



# STATE OF IOWA

CHESTER J. CULVER, GOVERNOR  
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DEPARTMENT OF HUMAN SERVICES  
CHARLES J. KROGMEIER, DIRECTOR

August 21, 2009

## GENERAL LETTER NO. 1-D-4

ISSUED BY: Bureau of Human Resources, Division of Results-Based Accountability

SUBJECT: Employees' Manual, Title 1, Chapter D, **NONDISCRIMINATION**, Title page, revised; Contents (page 1), revised; and pages 1 through 9, revised.

### Summary

This chapter is revised to reflect current policies and procedures on nondiscrimination. Some of the revisions include:

- ◆ Adding sexual orientation and gender identity under the section, "Policy on Nondiscrimination."
- ◆ Adding the "STOPIT" E-mail address [stopit@dhs.state.ia.us](mailto:stopit@dhs.state.ia.us) for reporting discrimination.

### Effective Date

Immediately.

### Material Superseded

Remove the entire Chapter D from Employees' Manual, Title 1, and destroy it. This includes the following:

<u>Page</u>	<u>Date</u>
Title (page)	October 15, 2002
Contents (page 1)	October 5, 2002
1-11	October 15, 2002

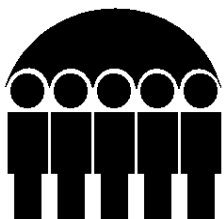
### Additional Information

Refer questions about this general letter to the Bureau of Human Resources, Division of Results-Based Accountability.

Revised August 21, 2009

Employees' Manual  
Title 1  
Chapter D

# **NONDISCRIMINATION**



Iowa  
Department  
of  
Human Services

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## **Overview**

This chapter details the policy of the Iowa Department of Human Services (the Department) regarding nondiscrimination and the procedures for making a complaint.

### **Legal Basis**

The legislation listed below applies to the Department and covers all aspects of its personnel program:

- ◆ Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination in the provision of services based on race, color, or national origin.
- ◆ Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in employment to persons based on race, color, religion, sex, or national origin.
- ◆ Section 504 of the Rehabilitation Act of 1963 and the Americans with Disabilities Act of 1990, as amended, prohibits discrimination in employment practices and in the provision of services to persons based on a mental or physical disability. (This includes recovering alcohol and substance abusers.)
- ◆ Americans with Disabilities Act of 1990, as amended, prohibits discrimination against persons with disabilities in all programs, activities, and services provided or made available by state and local governments, regardless of whether those entities receive federal assistance.
- ◆ Age Discrimination Act of 1967 prohibits discrimination in employment to persons between the ages of 40 and 70.
- ◆ Fair Labor Standards – Equal Pay Act of 1963 prohibits employers, on the basis of sex, from paying wages “at a rate less than the rate at which wages are paid to employees of the opposite sex ... for equal work on jobs ... and which are performed under similar work conditions.”
- ◆ Title IX of the Educational Amendments of 1972 prohibits discrimination on the basis of sex in all federally assisted education programs. It applies to both students and employees.
- ◆ Iowa Civil Rights Act of 1965, as amended, prohibits discrimination in employment to persons on the basis of their race, creed, color, national origin, sex, disability, or age (age includes anyone over the age of 18).
- ◆ Iowa Executive Order #15, 1973, requires each state agency to conduct its business without discrimination, and to develop and implement an affirmative action plan.

### **Policy on Nondiscrimination**

It is the policy of the Iowa Department of Human Services (Department) to provide equal treatment in employment and provision of services to applicants, employees and clients without regard to race, color, national origin, sex, sexual orientation, gender identity, religion, age, disability or veteran status (hereinafter "protected category status").

The Department shall provide equal opportunity for all in recruitment, hiring, training, promotion, transfer, compensation, and all other terms and conditions of employment without regard to protected category status.

It is the policy of the Department to assure that no person will be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination for any services because of protected category status. No facility operated by the Department may be used to promote any discriminatory practice nor shall the Department become a party to any agreement that permits any discriminatory practice. The Department shall not grant, deny, or revoke a license, registration, or certification on the basis of protected category status.

State and federal legislation and executive orders mandate that the Department conduct its provision of services and purchase of services in a nondiscriminatory manner. Age is included within the Civil Rights Act of 1964 regarding the area of employment. However, age is not a covered basis in the area of public accommodations (service).

### **Policy on Limited English Proficiency**

A person with "limited English proficiency" is one who is unable to speak, read, write, or understand the English language at a level that permits the person to interact effectively with health and social services agencies and providers.

The Department adopts the policy as set forth in Title VI of the Civil Rights Act prohibiting national origin discrimination as it affects people with limited English proficiency: The Department shall provide for communication with people with limited English proficiency, including current and prospective patients or clients, family members, consumers, etc., to ensure them an equal opportunity to benefit from services.

