records of WTH relating to such grievances.
- j. The Civil Rights Coordinator's log will contain a summary of the calls/forms received during the year indicating the number of calls/forms received, the general nature of the activities reported, the grant contract affected (if applicable) and, if appropriate, any remedial action taken or proposed. These records will be maintained indefinitely.

Complaint Procedures for Recipients of Federal Financial Assistance

Federal and State laws do not allow the Division of TennCare ("TennCare") or any of its recipients of federal financial assistance to act in a discriminatory manner based on a person's race, color, national origin, disability, age, sex, religion, or any other status/group protected by law. These laws allow individuals, like members, representatives, or providers (called "complainants") to file a complaint with TennCare's Office of Civil Rights Compliance ("OCRC") if they think they have been treated in a discriminatory manner based on one of the above listed factors. OCRC can investigate certain claims of discrimination and refer claims that it does not have authority to investigate to the appropriate agency. Under the civil rights laws an organization cannot retaliate against a person for filing a complaint.

I. Discrimination Complaint Process

A complainant has six (6) months (180 calendar days) from the date of the alleged act of discrimination to file a written complaint with OCRC. A discrimination complaint is not considered filed until it is received by OCRC; the U.S. Department of Health and Human Services, Office of Civil Rights ("OCR"); the U.S. Department of Justice ("DOJ"); the U.S. Equal Employment Opportunity Commission; or the Tennessee Human Rights Commission.

The following methods are the most common ways for reporting discrimination complaints to OCRC. The first reporting method consists of a complainant filing a complaint in real-time on TennCare's website, emailing or mailing a complaint to OCRC, or working with his/her managed care organization ("MCO") or another TennCare contractor to complete a complaint form that is sent to OCRC. The second method consists of a complainant mailing or emailing a complaint to a TennCare contractor like a MCO. In such a case, the contractor has two (2) business days to send that discrimination complaint to OCRC.

TennCare contractors or other recipients of federal financial assistance are required to accept and help TennCare members and other individuals report acts that could be discriminatory. TennCare discrimination complaint forms are located on:

- TennCare's civil rights webpage at:

<https://www.tn.gov/tenncare/members-applicants/civil-rights-compliance.html> (real-time and PDF forms are available);

- In TennCare's Member Handbook;
- In TennCare Provider Manual;
- On certain contractor's websites (like MCO); and
- TennCare Connect (can assist with completing forms over the phone) 855-259-0701

In order to achieve compliance, WTH may need to work with OCRC to provide individuals with the TennCare discrimination complaint form and agreement to release information form or help the individual complete the complaint form. The procedure below describes the TennCare discrimination complaint review and resolution process.

a. Complaint Reviews

When OCRC receives a complaint, OCRC determines whether it is a complaint claiming that the person was discriminated against by TennCare or one of its contractors, providers, or subcontractors (including these organizations' employees). In addition, OCRC reviews the complaint for several issues including:

- Was the complaint filed within the six (6) month (180 calendar days) deadline?
- Is the required information present on the form (i.e. is the complaint complete)?
- Is the complainant's issue within OCRC's authority for review?
- Is the complaint a civil rights claim that involves a quality of care/service issue?
- Did the complainant submit an Agreement to Release Information form? and
- Is the complaint frivolous?

Should the complaint involve one of TennCare's programs or activities, OCRC logs the complaint and assigns it a case number. OCRC maintains a log of the filed discrimination complaints. The federal agency responsible for enforcement of a particular complaint (i.e. the EEOC or OCR) may request a report of that log and retains review responsibility over the investigation and disposition of each complaint under its jurisdiction.

Within ten (10) calendar days of OCRC's receipt of a complaint, an acknowledgement letter is sent to the complainant. This letter may include an agreement to release information form with the acknowledgement letter, along with a request that the complainant return the signed form to OCRC within twenty (20) calendar days of the date of the acknowledgement letter. When the release is included the complainant is informed the completed forms must be returned to OCRC within the twenty (20) calendar day timeframe or their complaint may be closed.

The agreement to release information form allows OCRC and the person's health plan to look at or ask about protected health information (PHI). Although a signed agreement to release information form is not always needed to investigate a complaint, many complaints cannot be fully investigated without a signed release form. However, before the case is closed for this reason, OCRC will contact the complainant to find out if he/she would like to fill out a release form.

