



Quick OCR Welfare Reform Index: [OCR Home](#) [OCR's Welfare Reform Page](#) [Letter to State and TANF Administrator](#) [Civil Rights Laws and Welfare Reform, An Overview](#) [Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform](#)

August 27, 1999

Dear State and TANF Administrator:

The implementation of welfare to work programs raises a series of challenges and opportunities. One such challenge is ensuring that welfare reform programs are implemented in a manner that is consistent with Federal civil rights laws.

In an effort to assist you in understanding the application of Federal civil rights laws to your programs, we are enclosing two technical assistance documents, along with a letter that Secretary Shalala sent to all governors explaining the documents. These documents, entitled "Civil Rights Laws and Welfare Reform - An Overview," and "Technical Assistance For Caseworkers on Civil Rights Laws and Welfare Reform," explain in detail how Federal civil rights law interface with welfare to work programs. Our goal in preparing these materials is to assist you in recognizing potential civil rights issues and thereby enabling you to prevent problems from occurring as you administer welfare to work programs.

Regional office staff from the HHS Office for Civil Rights (OCR) and Administration for Children and Families (ACF) will be contacting you to provide additional technical assistance and to answer any questions or concerns you may have related to the guidance documents. A list of Federal agencies is enclosed for your convenience. Please feel free to contact the regional office that serves your State.

Sincerely,

Thomas E. Perez
Director, OCR

Alvin C. Collins
Director, Office of Family Assistance
ACF

Enclosures
[Civil Rights Laws and Welfare Reform - An Overview](#)
[Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform](#)

Date of last revision: August 30, 1999

OCR
Home Page

[Return to OCR Home Page](#)

HHS
Home Page

[Return to HHS Home Page](#)

HHS NEWS

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOR IMMEDIATE RELEASE

Friday, Aug. 27, 1999

Contacts: Omar Guerrero HHS Office for Civil Rights, (202) 619-0403
Michael Kharfen, HHS Administration for Children and Families, (202) 401-9215

HHS OFFICE FOR CIVIL RIGHTS ISSUES GUIDANCE ON CIVIL RIGHTS LAWS AND WELFARE REFORM

The HHS Office for Civil Rights (OCR) has issued a two-part guidance to help states and other public entities comply with federal civil rights laws as they implement their welfare reform programs and create new programs. These materials, titled *Civil Rights Laws and Welfare Reform--An Overview and Technical Assistance for Caseworkers on Civil Rights Law and Welfare Reform*, explain how federal civil rights laws apply in welfare programs.

"Today's guidance will assist officials involved in welfare programs to identify potential civil rights issues and help them to prevent even unintentional discrimination from occurring," said Thomas E. Perez, OCR director. "These documents continue our efforts to provide education and technical assistance about these issues to those involved in implementing welfare programs. We must ensure all eligible people are free from discrimination and have equal opportunities to participate in welfare programs."

A variety of federal nondiscrimination laws prohibit federally assisted programs from being administered in a manner that discriminates or has the effect of discriminating on the basis of race, color, national origin, disability, sex, age, religion or political belief. These laws are designed to ensure that covered programs do not exclude or deny benefits or services to persons, or provide different or lesser benefits to persons on any of these prohibited bases.

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), states and other welfare service providers have legal obligations to comply with federal civil rights laws that prohibit discrimination. The first part of today's guidance includes an overview of civil rights laws and welfare reform. It also includes a list of federal agencies to contact for more information.

The second part of the guidance provides technical assistance to caseworkers, citing specific examples of potentially violative conduct, such as the following:

- A predominantly minority community is provided lower benefits, fewer services or is subject to harsher rules than a predominantly non-minority community.
- A local welfare office makes assumptions regarding a person's citizenship, immigration status and eligibility for benefits based on the person's race, surname, accent or ability to speak English, and asks only those who look or sound foreign about their citizenship or immigration status.
- In a computer-training program, trainees over age 40 are discouraged from seeking referrals to computer systems jobs. These older trainees are told that the systems jobs require travel between different job sites, are tiring and are more suitable for the younger trainees.
- A provider offers job-training opportunities in electrical repair work, but has accepted no women into the training program even though several qualified women have requested admission.
- A job-training provider fails to provide reasonable accommodation, such as instructional materials in braille or audiotape for a trainee who is blind.

PRWORA gives states broad discretion in how to implement their welfare programs. It also imposes several new obligations on states, including implementing programs with increased work requirements for welfare beneficiaries. HHS coordinated this guidance jointly with the U.S. departments of Labor, Justice, Education and Agriculture and the Equal Employment Opportunity Commission.

OCR intends to follow up with a series of training and technical assistance programs across the country for state caseworkers and other welfare service providers.

###

Note: HHS press releases are available on the World WideWeb at: <http://www.hhs.gov>.

● **Eugenia Chough**

08/26/99 03:57:14 PM

Record Type: Record

To: J. Eric Gould/OPD/EOP@EOP, Irene Bueno/OPD/EOP, Eric P. Liu/OPD/EOP@EOP

cc: Cynthia A. Rice/OPD/EOP@EOP, Andrea Kane/OPD/EOP@EOP, Paul J. Weinstein Jr./OPD/EOP@EOP

Subject: Civil Rights Guidance -- final documents for HHS rollout tomorrow

As per Eric Gould's last update on the civil rights guidance, I'm attaching the final OCR talking points, Q&As, and Press Release (HHS will format the press release this afternoon). The materials reflect our comments. FYI, this release is only being sent out tomorrow morning to trade media and minority media. It will not go on HHS web site or be sent out in wider distribution.



OCR TP Final.w OCR_PR Final.w OCR_Q&As Final.w

TALKING POINTS CIVIL RIGHTS AND WELFARE REFORM

The Guidance

- ! The two-part guidance is intended to help states and other public entities comply with federal civil rights laws as they implement their welfare reform programs and create new programs.
- ! The guidance is the beginning, not the end, of our efforts to provide education and technical assistance to those involved in implementing welfare programs.
- ! Under federal civil rights laws, we must ensure that all eligible people have equal opportunities to participate in welfare programs free from discrimination.
- ! The Department of Health and Human Services (HHS) Office for Civil Rights (OCR) coordinated this guidance jointly with the U.S. Departments of Labor, Justice, Education, Agriculture and the Equal Employment Opportunity Commission. The guidance materials identify civil rights statutes enforced by each agency and provide useful, specific examples of prohibited practices under the various statutes.
- § The guidance materials will help officials involved in welfare programs to identify potential civil rights issues and help them to prevent even unintentional discrimination from occurring.

Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

- § OCR's mission is to help states ensure that minorities and persons with disabilities have access to the full range of services that facilitate equal opportunities for employment, parental responsibility, and the protection of children.
- § Ensuring that Temporary Assistance for Needy Families (TANF) is implemented in a fair and non-discriminatory manner is an important priority for OCR.
- § PRWORA (Act) transformed our nations welfare system into one that requires work, promotes parental responsibility and protects children.
- § The Act gives states broad flexibility to design and administer TANF programs in ways that promote work, responsibility and self-sufficiency and strengthen families. Under the Act, recipients of TANF assistance are subject to work participation and other requirements.
- § States and other program administrators are also obligated to administer programs in a manner that does not discriminate or have the effect of discriminating on the basis of

race, color, national origin, disability, sex, or age.

- § We want to do whatever we can to prevent discrimination. Racial and ethnic minorities must not be subjected to disparate treatment in assignment to work, training and education programs.
- § As state and local governments began their initial implementation of TANF, OCR and Administration for Children and Families (ACF) provided state agencies with information reminding them of their ongoing civil rights obligations. OCR regional offices were part of regional committees, task forces and workgroups comprised of HHS agencies and other federal agencies established to facilitate the implementation of TANF.
- § OCR is also committed to working with state and local welfare agencies and service providers to prevent national origin discrimination against applicants who are eligible to receive benefits.

Specific OCR Activities Related to Welfare Reform

Some specific OCR activities related to welfare reform include the following:

- < In Region I, an Interagency Welfare Reform Group was formed to combine resources and to effect fuller collaboration in addressing TANF-related issues. The group is comprised of executives from HHS, the Departments of Justice, Labor, Education, Transportation, Social Security Administration, and Immigration and Naturalization Services, and the Small Business Administration. The group meets regularly to discuss welfare program activities, joint review projects, outreach activities, funding, technical assistance and other areas concerning welfare programs.
- < In Region IX, the regional manager has participated as a panelist in a series of community meetings on Immigration and Welfare Reform issues with the regional ACF and the ACF's national Office of Refugee Resettlement. These meetings focused on immigrant-related provisions of the Act and a discussion of the impact of these provisions on immigrant communities. Information obtained during the meetings resulted in activities for the region's 1999 Annual Operating Plan.
- < In Region III, a regional task force conducted a series of briefings for federal and state officials and is now working on a data system to be used by state and county workers.

Examples of Discrimination Complaints

A small number of discrimination complaints have been filed with OCR.

- < One complainant alleged she was denied continuation of her TANF benefits because of her disability. OCR consulted with ACF regarding this case. There is no federal requirement prohibiting the state from counting SSI as income. Only two states in the country do this. OCR found the state in compliance.

- < A complainant alleged that she was discriminated against because of her disability. She was required to meet confusing program requirements and no one informed her of the county work program. The investigation revealed that the county asks applicants to go on general assistance if they have a disability and apply for SSI. Only applicants who are not disabled are required to participate in the county work program. However, compared to going on general assistance, the advantage to participating in the county work program is that the benefits do not have to be paid back, the enrollee gets work experience, and the benefit level is slightly higher. After consultations with OCR, the state took corrective action including policy and procedural changes and placing the complainant in a work program with the necessary accommodations at her job site.

Qs & As

CIVIL RIGHTS AND WELFARE REFORM

Q: Why is the Department issuing this guidance?

A: HHS= Office for Civil Rights has issued a two-part guidance to help states and other public entities comply with federal civil rights laws as they implement their welfare reform programs and create new programs. The guidance materials will help officials involved in welfare programs to identify potential civil rights issues and help them to prevent even unintentional discrimination from occurring.

Q: Are there new civil rights obligations, statutes or regulations that apply to welfare reform programs?

A: No, there are no new civil rights regulations. However, this guidance provides an overview of existing civil rights laws as well as examples of situations that may arise in casework.

Q: How will HHS/OCR deal with complaints of discrimination related to demonstrations that are developed to address specific geographic areas?

A: States have discretion to fund demonstration programs or other programs which may vary by geographic area. However, where there is a complaint that indicates that geographic areas that are predominantly minority are being adversely affected, the program is subject to review for discriminatory practices.

Once a complaint is filed with OCR, the state agency and/or provider is contacted for information necessary to determine whether discrimination has occurred or whether the criteria, policies and practices being used are necessary to achieve a legitimate nondiscriminatory objective.

Under Title VI of the Civil Rights Act of 1964, recipients of federal funds may not use criteria or methods of administration that discriminate or have the effect of subjecting individuals to discrimination on the basis of race, color or national origin with respect to the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a substantial and legitimate reason for having them can be shown. Even if such a reason exists, the practice cannot continue if alternatives would achieve the same objectives but exclude fewer minorities.

Q: Who is expected to use the guidance and how will the guidance and OCR=s technical assistance efforts change how states and local areas administer their Temporary Assistance for Needy Families (TANF) welfare programs?

A: The technical assistance documents on civil rights and welfare reform distributed by the Department to state agencies and other providers. The materials will assist states and providers in complying with federal civil rights laws as they are developing and

implementing welfare reform. The guidance is not intended to take away from the states the broad discretion provided by welfare reform to design and administer TANF programs. Rather, the guidance will assist states to fully comply with their on-going civil rights obligations as they develop and implement their welfare programs.

Q: How does OCR work within the Department to ensure inclusion of civil rights concerns in the implementation of welfare reform?

A: OCR worked with the Administration of Children and Families (ACF, the agency that administers TANF) to address civil rights concerns as states' TANF programs were implemented. In addition, OCR has coordinated its work in developing the educational documents for state agencies with other components within the Department.

Q: Have there been any civil rights complaints from TANF beneficiaries? And if so, what was the nature of the complaints?

A: OCR has received and investigated a small number of complaints filed by TANF beneficiaries. The cases summarized below are examples of the types of issues handled by OCR.

- A complainant alleged she was denied continuation of her TANF benefits because of her disability. OCR consulted with ACF regarding this case. ACF informed the regional office that no federal requirement prohibited the state from counting SSI as income. Only two states in the country do this. OCR found the state in compliance.
- A complainant alleged that she was discriminated against on the basis of her disability by requiring her to meet confusing program requirements and failing to inform her of the county work program. The investigation revealed that the county asked applicants to apply for general assistance if they have a disability. If a disability is indicated, the county tries to have the applicant become SSI eligible. Applicants who are not disabled are required to participate in the county work program. The advantage of participating in the county work program is that the general assistance does not have to be paid back, the enrollee gets work experience and the benefit level is slightly higher. After consultations with OCR, the state took corrective action, including policy and procedural changes and placing the complainant in a work program with the necessary accommodations at her job site.