This policy applies to all the Department's offices and facilities receiving federal financial assistance, as well as programs and contractors receiving federal financial assistance.

### **Responsibilities of the Department**

The Department is responsible for:

- ◆ Assessing populations with limited English proficiency to identify:
  - The size of these populations.
  - Their specific language needs in specific service areas that are likely to be accessed.
- ◆ Developing policies and procedures to ensure "meaningful access" for people with limited English proficiency. This includes procedures to:
  - Identify the points of contact where language assistance may be needed.
  - Identify translation and interpretation resources, including their location and their availability.
  - Arrange to have these resources available in a timely manner.
  - Determine the written materials and vital documents to be translated, based on the populations with limited English proficiency, and ensure their transition.
  - Determine effective means for notifying people with limited English proficiency of translation services available at no cost.
- ◆ Training Department staff on requirements for serving persons with limited English proficiency and ensuring their ability to make resources available when applicable.
- ◆ Monitoring the application of these policies on at least an annual basis, to ensure access to service.

The Department is responsible for developing a plan for meeting the needs of people with limited English proficiency, which may include:

- ◆ Hiring bilingual staff for customer contact positions.
- ◆ Hiring staff interpreters who meet standards established by the Department.
- ◆ Contracting for competent interpreter services.
- ◆ Engaging community volunteers.
- ◆ Arranging for a telephone interpreter service.
- ◆ Posting advisory notices that indicate free interpretive services are available.

### **Interpretation**

When possible, the Department will hire bilingual staff to address the language needs of larger populations with limited English proficiency.

Family, friends, or minor children cannot provide language assistance, unless the person with limited English proficiency has already refused the offer of a translator (at no cost) and specifically requests assistance from these people. The refusal of an interpreter must be documented in the client's record.

Clients may not be used as translators for other clients.

When possible, people hired by the Department who are expected to interpret will receive training on:

- ◆ General interpreting skills, including the ethics, confidentiality requirements, and dynamics of interpretation.
- ◆ Specific terminology for the settings in which they may be asked to interpret.

Telephone interpretation services shall be used when competent translators (or bilingual staff) are unavailable. Supervisors and staff will receive training on how to access and use this phone service.

### **Translation of Written Materials**

The Department will develop and implement a plan to provide written materials in languages other than English, where a significant number or percentage of the population eligible to be serviced (or likely to be directly affected by the program) needs services or information in a language other than English.

The Department will translate documents in keeping with the requirements and threshold levels of Title VI, which may be modified from time to time. Notices are to be translated in the various widely used languages of Department customers, clients, and consumers.

### **Notice of Available Services**

The following methods may be used to notify people with limited English proficiency of available language services and their right to these services free of charge:

- ◆ Language identification cards, also known as “I speak” cards, made available in English and in the languages identified by the population assessment.
- ◆ Posters and signs translated into regularly encountered languages and posted in areas that are considered initial points of entry.
- ◆ Brochures, outreach materials, booklets, recruitment information, and other materials routinely disseminated to the public that include statements about the services available and the right to free language assistance in the appropriate non-English languages.

### **Training Requirements**

The Department is responsible for ensuring that staff, interpreters, and contractors are trained and meet the appropriate requirements. Department staff will receive training that includes:

- ◆ Federal (Title VI) requirements on limited English proficiency.
- ◆ Department policy and program requirements on limited English proficiency.
- ◆ Procedures to follow in securing language assistance in a timely manner.

The Department will try to ensure the competency of people who provide interpreter services. Assessment criteria may include:

- ◆ Demonstrated proficiency in both English and the other language.
- ◆ Fundamental knowledge of any specialized terms or concepts, in both languages including confidentiality issues.
- ◆ Sensitivity to the culture of people with limited English proficiency.
- ◆ Demonstrated ability to convey accurate information in both languages.

### **Requirements for Contractors**

The Department shall ensure that contractors understand their obligation to provide equal access for people with limited English proficiency as a condition of the contract. This includes meeting requirements for all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when providing services.

The contractor may be required to submit an Affirmative Action Plan to the Department and to the Department of Management. Contractual agreements shall specify that failure to adhere to any of these provisions may result in termination of the contract.

## **Discrimination Complaints**

A **discrimination complaint** is defined as a person's complaint about the conduct, behavior, or adverse actions of another person when the complainant believes the behavior was related to the complainant's protected category status.

Individuals who believe that they have been discriminated against by the Department or by its purchase-of-service providers, vendors, or contractors may file a complaint. Complaints may be submitted to report discriminatory, harassing, or other inappropriate activity or concerns.