During the investigation and resolution of the complaint, documents and other information may be shared only when such information is necessary to further the investigation of the complaint. Disclosures of information may hinder or compromise an investigation and may violate certain laws (i.e. privacy, security, or confidentiality) and attorney-client privilege. OCRC's policy and practice is not to reveal information about complaints, active or closed.

Additionally, the acknowledgement letter may request that the complainant provide any missing information to OCRC within twenty (20) calendar days from the date of the acknowledgement letter. For example, the letter may request that the complainant explain their reasons for filing a complaint after the six (6) month (180 calendar days) deadline. If the missing information is not provided to OCRC within the

twenty (20) calendar day timeframe, the case is closed. However, if the information is provided within the timeframe OCRC will continue the completion of its initial review.

b. Complaint Investigations

When OCRC determines that the complaint warrants further investigation, OCRC will decide whether to investigate the complaint by itself or if a contractor will assist in the initial investigation. In cases where OCRC is the sole investigator, it will issue a Request for Information (“RFI”) to the named respondent (the party who the complaint is against/or who committed the alleged discriminatory act), which contains a deadline for submitting the response. The RFI gathers information about the issues in the complaint, lets the respondent tell their side of the story, and collects compliance information.

Once OCRC finishes reviewing the information and evidence submitted by parties and witnesses, it may request follow-up information from the parties or witnesses and conduct interviews. These interviews are conducted over the phone and WebEx options may be available. Interviews may be recorded. Not all complaints need interviews and can be resolved based on submitted evidence or voluntary agreements (section c below explains this process).

If OCRC requests the assistance of a contractor with conducting the initial investigation, the contractor has five (5) business days from the date of the request to start its initial investigation. Due to the timeframe for resolving a complaint within 180 days from the date of receipt of a complete complaint, OCRC may assign a deadline for completion of the initial investigation.

Once an initial investigation has been completed by the contractor, it submits a report to OCRC. The initial investigation report should include, but is not limited to the following items:

- The identity of the party filing the complaint;
- The complainant’s relationship to the respondent (party who the complaint is against);
- The circumstances of the complaint;
- The date the complaint was filed; and
- The contractor’s suggested complaint resolution or voluntary resolution plan.

c. Complaint Resolutions

As part of its duties for resolving and remedying discrimination in TennCare’s programs, OCRC will review the evidence and determine whether discrimination occurred. The complaint determination shall utilize the “preponderance of the evidence standard” (meaning enough evidence exists to create a reasonable belief that it is more likely true than not true).

Except for cases involving sexual harassment, OCRC may exercise its discretion to contact the parties and implement a voluntarily resolution agreement (“VRA”) to resolve the complaint. With the VRA process, OCRC will work with the party to implement the corrective action and resolve the complaint. Many VRAs consist of staff trainings and policy creation and implementation.

In cases where a VRA is not needed, the complaint determination is provided to both parties in a Letter of Findings. The Letter of Findings informs both parties of their review rights and that the complainant has a right to file a complaint with U.S. Department of Health and Human Services, Office of Civil Rights and the Tennessee Human Rights Commission (“THRC”). (THRC only reviews Title VI of the Civil Rights of 1964 issues- race, color, national origin complaints.)

If a complaint is not a valid case of discrimination, the complaint is closed. When a complaint is determined to be a valid act of discrimination, a correction action plan (“CAP”) is provided to the responsible party.

A discrimination complaint resolution CAP may include items like an approved nondiscrimination training on relevant discrimination topics. If the respondent submits deliverables like a nondiscrimination training

material for use with a CAP, OCRC must review and approve the deliverable prior to implementation. Once a discrimination complaint resolution CAP has been approved and given to the respondent for implementation, the respondent will submit evidence that the CAP was completed. Upon the successful implementation of the CAP, OCRC shall close the case and notify the respondent of the closure.

d. Review Rights

The complainant or the respondent has sixty (60) days from the date of the Letter of Findings to request that OCRC review its decision. If a request for a review is made, OCRC can only review the original report of discrimination. The reasons for a review request must originate from:

- The report or
- The investigation made into that report.

The Requestor must set forth the mistakes OCRC made during the review of the discrimination complaint (i.e. failing to interview a key witness) or that OCRC misapplied the civil rights laws to the facts of the case (i.e. like an exception to the law or wrong evidence standard used). The Requestor must allege that the correction of these mistakes would change OCRC's decision. A party that is only conveying that he/she is unhappy with or disagrees with the findings is not considered to be making a request for a review.