###

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

Civil Rights Laws and Welfare Reform - An Overview

A variety of Federal nondiscrimination laws require that Federally assisted programs be administered in a manner that does not discriminate or have the effect of discriminating on the basis of race, color, national origin, disability, sex, age, religion or political belief.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereafter referred to as PRWORA) specifically incorporates Title VI of the Civil Rights Act of 1964, as amended (Title VI), Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 (ADA). Title VI, Section 504 and the Age Discrimination Act, along with Title IX of the Education Amendments of 1972, as amended (Title IX), continue to apply to States and other public and private entities that receive Federal financial assistance and that provide funds, training, food stamps, and other services and benefits under the Temporary Assistance for Needy Families (TANF) provisions of the PRWORA.

Title VII of the Civil Rights Act of 1964, as amended (Title VII), the Equal Pay Act of 1963 (EPA) and the Age Discrimination in Employment Act (ADEA) continue to require nondiscrimination in employment by States and public and private entities that administer, operate or participate in employment programs under TANF even if these entities do not receive Federal assistance. The receipt of Federal assistance also is not required for coverage of public or private entities by the ADA.

The PRWORA also imposes new eligibility and verification requirements for immigrants applying for TANF, and other benefits such as food stamps and medicaid. Pursuant to the antidiscrimination provisions of the Immigration Reform and Control Act of 1986 (IRCA), and also Title VII, States and other public and private entities operating programs under TANF have an obligation to apply these eligibility and verification requirements as they apply to employment in a nondiscriminatory manner.

This document reviews the general prohibitions against discrimination and is intended to assist States and other public and private entities that provide services under TANF in applying these nondiscrimination laws to their programs. Additional examples of practices which may violate these nondiscrimination laws are provided in a document for case workers, entitled "**Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform.**"

Agencies participating in the development of these technical assistance documents are: the U.S. Department of Health and Human Services, the U.S. Department of Labor, the U.S. Department of Justice, the U.S. Department of Education, and the U.S. Department of Agriculture.

Index: Civil Rights Laws and Welfare Reform, Overview

- [An Overview](#)
- [Civil Rights Requirements - Title VI of the Civil Rights Act of 1964](#)
- [Civil Rights Requirements - The Age Discrimination Act of 1975](#)
- [Civil Rights Requirements - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirements - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirements - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Date of last revision: August 30, 1999

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

Civil Rights Requirements - B. The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq.

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. A provider generally may not exclude, deny, or provide different or lesser services to applicants or beneficiaries, on the basis of age.

Examples of conduct that may violate the Age Discrimination Act include:

- In a computer training program, trainees over 40 are discouraged from seeking referrals to computer systems jobs. These older trainees are told that the systems jobs require travel between different job sites, are tiring and are more suitable for the younger trainees.
- A training program for classroom aides does not admit anyone under 30. The provider believes that persons under 30 are not mature enough to work with school age children.
- A provider has a job referral arrangement with an employer who refuses to accept anyone over 30 from the provider's automotive repair training class.

Index: Civil Rights Laws and Welfare Reform, Overview

- [An Overview](#)
- [Civil Rights Requirements - Title VI of the Civil Rights Act of 1964](#)
- [Civil Rights Requirements - The Age Discrimination Act of 1975](#)
- [Civil Rights Requirements - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirements - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirements - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

Civil Rights Requirements - A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. ("Title VI")

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective. Even if there is such a reason the practice cannot continue if there are alternatives that would achieve the same objectives but that would exclude fewer minorities. Persons with limited English proficiency must be afforded a meaningful opportunity to participate in programs that receive Federal funds. Policies and practices may not deny or have the effect of denying persons with limited English proficiency equal access to Federally-funded programs for which such persons qualify.

Set forth below are examples of conduct that may violate Title VI:

- A welfare benefit provider restricts training and/or work assignments based on its clients' race or national origin by assigning minority clients to jobs that pay less or have fewer opportunities for permanent employment than work assignments given to nonminority clients.
- A predominantly minority community is provided lower benefits, fewer services, or is subject to harsher rules than a predominantly nonminority community.
- A local welfare office makes assumptions regarding a person's citizenship, immigration status and eligibility for benefits, based on the person's surname, accent or ability to speak English, and asks only those persons who look or sound foreign about their citizenship and immigration status.
- In determining eligibility of Asian applicants for TANF benefits, a local agency requires substantially more and different documentary proof of citizenship and immigration status than it does in determining the eligibility of non-Asians.
- A local welfare office located in a neighborhood with a number of immigrant groups provides no language assistance to TANF applicants or participants who are limited English proficient (LEP), but advises them to bring friends or relatives, as interpreters, to their appointments.
- A training program charges an LEP class member for interpreter services that are needed for the class member to benefit from the training program.
- A local welfare office which regularly serves LEP persons only makes interpreters available for persons applying for benefits three hours a week.

Index: Civil Rights Laws and Welfare Reform, Overview

- [An Overview](#)
- [Civil Rights Requirements - Title VI of the Civil Rights Act of 1964](#)
- [Civil Rights Requirements - The Age Discrimination Act of 1975](#)
- [Civil Rights Requirements - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirements - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirements - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

Civil Rights Requirements - C. Civil Rights Laws Applicable to Persons with Disabilities

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504") prohibits discrimination on the basis of disability by recipients of Federal financial assistance. **The Americans with Disabilities Act of 1990**, 42 U.S.C. § 12101 et seq. ("ADA"), prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive Federal financial assistance. Providers covered by Section 504 and/or the ADA may not deny benefits or services to qualified individuals with disabilities or provide lesser benefits than they provide to others. In general, an individual with a disability is "qualified" if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity with or without reasonable modification to rules, policies or practices. The purpose of these laws is to ensure that covered programs are as accessible to persons with disabilities as they are to nondisabled individuals.

Persons with disabilities may be eligible under some state programs for exemptions from work requirements and/or time limits. However, program providers may not refuse to allow a person with a disability to participate in training programs or be employed because the person has a disability, and they must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to participate. This applies to persons with mental or physical disabilities. Eligibility for participation in any benefit, service or program must be based on an individual assessment of each person's ability to meet the eligibility requirements rather than on stereotypes or assumptions about the effects of a type of disability. Program providers are required to make reasonable modifications to policies, practices and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result. If a reasonable modification to the program requirements would enable a person to meet the eligibility requirements without fundamentally altering the program, that modification must be offered.

Set forth below are examples of conduct that may violate Section 504 and the ADA:

- A benefit provider refers persons with disabilities to placement opportunities inappropriately because of the failure to properly and individually take into account a person's known disabilities.
- An employment agency that contracts with a State agency to refer TANF beneficiaries to jobs, has a policy that prohibits the referral of anyone who has ever had a back injury to jobs as nursing aides or home health workers, without any individual assessment of the beneficiary's ability to do the job.

