

Americans with Disabilities Act (ADA) & Civil Rights Policy Manual

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Section 1. Civil Rights

This is the "ADA/Civil Rights Policy Manual" for applicants and recipients of services from the North Dakota Department of Health and Human Services (HHS), and any other individuals participating in an HHS activity.

1.1. Purpose Statement

It is the purpose of this chapter to ensure compliance with federal and state civil rights laws for applicants, clients and members of the public accessing human services program information or benefits through HHS, its agents, or other organizations that receive funds from HHS to provide services or benefits to HHS clients.

It is also the purpose of this chapter to ensure that applicants, clients, and members of the public are not discriminated against based on race, color, religion, national origin, age, sex, disability, and for USDA funded programs; political beliefs. The State of North Dakota additionally prohibits discrimination based on status with respect to marriage or public assistance.

This chapter serves as a source of information for HHS, its agents, other organizations, and the public by setting out the civil rights administrative policies.

1.2. Definitions

As used in this manual:

1. "ADA" means the Americans with Disabilities Act which is a federal civil rights law. It prohibits discrimination against people with disabilities in everyday activities.
2. "Age discrimination" means when a person is treated differently or not given the same opportunities because of their age.
3. "Agent" means a person or organization who acts on behalf of HHS, including the Human Service Zones.

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4. "Applicant" means a person who has applied for benefits or services under a program administered by or under the supervision and direction of HHS.
5. "Civil Rights Complaint (Discrimination Complaint)" means a complaint about the conduct or behavior of another related to race, color, religion, national origin, age, sex, gender identity, sexual orientation, disability, respect to marriage or public assistance, and for USDA funded programs; political beliefs.
6. "Civil Rights" are personal rights that are guaranteed and protected by the U.S. Constitution, Federal law, and state law.
7. "Client" means a person who may receive, is receiving, or has received benefits or services under a program administered by or under the supervision and direction of HHS.
8. "Color Discrimination" means actions that limit or prohibit access or participation to services based on a person's skin color.
9. "Disability" means a physical or mental impairment that substantially limits one or more major life activities, has a history or record of such an impairment, or perceived by others as having such an impairment.
10. "Discrimination" means actions that limit or prohibit access or participation to services based on race, color, religion, national origin, age, sex, disability, respect to marriage or public help, and for USDA funded programs; political beliefs.
11. "HHS" means the North Dakota Department of Health and Human Services.
12. "National Origin Discrimination" means actions that limit or prohibit access or participation to services based on place of birth or direct ancestors' birthplace.
13. "OCR" means the Office of Civil Rights within the Legal Division of HHS.

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14. "Political Belief Discrimination" means actions that limit or prohibit access or participation to services based on your political beliefs and actions.
15. "Race Discrimination" means actions that limit or prohibit access or participation to services based on personal characteristics associated with race.
16. "Reasonable Accommodation" means a change in policy or procedure for persons with disabilities.
17. "Religious Discrimination" means actions that limit or prohibit access or participation to services based on any organized religious belief system.
18. "Sex Discrimination" means actions that limit or prohibit access or participation to services based on different biological and physiological characteristics of males and females.
19. "Status with Respect to Marriage or Public Assistance Discrimination" means actions that limit or prohibit access or participation to services based on marriage or public assistance status.

1.3. Right to Request Accommodation

1. Any person participating in HHS programs or program services may request an accommodation.
 - a. Example: request documents in Braille or large print.
 - b. Example: meet with program on first floor of building instead of third floor when there is no elevator.
2. To request an accommodation, please contact the local office or location offering the program or program services you need an accommodation for.

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1.4 Confidentiality of Information

HHS may obtain information from an individual making an accommodation request, an individual requesting LEP assistance, or from an individual filing a civil rights complaint. This information is considered confidential and will only be used for the intended purpose.

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Section 2. Limited English Proficiency

2.1. Definitions

As used in this chapter:

1. "Limited English Proficiency (LEP)" means individuals who do not speak, read, write, or understand English or those who have limited English ability.
2. "Language Services" means the use of an interpreter and vital document translations at no cost to you.
3. "Qualified Interpreter" is an individual who engages in the practice of interpreting who holds a nationally recognized certification granted by a national organization, based on skills assessment.