The Requestor must provide OCRC with the following information:

- The part of the decision they disagree with and why OCRC's decision goes against the facts in found in the discrimination complaint or the laws;
- The fact(s) in the discrimination complaint investigation that OCRC did not review or misinterpreted that led to the decision and how the correction of these mistakes would change OCRC's decision;
- The names and contact information of any important witnesses that the Requestor identified in the complaint or during the analysis/investigation who were not contacted. The Requestor believes that the admission of this witness information would change OCRC's decision; and
- Set forth the law that was not reviewed or correctly applied by OCRC.

Should OCRC accept the request for review, OCRC will analyze the laws and any evidence submitted by the parties. This decision shall be issued in a Letter of Reconsideration and mailed to the parties.

Contact Information:

To file a complaint or get help contact OCRC at:
TennCare, Office of Civil Rights Compliance
310 Great Circle Road; Floor 3W • Nashville, TN 37243
615-507-6474 or for free at 855-857-1673 (TRS 711)
HCFA.fairtreatment@tn.gov

**WEST TENNESSEE HEALTHCARE
CIVIL RIGHTS / NONDISCRIMINATION COMPLAINT FORM**

Title VI, Section 601, of the Civil Rights Act of 1964 provides that: "No person in the United States should, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

It will also be the policy of West Tennessee Healthcare to insure that any program or activity which receives Federal financial assistance 1) does not exclude qualified disabled persons from aids, benefits or services; 2) will provide equal opportunity to participate or benefit; 3) will provide services as effective as those provided to the nondisabled, and 4) will not provide different or separate services except when necessary to provide equally effective benefits.

Complaints may be filed with the West Tennessee Healthcare Compliance Office or with the appropriate State of Tennessee office. Complaints may also be filed with the Department of Health and Human Services in Washington, D.C. (<http://www.justice.gov/crt/complaint/> or https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf or Title VI Hotline 1-888-848-5306). Fill in the form, making one copy for yourself and one for the office with which you file. The form should be typed or printed legibly and signed by you. Complaints must be filed within 180 days of the alleged occurrence or when the alleged discrimination became known.

Complainants who file with West Tennessee Healthcare may send their complaints to the address listed below:

Mail this form to:

Civil Rights Coordinator
Vice President/Chief Compliance Officer
West Tennessee Healthcare
620 Skyline Drive
Jackson, TN 38301
Telephone Number: (731) 541-2970

Your Name _____
Street Address _____

City _____
State _____ **Zip** _____
Telephone Number _____

Name and Address of Department Involved: (Give exact date(s) of alleged discrimination)

West Tennessee Healthcare Civil Rights Complaint Form (continued)

Alleged Discrimination for:

_____ **Race**

_____ **National Origin**

_____ **Color**

_____ **Disability**

_____ **Creed**

_____ **Age**

_____ **Sex**

_____ **Religion**

_____ **Limited English Proficiency**

THE COMPLAINT: Tell the story of the occurrence which resulted in this allegation or discrimination. Show all dates, places and the names of persons involved. (If additional space is needed please use another sheet.)

ACTION DESIRED: (If additional space is needed, please use another sheet.)

I certify that the information given above is true and correct to the best of my knowledge or belief.

Signature of Aggrieved Person

Date

Signature of Civil Rights Coordinator

Date
Received

AN EQUAL OPPORTUNITY EMPLOYER



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS (OCR)
Civil Rights Discrimination Complaint



YOUR FIRST NAME		YOUR LAST NAME	
HOME PHONE (Please include area code)		WORK PHONE (Please include area code)	
STREET ADDRESS		CITY	
STATE	ZIP	E-MAIL ADDRESS (If available)	

Are you filing this complaint for someone else? Yes No

If Yes, whose civil rights do you believe were violated?

FIRST NAME	LAST NAME
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I believe that I have been (or someone else has been) discriminated against on the basis of:

Race / Color / National Origin Age Religion / Conscience Sex

Disability Other (specify):

Who or what agency or organization do you believe discriminated against you (or someone else)?

PERSON / AGENCY / ORGANIZATION

STREET ADDRESS		CITY
STATE	ZIP	PHONE (Please include area code)

When do you believe that the occurred?

