

WEST VIRGINIA DEPARTMENTS OF HEALTH, HEALTH FACILITIES, AND HUMAN SERVICES  
NON-DISCRIMINATION GRIEVANCE PROCEDURES

June 12, 2023

NON-DISCRIMINATION GRIEVANCE PROCEDURES

Any person who believes someone has been subjected to discrimination may file a grievance under this procedure. It is against the law for the agencies to retaliate against anyone who opposes discrimination, files a grievance, or participates in the investigation of a grievance.

Procedure:

1. Grievances must be submitted to the Department's Non-Discrimination Coordinator within 60 days of the date the person filing the grievance becomes aware of the alleged discriminatory action.
2. A complaint must be in writing, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.
3. The Department's Non-Discrimination Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation will be prompt and fair, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Non-Discrimination Coordinator will maintain files and records relating to such grievances for a period of no less than five years. To the extent possible, and in accordance with applicable law, the Non-Discrimination Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.
4. The Non-Discrimination Coordinator will issue a written decision on the grievance, based on a preponderance of the evidence, no later than 60 days after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies.

The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, age, or disability in court or with the U.S. Department of Health and Human Services' Office for Civil Rights.

The agency's Non-Discrimination Coordinator will make appropriate arrangements, as set forth in the Limited English Proficiency Plan and Disability Access plan, 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 grievance process. Such arrangements may include, but are not limited to, providing qualified interpreters, or assuring a barrier-free location for the proceedings. If you need these services, please contact the Non-Discrimination Coordinator directly. The Coordinator will ensure the agency provides such services free and upon request in accordance with applicable policies and regulations.

I. Investigation Process

A. The agency's Non-Discrimination Coordinator shall be responsible for coordinating and responding to charges of discrimination filed against the Department(s). Further, the Non-Discrimination Coordinator shall be responsible for providing leadership and assistance in the development, implementation, and evaluation of the agency's non-discrimination plan and cooperating with other entities in the performance of activities relating to discrimination. The Department(s) shall attest that:

1. The agency will not discriminate based on race, color, religion, disability, age, sex, genetics, sex stereotypes, gender identity, national origin, political beliefs, and other protected classes.
2. No complainant or member of the public shall be intimidated, harassed, threatened, retaliated against, or coerced by the agency's employees because he or she has filed a complaint or otherwise participated in any manner in the discrimination complaint process.
3. No complainant shall be discriminated against by the Department(s) or Department(s) employees during application or delivery of services or benefits.

B. The agency shall provide the complainant 60 calendar days from the date of the alleged discrimination act to file a charge with the Department(s).

C. The Department(s) shall require that complainant clearly outline the allegations to be addressed in the charge, including whether the basis of the complaint is:

1. Unlawful discrimination based on race, color, national origin, religion, sex/gender (including pregnancy and sexual harassment), age, genetic information, gender identity, sex stereotypes, political beliefs, or disability.
2. Retaliation for filing a complaint.
3. Retaliation or intimidation for exercising any right under state or federal law.

D. Department(s) shall ensure that in the course of the discrimination complaint process, all information received, and the results are confidential and shall not be released to any person unless authorized by this policy or provision of law. Written notice will be promptly provided regarding the outcome of the investigation, including whether discrimination is found and a description of the investigatory process employed.

E. Department(s) shall ensure that complainants are informed that the use of the complaint process does not preclude the complainant's right to pursue any other remedy allowed by law with any appropriate federal or state agency.

F. Department(s) shall ensure that the use of the discrimination complaint procedure does not stay or suspend any timeliness requirements of other available processes and remedies.

II. Agency's Responsibilities

- A. The Department(s) Non-Discrimination Coordinator shall:
  - 1. Receive, investigate, and resolve, if possible, discrimination complaints filed with the agency.
  - 2. Investigate, respond for the agency, and coordinate the resolution of discrimination complaints filed with other state and federal agencies.
  - 3. Access, examine, and copy relevant complainant files, records, reports, and other property in the possession of the Department(s), and interview any person on relevant matters in conducting an investigation.
  - 4. Conduct themselves in a manner that:
    - a. Ensures confidentiality when possible or practicable.
    - b. Demonstrates respect for all parties.
    - c. Represents all parties fairly and impartially.
    - d. Seeks a fair resolution during settlement negotiations on complaints filed.
    - e. Avoids conflicts of interest.
    - f. Promotes confidence in the integrity and impartiality of the Department(s) professional staff and avoids the appearance of impropriety.
- B. The agency's managers and supervisors shall:
  - 1. Submit a written response to charges of discrimination.
  - 2. Maintain confidentiality of the complainant when possible or practicable.
  - 3. Establish procedures for compliance with this Grievance Procedure and with other applicable provisions of law as necessary.
  - 4. Ensure that non-discrimination posters are prominently displayed in both English and other languages, as appropriate, in all of the agency's offices.
  - 5. The Director or their designee shall monitor all recommendations for corrective action submitted by the Non-Discrimination Coordinator.
- C. The Department(s) managers, supervisors, and employees shall:
  - 1. Refer complainants who want to file a complaint of discrimination to the Non-Discrimination Coordinator. The Coordinator shall provide complainants with the necessary forms.
  - 2. Forward complaints of discrimination to the Non-Discrimination Coordinator.

3. Keep discussions with the Non-Discrimination Coordinator confidential when possible or practical.
4. Refrain from pressuring complainant or members of the public to reveal the substance of their discussions with the Non-Discrimination Coordinator.