Program providers must ensure that programs and services are provided in the least restrictive environment, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities. Programs that provide special benefits to people with disabilities are permitted, but people with disabilities cannot be compelled to participate in those programs. Even if separate programs are provided for persons with disabilities, the regular program may still be required to provide reasonable modifications.

Program providers must also ensure effective communication with individuals who have hearing, speech or visual impairments. Providers must provide such persons with auxiliary aids if necessary to ensure effective communication, but are not required to provide aids that would cause a fundamental alteration in the program or that would result in undue financial or administrative burdens. Thus, it could be a violation of Section 504 and the ADA if:

- Information about job openings is available by telephone but it is not available by other effective means for individuals with hearing impairments.

- A provider fails to provide reasonable accommodation in job training and other programs conducted by the agency, e.g., a trainee who is blind is not provided instructional materials on audiotape or in braille, or other effective means for persons with visual impairments.
- Information is provided orally but a sign language interpreter or other form of effective communication is not provided for hearing impaired participants.

Finally, providers may not exclude individuals with disabilities because their buildings are inaccessible. A provider is not required to make structural changes in existing facilities where other methods are effective in achieving equal access. In choosing among other methods, priority must be given to those that offer programs in the most integrated setting. However, providers are not required to take any action that would result in substantial modifications in the nature of the program or in undue financial or administrative burden. New construction and alterations to existing facilities must be made accessible and usable by persons with disabilities except where structurally impracticable.

Index: Civil Rights Laws and Welfare Reform, Overview

- [An Overview](#)
- [Civil Rights Requirements - Title VI of the Civil Rights Act of 1964](#)
- [Civil Rights Requirements - The Age Discrimination Act of 1975](#)
- [Civil Rights Requirements - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirements - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirements - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

Civil Rights Requirements - D. Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et. seq. (Title IX)

Title IX prohibits discrimination on the basis of sex in educational programs and activities that receive or benefit from Federal financial assistance. Generally, a provider may not exclude, deny or provide different or lesser services to applicants or beneficiaries on the basis of sex.

Set forth below are examples of conduct that may violate Title IX:

- A provider offers job training opportunities in electrical repair work, but has accepted no women into the training program even though several qualified women have requested admission.
- Equal numbers of men and women are admitted into a provider's cosmetology training program. However, few of the men are referred to jobs in the cosmetology area, while many of the women are.
- In a culinary training program, men are placed in a variety of food preparation classes taught by chefs, while women are placed in meal planning and serving classes taught by less qualified teachers.

Index: Civil Rights Laws and Welfare Reform, Overview

- [An Overview](#)
- [Civil Rights Requirments - Title VI of the Civil Rights Act of 1964](#)
- [Civil Rights Requirments - The Age Discrimination Act of 1975](#)
- [Civil Rights Requirments - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirments - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirments - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

Civil Rights Requirements - E. Federal Employment Discrimination Laws

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. ("Title VII"), the Age Discrimination in Employment Act of 1967, as amended, 42 U.S.C. Section 621 et. seq. (ADEA) and the Equal Pay Act of 1963, 29 U.S.C. Section 206 (d) (EPA), are Federal employment discrimination laws that offer civil rights protection to all employees, including TANF beneficiaries who make the transition from welfare to employment.

Title VII prohibits private and State and local government employers with 15 or more employees and employment agencies from discriminating on the basis of race, color, sex (including pregnancy), religion or national origin in all aspects of an employment relationship, including hiring, discharge, compensation, assignments, and other terms, conditions and privileges of employment. The ADEA prohibits employers with 20 or more employees, and state and local governments from discriminating against persons 40 or older because of age. The EPA requires payment of equal wages to men and women performing substantially the same work unless the pay discrepancy is based on a seniority or merit system, a system that measures quantity or quality of production, or a factor other than sex. The EPA applies to employers of any size.

Set forth below are examples of conduct by welfare agencies that assign TANF participants to work activities and the employers to whom they are assigned that may violate Title VII:

- Denying employment opportunities to a TANF participant because he looks "foreign" or has an accent.
- Prohibiting an employee from wearing religious clothing would be religious discrimination unless this would pose an undue hardship for the employer, e.g. a young Muslim woman who wears a shawl covering her head in keeping with Muslim teachings, or a young man who wears a turban in keeping with Sikh religious teachings.
- A male supervisor constantly makes remarks about a female mechanic trainee's anatomy and invites her to the movies after work. When she refuses he usually states that there are many other persons interested in her trainee position.
- An employer refuses to hire female TANF beneficiaries between the ages of 18 and 25 on grounds that they may become pregnant.

Title I of the ADA is another statute that offers protection to TANF beneficiaries engaged in work activities. Title I prohibits private and State and local government employers with 15 or more employees and employment agencies from discriminating in employment, on the basis of disability. As in Section 504, employers must make reasonable accommodation to the known physical or mental limitations of a qualified person with a disability unless the accommodation would impose an undue hardship. It also prohibits retaliation for opposing disability discrimination or participating in the complaint process. Title I applies to all employers who are covered by Title VII and prohibits discrimination based on disability in all aspects of the employment relationship.

In addition to the above statutes it should be noted that employment discrimination by recipients of Federal assistance also is prohibited by Title II of the ADA, Section 504, Title IX and Title VI (Title VI employment jurisdiction is limited to cases in which the primary purpose of the Federal assistance is to provide employment and to those cases in which the employment discrimination tends to discriminate against beneficiaries). Each of these laws prohibit retaliation against individuals because they oppose practices that they reasonably believe are unlawful under the employment discrimination statutes or because they participate in proceedings under the employment discrimination statutes.

The Federal agencies will continue to work with you and other benefit providers as welfare reform is implemented. Attached are addresses and telephone numbers of the Federal agencies as a helpful reference for questions related to civil rights and welfare reform. Each agency has provided a toll free number for your convenience and is available to provide technical assistance, and answer questions. Please share this information with your colleagues, constituents and other interested organizations.

Index: Civil Rights Laws and Welfare Reform, Overview

- [An Overview](#)
- [Civil Rights Requirments - Title VI of the Civil Rights Act of 1964](#)
- [Civil Rights Requirments - The Age Discrimination Act of 1975](#)
- [Civil Rights Requirments - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirments - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirments - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index:	OCR Home	OCR's Welfare Reform Page	Letter to State and TANF Administrator	Civil Rights Laws and Welfare Reform, An Overview	Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform
--	--------------------------	---	--	---	--

HHS, OCR - Civil Rights Laws and Welfare Reform Overview

TANF Assistance - Federal Agency Listings

If you have any questions concerning the applicability of civil rights requirements to specific programs, and are uncertain which agency to call, you may call the Office for Civil Rights at the U.S. Department of Health and Human Services at 1-800-368-1019 or TDD 1-800-537-7697 and your call will be directed to the appropriate agency.