LIST DATE(S)

Describe briefly what happened. How and why do you believe you have been discriminated against? Please be as specific as possible.
(Attach additional pages as needed)

Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.

SIGNATURE	DATE
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Filing a complaint with OCR is voluntary. However, without the information requested above, OCR may be unable to proceed with your complaint. We collect this information under authority of Sections 1553 and 1557 of the Affordable Care Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Church Amendments, the Coats-Snowe Amendment, the Weldon Amendment, and other civil rights statutes. We will use the information you provide to determine if we have jurisdiction and, if so, how we will process your complaint. Information submitted on this form is treated confidentially and is protected under the provisions of the Privacy Act of 1974. Names or other identifying information about individuals are disclosed when it is necessary for investigation of possible discrimination, for internal systems operations, or for routine uses, which include disclosure of information outside the Department of Health and Human Services (HHS) for purposes associated with civil rights compliance and as permitted by law. It is illegal for a recipient of Federal financial assistance from HHS to intimidate, threaten, coerce, or discriminate or retaliate against you for filing this complaint or for taking any other action to enforce your rights under Federal civil rights laws. You are not required to use this form. You also may write a letter or submit a complaint electronically with the same information. To submit an electronic complaint, go to OCR's web site at: www.hhs.gov/ocr/civilrights/complaints/index.html. To submit a complaint using alternative methods, see reverse page (page 2 of the complaint form).

The remaining information on this form is optional. Failure to answer these voluntary questions will not affect OCR's decision to process your complaint.

Do you need special accommodations for OCR to communicate with you about this complaint? (Check all that apply)

- Braille Large Print Cassette tape Computer diskette Electronic mail TDD
- Sign language interpreter (specify language): _____
- Foreign language interpreter (specify language): _____ Other: _____

If we cannot reach you directly, is there someone we can contact to help us reach you?

FIRST NAME		LAST NAME	
HOME PHONE (Please include area code)		WORK PHONE (Please include area code)	
STREET ADDRESS		CITY	
STATE	ZIP	E-MAIL ADDRESS (If available)	

Have you filed your complaint anywhere else? If so, please provide the following. (Attach additional pages as needed)

PERSON / AGENCY / ORGANIZATION / COURT NAME(S)

DATE(S) FILED	CASE NUMBER(S) (If known)
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To help us better serve the public; please provide the following information for the person you believe was discriminated against (you or the person on whose behalf you are filing).

- ETHNICITY (select one) RACE (select one or more)
- Hispanic or Latino American Indian or Alaska Native Asian Native Hawaiian or Other Pacific Islander
- Not Hispanic or Latino Black or African American White Other (specify): _____

PRIMARY LANGUAGE SPOKEN (if other than English):

How did you learn about the Office for Civil Rights?

- HHS Website /Internet Search Family / Friend /Associate Religious /Community Org Lawyer /Legal Org Phone Directory Employer
- Fed /State/Local Gov Healthcare Provider /Health Plan Conference /OCR Brochure Other(specify): _____

To submit a complaint, please type or print, sign, and return completed complaint form package (including consent form) to the OCR Headquarters address below.

U.S. Department of Health and Human Services
Office for Civil Rights
Centralized Case Management Operations
200 Independence Ave., S.W.
Suite 515F, HHH Building
Washington, D.C. 20201
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
[Email: ocrmail@hhs.gov](mailto:ocrmail@hhs.gov)

Burden Statement

Public reporting burden for the collection of information on this complaint form is estimated to average 45 minutes per response, including the time for reviewing instructions, gathering the data needed and entering and reviewing the information on the completed complaint form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: HHS/OS Reports Clearance Officer, Office of Information Resources Management, 200 Independence Ave. S.W., Room 531H, Washington, D.C. 20201. **Please do not mail this complaint form to this address.**



COMPLAINANT CONSENT FORM

The Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) has the authority to collect and receive material and information about you, including personnel and medical records, which are relevant to its investigation of your complaint.

To investigate your complaint, OCR may need to reveal your identity or identifying information about you to persons at the entity or agency under investigation or to other persons, agencies, or entities.

The Privacy Act of 1974 protects certain federal records that contain personally identifiable information about you and, with your consent, allows OCR to use your name or other personal information, if necessary, to investigate your complaint.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

Additionally, OCR may disclose information, including medical records and other personal information, which it has gathered during the course of its investigation in order to comply with a request under the Freedom of Information Act (FOIA) and may refer your complaint to another appropriate agency.