2.2. Meaningful Program Access

Free Language Services provide access to HHS programs and program services to the individual.

1. Any person accessing HHS programs and program services may request free Language Services.
2. Your request for free Language Services will not affect access to HHS programs and program services.

2.3. Offer of Free Language Services

1. Staff will offer free Language Services if they are unable to communicate with you.
2. Staff must provide free Language Services upon your request.

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2.4. Competency Standards for interpreters

1. Staff will use qualified interpreters.
2. Qualified interpreters must be certified by a nationally recognized certification organization¹.

2.5. Language Assistance Choice

Some individuals may prefer or request to use a family member or friend as an interpreter. Staff must accept the individuals choice. HHS reserves the right to have a certified interpreter present.

2.6. Minors as Interpreters

An individual may use a known family member or friend under the age of 18 to interpret. HHS recommends the use of a free certified translator to ensure clear communication. HHS reserves the right to have a certified interpreter present.

2.7. Emergency Situations

In emergency situations, HHS will use State approved interpreter services.

2.8. To Request a Written Translation

Free Language Services provides vital document translation as required by law for programs and program services. This may include:

1. Applications
2. Consent and complaint forms
3. Letters with eligibility or participation information
4. Court documents

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¹ [N.D.C.C. Ch. 43-52](#)

An individual can request translation of vital documents which are documents required by law, and critical documents for accessing federally and state funded services or benefits. All requests for written translation should be made to the staff member you are working with or to your local Human Service Zone office.

2.9. To Request an Interpreter

An individual can request an interpreter to be present to assist with communication while accessing services and benefits. All requests for an interpreter can be made with the staff member you are working with or to your local Human Service Zone office.

2.10. Complaint Process

Please see Section 3 for the Complaint Process.

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Section 3. Complaint Process

You have the right to fair treatment. You have the right to file a discrimination complaint. A written complaint must be filed within 180 calendar days of the alleged discrimination with the Legal Division Civil Rights Office (OCR). You may use [SFN 143: Civil Rights Complaint](#) form or submit a typed or handwritten complaint.

Complaints may be submitted by mail, email or fax. If you have questions regarding the complaint process or how to submit a complaint, please contact HHS Legal Division at (701) 328-2311 or by email at dhslau@nd.gov.

3.1. The Complaint Shall Contain the Following Information

1. Your name, address, and telephone number.
2. Name of Individual or Organization who discriminated against you.
3. Basis of the discrimination (race, color, religion, national origin, age, sex, disability, respect to marriage or public help, and for USDA funded programs; political beliefs)
4. Date the alleged discrimination occurred.
5. Reason for the complaint, described in as much detail as possible; and
6. Date and sign the complaint.

3.2. Complaint Procedure

1. OCR will review complaint.
2. OCR will investigate.
3. OCR has the authority to collect and receive material and information about an individual, including records held by HHS programs, when they are relevant to its investigation.
4. Records used will be appropriate to the complaint.
5. Written letter of findings and recommendations will be sent within sixty (60) business days of the date the complaint was received by HHS Legal.

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3.3. Where to File a Complaint

File a written complaint with your local Human Service Zone Office or any of the following:

<p>Legal Division Department of Health and Human Services 600 E. Boulevard Ave Dept. 325 Bismarck, ND 58505-0250</p> <p>PHONE:(701) 328-2311 or 1 (800) 472-2622 TTY: 711 FAX: (701) 328-2173 EMAIL: dhslau@nd.gov</p>	<p>* Central Case Management Operations U.S. Department of Health & Human Services 200 Independence Avenue SW Room 509-F HHH Bldg Washington, DC 20201 PHONE: 1-800-368-1019 TTY: 1 (800) 537-7697 or 711 FAX: (202) 619-3437 EMAIL: ocrcomplaint@hhs.gov ONLINE: Program Complaint Portal</p>
<p>* + USDA Food and Nutrition Service 1320 Braddock Place, Room 334 Alexandria, VA 22314 PHONE: (866) 632-9992 TTY: 711 or 1 (202) 720-2600 Voice and TDD: 1 (202) 260-1026 or 1 (202) 690-0443 FAX: 1 (202) 690-7442 EMAIL: FNCSIVILRIGHTSCOMPLAINTS@usda.gov ONLINE: Program Complaint Online Portal</p> <p>See below for complaint process specific to the SNAP Program to file the complaint with the federal office.</p>	<p>*+ U.S. Department of Agriculture Office of the Assistant Secretary for Civil Rights 1400 Independence Ave SW Mail Stop 9410 Washington DC 20250-9410 PHONE: 1 (866) 632-9992 TTY: 711 or 1 (202) 720-2600 FAX: (202) 690-7442 EMAIL: program.intake@usda.gov ONLINE: Program Complaint Online Portal</p>