If you have questions about the application of civil rights laws to TANF or other welfare programs administered by HHS, contact:

*U.S. Department of Health and Human Services
Office for Civil Rights
200 Independence Avenue, S.W., Room 509F
Washington, D.C. 20201
(202) 619-0403 (voice)
(800) 537-7697 (TDD)
<http://www.hhs.gov/progorg/ocr/ocrhmpg.html>*

If you have question about the application of civil rights laws to wages, general conditions of employment Federal contracts that are a part of the welfare program, or the Department of Labor welfare to work programs, you may contact:

*Directorate of Civil Rights
U.S. Department of Labor
200 Constitution Ave., N.W., Room N-4123
Washington, D.C. 20210
(202) 219-7026 (voice)
(202) 219-6118 (TDD)
(800) 326-2577 (TDD)
<http://gatekeeper.dol.gov/dol/oasam/public/programs/civil.htm>
<http://www.dol.gov/dol/oasam/public/programs/civil.htm>*

If you have questions about the application of civil rights laws to Federal contracts, you may contact:

*Office of Federal Contract Compliance Programs
U.S. Department of Labor
200 Constitution Ave., N.W. Room C-3325
Washington, D.C. 20210
(202) 219-9486 (voice)
(202) 208-0452 (TDD)
http://www.dol.gov/dol/esa/public/ofcp_org.htm*

If you have questions about the application of civil rights laws to a food stamp or child nutrition program including the school lunch program, you may contact:

*U.S. Department of Agriculture
Food and Nutrition Service (FNS)
Office for Civil Rights
3101 Park Center Drive, Room 1400
Alexandria, Va. 22302*

(703) 305-2195
<http://www.usda.gov/da/cr.html>

If you have questions about the application of civil rights laws to education or training provided as part of a welfare program, you may contact:

*U.S. Department of Education
Office for Civil Rights
330 C Street, S.W.
Washington, D.C. 20202-1100
202-205-5413
800-421-3481 Relay service and Spanish language service also available at this number
TTY: 202-205-5166
<http://www.ed.gov/offices/OCR/>*

If you have questions about the application of civil rights laws to employment, or you wish to obtain the location of a regional EEOC office, you may contact:

*Equal Employment Opportunity Commission (EEOC)
Office of Legal Counsel
1801 L Street, N.W.
Washington, D.C. 20507
(800) 669-4000
(800) 669-6820 (TDD)
Home Page: <http://www.eeoc.gov/>*

General questions about the application of Title VI to welfare programs may also be addressed to the U. S. Department of Justice, which will respond to or refer the matter to the appropriate agency.

*Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66560
Washington, D.C. 20035-6560
<http://www.usdoj.gov/crt/crt-home.html>
<http://www.usdoj.gov/crt/mgmtndx.htm>
(888) TITLE-06 (Spanish language and TDD service is available) or (202) 307-2222.*

General questions about the application of Section 504 or the ADA to welfare questions may also be addressed to the U.S. Department of Justice, which will respond to or refer the matter to the appropriate agency.

*Disability Rights Section
Civil Rights Division
U.S. Department of Justice
Post Office Box 66738
Washington, D.C. 20035-6738
<http://www.usdoj.gov/crt/mgmtndx.htm>
(800) 514-0301 (voice) or (800) 514-0383 (TDD)*

A variety of publications from the Department of Justice on the Americans with Disabilities Act (ADA) are available on the Internet at <http://www.usdoj.gov/crt/ada/adahom1.htm>

Index: Civil Rights Laws and Welfare Reform, An Overview

- An Overview
- Civil Rights Requirements - Title VI of the Civil Rights Act of 1964
- Civil Rights Requirements - The Age Discrimination Act of 1975

- [Civil Rights Requirments - Civil Rights Laws Applicable to Persons with Disabilities](#)
- [Civil Rights Requirments - Title IX of the Education Amendments of 1972](#)
- [Civil Rights Requirments - Federal Employment Discrimination Laws](#)
- [Attachment: Federal Agency Listing](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)



Quick OCR Welfare Reform Index: [OCR Home](#) [OCR's Welfare Reform Page](#) [Letter to State and TANF Administrator](#) [Civil Rights Laws and Welfare Reform, An Overview](#) [Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform](#)

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

Welfare providers and their employees face many new responsibilities and challenges as a result of welfare reform, particularly in implementing the Temporary Assistance for Needy Families program (TANF). The purpose of this document is to give welfare providers and their employees, caseworkers, and contractors (either public agencies or private businesses) implementing a welfare provider's program¹ an overview of Federal laws that prohibit discrimination in any federally funded program, including welfare programs, and to alert them to stereotypes or other actions that, even if unintended, may violate Federal laws. The examples of discriminatory conduct provided in this document are illustrative, and are not an exhaustive list of all potential violations of laws prohibiting discrimination.

Index: Technical Assistance for Caseworkers

- I. [What Federal Nondiscrimination Laws Apply to TANF Programs?](#)
- II. [Who Is Covered by Federal Nondiscrimination Laws?](#)
- III. [What Conduct Is Prohibited In Federally Funded Programs and Activities?](#)
- IV. [What Type of Conduct Is Prohibited in Employment Settings?](#)
- V. [What Conduct on the Basis of Disability is Prohibited?](#)
- VI. [How Are The Nondiscrimination Laws Enforced?](#)
- VII. [Who May File A Complaint of Discrimination?](#)

¹ For ease of reading, hereinafter referred to as welfare providers.

[Return to top](#)

Date of last revision: August 30, 1999

OCR
Home Page

[Return to OCR Home Page](#)

HHS
Home Page

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

I. What Federal Nondiscrimination Laws Apply to TANF Programs?

Federal laws that prohibit discrimination in federally funded programs and activities on the basis of race, color, national origin, sex, disability, and age apply to the TANF program, Welfare-to-Work (WtW), food stamps, and other welfare programs and the actions of welfare providers, just as they do to other federally funded programs and providers. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) specifically incorporates Title VI of the Civil Rights Act of 1964 (Title VI), Section 504 of the Rehabilitation Act of 1973 (Section 504), the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 (ADA).