Under FOIA, OCR may be required to release information regarding the investigation of your complaint; however, we will make every effort, as permitted by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

Please read and review the documents entitled, Notice to Complainants and Other Individuals Asked to Supply Information to the Office for Civil Rights and Protecting Personal Information in Complaint Investigations for further information regarding how OCR may obtain, use, and disclose your information while investigating your complaint.

In order to expedite the investigation of your complaint if it is accepted by OCR, please read, sign, and return one copy of this consent form to OCR with your complaint. Please make one copy for your records.

- As a complainant, I understand that in the course of the investigation of my complaint it may become necessary for OCR to reveal my identity or identifying information about me to persons at the entity or agency under investigation or to other persons, agencies, or entities.
- I am also aware of the obligations of OCR to honor requests under the Freedom of Information Act (FOIA). I understand that it may be necessary for OCR to disclose information, including personally identifying information, which it has gathered as part of its investigation of my complaint.

- In addition, I understand that as a complainant I am covered by the Department of Health and Human Services' (HHS) regulations which protect any individual from being intimidated, threatened, coerced, retaliated against, or discriminated against because he/she has made a complaint, testified, assisted, or participated in any manner in any mediation, investigation, hearing, proceeding, or other part of HHS' investigation, conciliation, or enforcement process.

After reading the above information, please check ONLY ONE of the following boxes:

CONSENT: I have read, understand, and agree to the above and give permission to OCR to reveal my identity or identifying information about me in my case file to persons at the entity or agency under investigation or to other relevant persons, agencies, or entities during any part of HHS' investigation, conciliation, or enforcement process.

CONSENT DENIED: I have read and I understand the above and do not give permission to OCR to reveal my identity or identifying information about me. I understand that this denial of consent is likely to impede the investigation of my complaint and may result in closure of the investigation.

Signature:

Date:

**Please sign and date this complaint. You do not need to sign if submitting this form by email because submission by email represents your signature.*

Name (Please print):

Address:

Telephone Number:

**NOTICE TO COMPLAINANTS AND OTHER INDIVIDUALS
ASKED TO SUPPLY INFORMATION TO THE OFFICE FOR
CIVIL RIGHTS**

Privacy Act

The Privacy Act of 1974 (5 U.S.C. § 552a) requires OCR to notify individuals whom it asks to supply information that:

— OCR is authorized to solicit information under:

- (i) Federal laws barring discrimination by recipients of Federal financial assistance on grounds of race, color, national origin, disability, age, sex, religion, and conscience under programs and activities receiving Federal financial assistance from the U.S. Department of Health and Human Services (HHS), including, but not limited to, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et seq.*), Sections 794 and 855 of the Public Health Service Act (42 U.S.C. §§ 295m and 296g), Section 1553 of the Affordable Care Act (42 U.S.C. § 18113), the Church Amendments (42 U.S.C. § 300a-7), the Coats-Snowe Amendment (42 U.S.C. § 238n) and the Weldon Amendment (*e.g.*, Consolidated Appropriations Act of 2017, Pub. L. 115-31, Div. H, Tit. V, § 507);
- (ii) Titles VI and XVI of the Public Health Service Act (42 U.S.C. §§ 291 *et seq.* and 300s *et seq.*) and 42 C.F.R. Part 124, Subpart G (Community Service obligations of Hill- Burton facilities);
- (iii) 45 C.F.R. Part 85, as it implements Section 504 of the Rehabilitation Act in programs conducted by HHS; and
- (iv) Title II of the Americans with Disabilities Act (42 U.S.C. § 12131 *et seq.*) and Department of Justice regulations at 28 C.F.R. Part 35, which give HHS “designated agency” authority to investigate and resolve disability discrimination complaints against certain public entities, defined as health and service agencies of state and local governments, regardless of whether they receive federal financial assistance.
- (v) The Standards for the Privacy of Individually Identifiable Health Information (The Privacy Rule) at 45 C.F.R. Part 160 and Subparts A and E of Part 164, which enforce the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (42 U.S.C. § 1320d-2).