**State and local agencies are required to comply with North Dakota Human Rights Laws that prohibit discrimination based on “status with respect to marriage or public assistance.” Federal agencies are not required to investigate complaints based on North Dakota Human Rights Laws.
 +Under USDA policy, discrimination is also prohibited on the basis of political beliefs.*

3.4. To file a SNAP Complaint:

Supplemental Nutrition Assistance Program (SNAP)²: In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and [Back to Table of Contents](#)

² [SNAP Nondiscrimination Statement](#)

Institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Mail Stop 9410, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

3.5. Reconsideration Process

1. You have the right to request a reconsideration of the HHS civil rights determination if you feel that the determination is in error.

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2. You have the right to file a request for reconsideration within sixty (60) calendar days from the date of the civil rights determination letter.
3. The filing of a request for reconsideration with HHS does not stop you from filing your complaint with a federal agency.

3.6. Where to File a Request for Reconsideration

1. Written reconsideration request must contain:
 - a. A clear statement you are requesting a reconsideration.
 - b. Explain why the factual information is incomplete or incorrect.
 - c. Explain why the legal analysis is wrong, or why the appropriate legal standard was not applied.
 - d. Explain how correcting the error(s) would change the outcomes of your case.
 - e. Include a copy of the civil rights determination letter.
2. A reconsideration request is not guaranteed. A request for reconsideration is only granted when a clear error is identified.
3. HHS has thirty (30) business days to issue a decision to the reconsideration request.
4. HHS is not required to issue a decision if the reconsideration is not granted. If no decision is received within thirty (30) business days, the original civil rights decision stands as issued.
5. The reconsideration request decision is final. A reconsideration decision is not subject to further HHS hearings.

A request for reconsideration may be sent by mail, email, or fax to the following address:

Legal Division
Department of Health and Human Services
600 E. Boulevard Ave, Dept. 325
Bismarck, ND 58505-0205

Fax: (701) 328-2173

Email: dhslau@nd.gov

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Appendix A: Civil Rights Laws

- [Age Discrimination Act of 1975](#)
- [Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.](#)
- [Community Service Assurance of the Hill-Burton Regulations](#)
- [Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency \(LEP\)](#)
- [Food Stamp Act of 1977, 7 U.S.C. 2011 et seq., 7 C.F.R. § 272.6](#)
- [Interethnic Adoption Act, 42 U.S.C. 1996b](#)
- [North Dakota Century Code Ch. 43-52](#)
- [North Dakota Century Code § 14-02.4-01](#)
- [Omnibus Budget Reconciliation Act of 1981](#)
- [Religious Freedom Restoration Act, 42 U.S.C. § 2000bb et seq.](#)
- [Section 1557 of the Affordable Care Act, 42 U.S.C. § 18116\(a\)](#)
- [Section 504 of the Rehabilitation Act of 1973](#)
- [Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794](#)
- [Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. 794](#)
- [Special Supplement Nutrition Program for Woman, Infants and Children 7 C.F.R. Part 246 et seq.](#)
- [Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 et seq.](#)
- [Title IX of the Education Amendment Act of 1972](#)
- [Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq.](#)
- [Title VI of the Civil Rights Act of 1964](#)
- [Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.](#)
- [Title VI Implementing Regulations, 45 C.F.R. Part 80](#)

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Appendix B: Forms and Resources Links

- [Federal HHS Civil Rights Complaint Form](#)
- [North Dakota HHS Civil Rights Complaint Form \(SFN 143\)](#)
- [USDA Program Civil Rights Complaint Form \(AD-3027\)](#)

- [Federal HHS Civil Rights Information](#)
- [North Dakota HHS Civil Rights Information](#)
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