These laws, and other Federal civil rights laws, including Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964 (Title VII), the Age Discrimination in Employment Act (ADEA), the antidiscrimination provision of the Immigration Reform and Control Act of 1986 (IRCA), and the Equal Pay Act (EPA) continue to apply to States and other recipients that provide funds, employment, training, food stamps, and other benefits under the PRWORA.

The purpose of these laws is to ensure that covered programs do not exclude or deny benefits or services to persons, or provide different, lesser benefits to persons on any of these prohibited bases. Welfare providers should be aware that a single action can result in a violation of one or more of these laws.

Index: Technical Assistance for Caseworkers

- I. [What Federal Nondiscrimination Laws Apply to TANF Programs?](#)
- II. [Who Is Covered by Federal Nondiscrimination Laws?](#)
- III. [What Conduct Is Prohibited In Federally Funded Programs and Activities?](#)
- IV. [What Type of Conduct Is Prohibited in Employment Settings?](#)
- V. [What Conduct on the Basis of Disability is Prohibited?](#)
- VI. [How Are The Nondiscrimination Laws Enforced?](#)
- VII. [Who May File A Complaint of Discrimination?](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

II. Who Is Covered by Federal Nondiscrimination Laws?

Welfare providers that administer TANF, WtW, food stamp, and other programs and activities that receive Federal money or other forms of Federal assistance are subject to several nondiscrimination statutes, including Title VI, Title IX (in education programs), Section 504, and the Age Discrimination Act.² In addition, all public agencies are subject to the requirements of Title II of the ADA.

Employers are subject to the same Federal laws that prohibit discrimination when they employ welfare participants as when they employ other individuals. All public employers are subject to Title VII and the ADA. Businesses with 15 or more employees, and employment agencies are subject to Title VII and the ADA whether or not they receive Federal financial assistance. Entities that employ four or more employees are covered by IRCA's antidiscrimination provision. All public agencies, businesses with 20 or more employees, and employment agencies are subject to the ADEA. Most employers and public agencies are subject to the EPA.

As discussed above, the **nondiscrimination statutes** prohibit discrimination on the basis of race, color, national origin, age, and disability in programs or activities that receive or benefit from Federal financial assistance, and prohibit discrimination on the basis of sex in education and training programs that receive Federal financial assistance. Discrimination on the basis of disability is prohibited in all programs, services or activities of public entities. ADA coverage does not depend on the receipt of Federal funds. The **employment discrimination statutes** prohibit discrimination on the basis of race, color, religion, national origin, citizenship status, unfair documentary practices regarding employment verification, sex, age, and disability in private and public sector employment. Depending on the circumstances, welfare providers may be subject to coverage under both the **nondiscrimination statutes** and the **employment discrimination statutes**.

Examples of who these laws apply to are:

- State agencies that receive Federal money through a block grant to conduct welfare programs.
- County and town offices that assist in job training as part of a welfare program.
- Private businesses hired by States to identify who is eligible to receive welfare benefits.
- Private businesses that help welfare participants find jobs or training.
- County offices that distribute food stamps receive Federal money.
- Local offices that operate federally funded child nutrition programs (for example, National School Lunch Program and Women, Infants and Children).

Although not all welfare providers receive Federal assistance, all businesses or public agencies that hire welfare participants or refer participants for employment are subject to the employment discrimination statutes if they have the requisite number of employees. Of course, if they receive Federal assistance, they are also covered by the nondiscrimination statutes.

Examples:

- State agencies that refer welfare participants to businesses or public agencies for employment.
- Private businesses that contract with States to provide job referral services for welfare participants.

² For ease of reading, all references in this section to "nondiscrimination statutes" should be understood to include Title VI, the ADA, Section 504, the Age Discrimination Act and, when concerning education programs, Title IX. In addition, all references to "employment discrimination statutes" should be understood to include Title VII, the ADEA, the ADA, Section 504, IRCA's antidiscrimination provision,

and the EPA.

Index: Technical Assistance for Caseworkers

- I. What Federal Nondiscrimination Laws Apply to TANF Programs?
- II. Who Is Covered by Federal Nondiscrimination Laws?
- III. What Conduct Is Prohibited In Federally Funded Programs and Activities?
- IV. What Type of Conduct Is Prohibited in Employment Settings?
- V. What Conduct on the Basis of Disability is Prohibited?
- VI. How Are The Nondiscrimination Laws Enforced?
- VII. Who May File A Complaint of Discrimination?

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

III. What Conduct Is Prohibited In Federally Funded Programs and Activities?

Welfare providers that receive Federal financial assistance may not discriminate against people on the basis of race, color, national origin, disability, or age in how they run their program or activity, or on the basis of sex in education programs. Entities may not subject persons to harassment on the basis of race, color, national origin, disability, or age, or on the basis of sex in education programs. (Section V below discusses nondiscrimination on the basis of disability in more detail.)

Welfare providers may not indirectly discriminate on these bases through contractors or by means of any other arrangement. Welfare providers are responsible for ensuring that their contractors administer their program in a nondiscriminatory manner. It should be noted that public entities and private businesses that contract with states to administer welfare programs are subject to the nondiscrimination statutes because they act as agents of the recipient in carrying out the program or activity, not because they are recipients of Federal assistance.

Programs ***may not exclude or deny welfare benefits*** to persons based on their race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Welfare caseworkers may not reject an applicant for benefits because he is or appears to be an African-American, Hispanic, Asian, American Indian, Alaskan Native, or a member of another racial or ethnic minority.
- County employees may not make an assumption regarding a person's citizenship and/or eligibility for welfare or food stamp benefits based on the person's last name and then reject the applicant on this basis.
- A TANF contractor's employees may not deny benefits to persons who are not fluent in English because they assume persons who are or appear to be from other countries, and are not English proficient, are not eligible for such benefits.

Programs ***may not impose different standards or procedures to determine who may receive benefits*** on the basis of race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Employees may not require an African-American male to submit additional or different documents than what is asked of a white male to establish his legal status and eligibility for welfare benefits in the absence of evidence to warrant further inquiry.
- If a local welfare office accepts a particular INS Form to establish a white woman's eligibility for welfare benefits, the welfare office cannot require a Hispanic male applicant who submits the same form to provide additional proof of his legal status and eligibility for welfare benefits in the absence of evidence to warrant further inquiry.
- A provider of TANF assistance under a program requiring verification of qualified immigration status may not accept a self declaration of such status from applicants who appear to be of African origin, yet require all immigrants from Spanish speaking nations to submit INS documentation because of an assumption that these applicants are illegal aliens.
- A welfare provider's intake personnel may not report suspected illegal aliens to the INS on the basis of race, color, or national origin. Independent evidence supporting such suspicions is necessary.
- A county welfare office may not subject a Russian immigrant to alien verification requirements

because of his national origin when the applicant is applying for benefits under a program that does not require such verification.