OCR will request information for the purpose of determining and securing compliance with the Federal laws listed above. Disclosure of this requested information to OCR by individuals who are not recipients of Federal financial assistance is voluntary; however, even individuals who voluntarily disclose information are subject to prosecution and penalties under 18 U.S.C. § 1001 for making false statements.

Additionally, although disclosure is voluntary for individuals who are not recipients of Federal financial assistance, failure to provide OCR with requested information may preclude OCR from making a compliance determination or enforcing the laws above.

OCR has the authority to disclose personal information collected during an investigation without the individual's consent for the following routine uses:

- (i) to make disclosures to OCR contractors who are required to maintain Privacy Act safeguards with respect to such records;
- (ii) for disclosure to a congressional office from the record of an individual in response to an inquiry made at the request of the individual;
- (iii) to make disclosures to the Department of Justice to permit effective defense of litigation; and
- (iv) make disclosures to the appropriate agency in the event that records maintained by OCR to carry out its functions indicate a violation or potential violation of law.

Under 5 U.S.C. § 552a(k)(2) and the HHS Privacy Act regulations at 45 C.F.R. § 5b.11 OCR complaint records have been exempted as investigatory material compiled for law enforcement purposes from certain Privacy Act access, amendment, correction and notification requirements.

Freedom of Information Act

A complainant, the recipient or any member of the public may request release of OCR records under the Freedom of Information Act (5 U.S.C. § 552) (FOIA) and HHS regulations at 45 C.F.R. Part 5.

Fraud and False Statements

Federal law, at 18 U.S.C. §1001, authorizes prosecution and penalties of fine or imprisonment for conviction of "whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".



PROTECTING PERSONAL INFORMATION IN COMPLAINT INVESTIGATIONS

To investigate your complaint, the Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) will collect information from different sources. Depending on the type of complaint, we may need to get copies of your medical records, or other information that is personal to you. This Fact Sheet explains how OCR protects your personal information that is part of your case file.

HOW DOES OCR PROTECT MY PERSONAL INFORMATION?

OCR is required by law to protect your personal information. The Privacy Act of 1974 protects Federal records about an individual containing personally identifiable information, including, but not limited to, the individual's medical history, education, financial transactions, and criminal or employment history that contains an individual's name or other identifying information.

Because of the Privacy Act, OCR will use your name or other personal information with a signed consent and only when it is necessary to complete the investigation of your complaint or to enforce civil rights laws or when it is otherwise permitted by law.

Consent is voluntary, and it is not always needed in order to investigate your complaint; however, failure to give consent is likely to impede the investigation of your complaint and may result in the closure of your case.

CAN I SEE MY OCR FILE?

Under the Freedom of Information Act (FOIA), you can request a copy of your case file once your case has been closed; however, OCR can withhold information from you in order to protect the identities of witnesses and other sources of information.

CAN OCR GIVE MY FILE TO ANY ONE ELSE?

If a complaint indicates a violation or a potential violation of law, OCR can refer the complaint to another appropriate agency without your permission.

If you file a complaint with OCR, and we decide we cannot help you, we may refer your complaint to another agency such as the Department of Justice.



CAN ANYONE ELSE SEE THE INFORMATION IN MY FILE?

Access to OCR's files and records is controlled by the Freedom of Information Act (FOIA). Under FOIA, OCR may be required to release information about this case upon public request. In the event that OCR receives such a request, we will make every effort, as permitted by law, to protect information that identifies individuals, or that, if released, could constitute a clearly unwarranted invasion of personal privacy.

If OCR receives protected health information about you in connection with a HIPAA Privacy Rule investigation or compliance review, we will only share this information with individuals outside of HHS if necessary for our compliance efforts or if we are required to do so by another law.

DOES IT COST ANYTHING FOR ME (OR SOMEONE ELSE) TO OBTAIN A COPY OF MY FILE?

In most cases, the first two hours spent searching for document(s) you request under the Freedom of Information Act and the first 100 pages are free. Additional search time or copying time may result in a cost for which you will be responsible. If you wish to limit the search time and number of pages to a maximum of two hours and 100 pages; please specify this in your request. You may also set a specific cost limit, for example, cost not to exceed \$100.00.

If you have any questions about this complaint and consent package, Please
contact OCR at

<http://www.hhs.gov/ocr/office/about/contactus/index.html>

OR

Contact the Customer Response Center at

(800) 368-1019 (see contact information on

page 2 of the Complaint Form)