Complaints may be submitted to the Department:

- ◆ Electronically using E-mail to "STOPIT" (at address [stopit@dhs.state.ia.us](mailto:stopit@dhs.state.ia.us)); or
- ◆ In paper format by sending a letter to:

DHS Diversity Program Unit  
Results-Based Accountability Division, Bureau of Human Resources  
1305 E. Walnut St., 1<sup>st</sup> Floor SE  
Des Moines, Iowa 50319-0114

If a complainant makes an allegation in person or through a telephone conversation and is unable to put the allegation in writing, the person to whom the allegation is reported must put the elements of the complaint in writing.

The Division of Results-Based Accountability, Bureau of Human Resources, staff monitors and responds to all complaints and allegations submitted. Complaints are investigated and a written response is provided to the complainant.

Depending on the program area, complaints may also be filed with human rights agencies; the Iowa Civil Rights Commission; the Equal Employment Opportunity Commission; the U.S. Department of Health and Human Services, the Office for Civil Rights; or the U.S. Department of Agriculture.

Although there is no time limit for filing complaints with the Department, other agencies do have timeliness standards. Failure to file complaints within those time limits may affect the recommendation and outcomes, based on lack of timeliness.

- ◆ Complaints that are not filed within 180 days of incident are not timely for consideration by the Department of Agriculture.
- ◆ Complaints not filed within 300 days of the incident are not timely for consideration by the Equal Employment Opportunity Commission or the Iowa Civil Rights Commission.

Employees of the Department who have reason to believe that they have been discriminated against may:

- ◆ File an informal complaint with the Department's Diversity Program Unit within the Bureau of Human Resources, or
- ◆ Submit an informal complaint through the Department's designated email address of [stopit@dhs.state.ia.us](mailto:stopit@dhs.state.ia.us), or
- ◆ File a grievance through the collective bargaining agreement procedure or with the Iowa Department of Administrative Services, Human Resource Enterprise, or
- ◆ Contact a member of management.

### **Retaliation**

"Retaliation" occurs when the fact that a person made a complaint or opposed a discriminatory practice results in some form of adverse action against that person.

No applicant, client, or resident shall be intimidated, coerced, harassed, or subjected to any form of adverse action because of:

- ◆ The filing of a discrimination complaint, or
- ◆ Giving testimony or assistance or participating in any manner in any investigation under the Department's discrimination complaint procedure.

### **Investigations**

The Department investigates all discrimination complaints involving the Department. The Human Resources Bureau in the Division of Results-Based Accountability will make every effort to investigate and resolve informal complaints within 30 days of complaint filing.

Investigative procedures differ, based on where the complaint is filed, as explained in the following sections. Processing of complaint information must adhere to all confidentiality standards. If the complainant is dissatisfied with the disposition made by the Department, the complainant may pursue the complaint with other agencies.

### **Process for Complaints Filed Internal to the Department**

A complaint filed "internal to the Department" means that there is no involvement with outside agencies, such as:

- ◆ Federal Civil Rights Commission
- ◆ Iowa Civil Rights Commission
- ◆ Equal Employment Opportunity Commission

Upon receipt of an internal complaint, the administrator, manager, or supervisor shall:

- ◆ Document the details of the incidents.
- ◆ Date and sign the document.
- ◆ Copy the complaint and forward it within five days to:
  - The complainant's immediate supervisor, and
  - The Human Resources Bureau in the Division of Results-Based Accountability.

If the complainant is alleging harassing or hostile conduct on the part of the complainant's supervisor, the administrator, manager, or supervisor shall also send to a copy of the complaint that supervisor's immediate superior.

The Human Resources Bureau will:

- ◆ Retain a copy of the complaint and forward copies to:
  - The deputy director responsible for the complainant's area, if applicable;
  - The division administrator responsible for the complainant's area, if applicable;
  - The Department of Administrative Services, Human Resource Enterprise, if the complaint alleges workplace violence.

- ◆ Evaluate the complaint and review options:
  - Consult with others as needed
  - Assign staff to complete an internal investigation
  - Conduct the investigation
  - Document findings
- ◆ Distribute findings or retain copies to be made available to:
  - The director and deputy director of the Department;
  - The division administrator responsible for the complainant's area, if applicable;
  - Department of Administrative Services, Human Resource Enterprise, if the complaint alleges workplace violence.
- ◆ Provide additional follow-up as needed.

#### **Process for Complaints Filed External to the Department**

When a complaint is filed "external to the Department," this means that the complainant has contacted:

- ◆ The Federal Civil Rights Commission, or
- ◆ The Iowa Civil Rights Commission, or
- ◆ The Equal Employment Opportunity Commission, or
- ◆ Another federal or state agency

Upon receipt of the complaint, the administrator, manager, or supervisor shall:

- ◆ Document the details of the incidents.
- ◆ Date and sign the document.
- ◆ Copy the complaint and forward it within five days to the Human Resources Bureau in the Division of Results-Based Accountability.

If the complainant is alleging harassing or hostile conduct on the part of the complainant's supervisor, the administrator, manager, or supervisor shall also send to a copy of the complaint that supervisor's immediate superior.