- An employee of a contractor hired by a State may not delay a review of applications from older individuals (over age 40) until after she evaluates applications from younger persons.
- Employees should not question the authenticity of documents submitted by applicants who are or appear to be Hispanic, in the absence of independent evidence to warrant such inquiry. All documents should be presumed to be authentic and legitimate, if they appear genuine on their face and relate to the individual.
- A welfare office may not refuse to provide translated written materials to applicants when a significant proportion are limited English proficient. Limited English proficient individuals are entitled to effective communication in a language and mode of communication understood by that individual.
- If States choose to impose drug testing on participants, they must do so without regard to race, color, or national origin. For example, if a sample of the participant population is tested, the race and ethnicity of members in this sample may not be disproportionate to the race and ethnicity of participants overall. Further, States must ensure that the consequences of positive tests are not imposed differently based on the race or ethnicity of the participant.
- Employees of a State welfare office may not reject white applicants for food stamp assistance because they assume that only minority applicants have large families to provide for.

Programs ***may not provide different benefits*** to persons on the basis of their race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Employees must provide complete information to all persons who ask questions about the type of benefits, including job training assistance, placement, and other services, and not fail or refuse to provide the same, complete information on opportunities to persons who are or appear to be Asian.
- A county employee may not reject applicants for job training programs because they are or appear to be Hispanic.
- A contractor's employee may not enroll a male participant in a computer training program and deny a female participant an opportunity for the same program solely because the employee assumes the woman has poor math skills and will not succeed at computer training.
- A welfare caseworker may not assume that a single mother with four children would be unable to complete a rigorous training course because of her family responsibilities.
- A welfare agency employee may not assume, because a welfare participant is over 50 years, that he is too weak for certain training classes for manual labor, or too old to be placed in computer training classes, while younger welfare participants with the same background, are placed in these training classes.
- A welfare office located in an area consisting of predominantly Haitian immigrants with limited English proficiency must provide written materials or other communication services that describe all of the benefits and services offered to applicants and participants in both English and French.
- A rural county welfare office that serves Vietnamese and Russian immigrants should arrange for language assistance.
- In order to provide equal access to services, an employment referral service in a large metropolitan area with a significant number of Spanish speaking welfare participants and applicants might have bilingual staff in positions that require frequent contact with participants or readily available interpretation services to serve such participants.

Index: Technical Assistance for Caseworkers

- I. What Federal Nondiscrimination Laws Apply to TANF Programs?
- II. Who Is Covered by Federal Nondiscrimination Laws?
- III. What Conduct Is Prohibited In Federally Funded Programs and Activities?
- IV. What Type of Conduct Is Prohibited in Employment Settings?
- V. What Conduct on the Basis of Disability is Prohibited?
- VI. How Are The Nondiscrimination Laws Enforced?

Quick OCR Welfare Reform Index: [OCR Home](#) [OCR's Welfare Reform Page](#) [Letter to State and TANF Administrator](#) [Civil Rights Laws and Welfare Reform, An Overview](#) [Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform](#)

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

IV. What Type of Conduct Is Prohibited in Employment Settings?

Employment discrimination laws protect workers and prospective workers from discrimination based on race, color, national origin, citizenship status, unfair documentary practices related to employment eligibility, religion, sex, age, or disability. These laws cover both individual employers and employment agencies, including welfare agencies and contractors that provide job placement services for welfare participants. ***The laws prohibit discrimination in all aspects of the employment process: hiring and discharge, compensation, assignments, and all other terms, conditions, and privileges of employment.*** These laws protect all workers who are in an employment relationship, or are being considered for employment — where the employer has the right to control the "means and manner" of the individual's work, whether or not the employer pays the individual's salary.

Examples:

- Individuals who refer welfare participants to an employer may not make assignments on the basis of race, color, national origin, citizenship status, religion, sex, age, or disability. Thus, for example, a job placement service for welfare participants may not assign African-Americans to janitorial and sanitation positions and whites with similar backgrounds to entry-level office positions.
- Employers and those referring welfare participants to employers may not retaliate against participants because they opposed practices that they reasonably believed were unlawful under the employment discrimination statutes or because they participated in proceedings under the employment discrimination statutes.
- Employers and those referring welfare participants to employers may not discriminate on the basis that a person looks "foreign" or has an accent.
- Employers and those referring welfare participants to employers may not make hiring or referral decisions on an assumption that participants over the age of 50 are too weak for manual labor.
- Employers and those referring welfare participants to employers may not refuse to hire or refer an individual because his or her immigration status is that of a permanent resident, asylee, or refugee.
- Employers must accommodate an employee's or welfare participant's religious practices unless doing so would create an undue hardship. For example, people must normally be permitted to wear religious attire unless doing so would create a safety hazard. Furthermore, a welfare agency may not refuse to refer an individual for employment because of his or her need for religious accommodation.
- A contractor that provides job training or referral services may not use a high school diploma requirement for participation in training programs, or use another requirement that excludes disproportionate numbers of minorities, unless such a requirement is job related and consistent with business necessity. Further, such a requirement may not be used if there is available to the contractor an alternative that would exclude fewer minorities and also serve the contractor's legitimate interest in efficient and satisfactory job performance.
- Employers may not discriminate on the basis of race, color, national origin, citizenship status, sex, age, religion, or disability in the payment of wages. Also, employers must pay equal wages to women and men who perform substantially equal work, unless the pay discrepancy is based on a seniority system, a merit system, a system that measures quantity or quality of production, or on a factor other than sex.
- Employers may not place female welfare participants in office positions while male welfare participants are placed in manual labor positions based on assumptions of the individual's skills or strength.
- Employers may not harass a welfare program participant on the basis of race, color, sex, religion, national origin, age, or disability and must take immediate and appropriate corrective action if it

becomes aware of such harassment. For instance, an employer may not threaten to fire a female welfare recipient for failure to grant the employer sexual favors.

Index: Technical Assistance for Caseworkers

- I. [What Federal Nondiscrimination Laws Apply to TANF Programs?](#)
- II. [Who Is Covered by Federal Nondiscrimination Laws?](#)
- III. [What Conduct Is Prohibited In Federally Funded Programs and Activities?](#)
- IV. [What Type of Conduct Is Prohibited in Employment Settings?](#)
- V. [What Conduct on the Basis of Disability is Prohibited?](#)
- VI. [How Are The Nondiscrimination Laws Enforced?](#)
- VII. [Who May File A Complaint of Discrimination?](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

V. What Conduct on the Basis of Disability Is Prohibited?

- [Programs and Services](#)
- [Employment](#)

Programs and Services

Welfare providers may not discriminate against any qualified individual with a disability in providing services or administering any program or activity, whether or not the program receives Federal financial assistance. In general, an individual with a disability is "qualified" if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity. Welfare providers may not refuse to allow a person with a disability to participate because the person has a disability, and they must eliminate unnecessary eligibility standards or rules that deny an individual with a disability an equal opportunity to participate. Welfare providers may not harass a program participant or applicant on the basis of a disability.

Examples:

- The director of a county day care program for the children of welfare participants who are attending employment training programs may not refuse to accept children who have emotional problems or who take medication for a disability into the program.
- A community college offering job-training for welfare participants may not require students with disabilities to provide medical histories if such histories are not required of all students.
- A welfare office may not refuse to permit guide dogs and other service animals assisting individuals with disabilities to accompany those individuals into the office.
- A welfare office may not exempt individuals with disabilities from work activities, education, or training opportunities based on assumptions that such individuals are not qualified to participate in training or work.
- An intake clerk in a food stamp office may not create a hostile environment by mimicking a person with Tourette's Syndrome.

Welfare providers are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

Examples:

- A job-training course for welfare participants must extend testing time when a person with a learning disability requests extra time to complete the test because of his or her disability. The course provider may ask the individual who is seeking extra time to provide reasonable documentation of the learning disability and the additional time that is required.
- A welfare program with a complicated application will need to modify its application form or provide someone to help fill out the form when a person with a mental disability is unable to complete the form.
- A state welfare agency may seek alternatives to the work participation requirement if an individual with a disability, with or without reasonable accommodation, is not able to perform the essential functions of any available job.

Welfare providers must ensure that programs and services are provided in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities.

Programs that provide special benefits to people with disabilities are permitted, but people with disabilities cannot be compelled to participate in those programs.

Examples:

- A county social service center that provides a hot lunch program for senior citizens may not require people with HIV to be served in a separate room from the other participants.
- A county vocational training program may offer special training opportunities for people with vision impairments, but it may not require people with vision impairments to participate in the special program or refuse to permit them to participate in courses open to other program participants.

Welfare providers must ensure effective communication with individuals who have hearing, speech, or vision impairments. Programs must provide auxiliary aids and services (such as Braille material, sign language interpreters, readers, or text telephones (TTY's)) when necessary to ensure effective communication but they are not required to provide auxiliary aids that will result in a fundamental alteration of the program or service or that will result in undue financial and administrative burdens.

Examples:

- A municipal job placement program that makes information about job openings available by telephone must ensure that the information is available to users of TTY's.
- A city welfare office that provides printed information about eligibility requirements to applicants must ensure that the same information is provided on audiotape or in Braille for people who have vision impairments.
- Job training programs for welfare participants must provide sign language interpreters for deaf students when it is necessary to ensure effective communication for those students.

Welfare providers may not exclude individuals with disabilities from programs and activities because buildings are inaccessible, but the providers are not required to take any action that would result in a fundamental alteration in the nature of the program or activity, or in undue financial and administrative burdens. This means generally that providers need not remove physical barriers, such as stairs in existing buildings, as long as they make their programs accessible to individuals with disabilities in other locations or through other methods, such as home visits.

Examples:

- A welfare office that is located on the second floor of a building that has no elevator may make its services accessible to an applicant who uses a wheelchair by meeting with that applicant in an accessible ground floor office. However, if all the other participants met together for discussions on the second floor and they could not meet on the ground floor, the limited access would be insufficient.
- A food stamp office located in an inaccessible space may make its services accessible to a person with a mobility impairment by alternative methods. For example, a food stamp office may mail an application to an applicant and conduct a home visit to determine eligibility, or interview the applicant's designated representative at the office. Food stamps may also be mailed to that person's residence or picked up by the representative.
- A job training program that usually offers classes in an inaccessible second-floor classroom may make its program accessible by relocating the class to an accessible classroom in another building.

Welfare providers must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities. Welfare providers are not required to retrofit existing buildings to eliminate barriers, but when alterations are undertaken, the altered elements must be made accessible. However, if program access cannot be provided without structural modifications, structural modifications must be made.

[Return to top](#)

Employment

The ADA prohibits employment discrimination against any qualified individual with a disability because of that individual's disability in regard to job application procedures, the hiring and discharge of employees, employee compensation, advancement, job training, or any other terms, conditions, or privileges of employment. For purposes of employment, an individual with a disability is "qualified" if that individual, with or without reasonable accommodation, can perform the essential functions of the job in question.

Employers and those referring welfare participants to employers may not impose qualification standards that screen out any individual with a disability or a class of individuals with disabilities unless such standards are shown to be job related and consistent with business necessity. Even if the standard is job related and consistent with business necessity, the employer or referring entity that imposes the standard must consider whether there is a reasonable accommodation that will enable a welfare participant with a disability to meet the standard.

The ADA limits an employer's ability to ask questions of applicants and employees regarding the existence, nature, or severity of a disability and to require medical examinations. Employers may not ask disability-related questions of applicants or require medical examinations before an offer of employment is made. Preemployment medical examinations and disability related questions are permitted after an offer of employment has been made so long as the questions or exams are given to all individuals in the job category. However, if an applicant has a known disability that may prevent the individual from performing the essential function of the job, the employer may ask how, with or without reasonable accommodation, the applicant would perform the specific tasks required. If an applicant's known disability will not interfere with the performance of a job-related function, then the employer may request a description or demonstration of how the applicant would perform the job duties only if the employer makes the same inquiry of all applicants in the same category. After an applicant is hired, an employer may ask disability-related questions or require medical examinations only if they are job-related and consistent with business necessity.

Examples:

- A welfare recipient has just applied for a job as a data entry clerk. As she is filling out a personnel form, she mentions this is the first job she has had since she developed Carpal Tunnel Syndrome. The personnel manager cannot ask her for the name of her doctor so he can check that she is not still under treatment. The personnel manager may ask her to demonstrate or describe how she would perform her job-related duties.
- An employer may want to require that all job applicants have a driver's license. This requirement may exclude an individual with epilepsy, mental illness, or blind people as a group. If driving is an essential function of the position, for example, a bus driver's job, no change in this policy would be required. However, if an applicant is seeking a position for which having a driver's license is merely convenient — for example, a secretarial position, the employer would be prohibited from applying this requirement to an applicant who does not have a driver's license because of a disability.

Employers are required to provide reasonable accommodations to employees to enable them to perform the essential functions of the job unless the employer can demonstrate that providing a reasonable accommodation would cause an undue hardship to the employer. An "undue hardship" is an action requiring significant difficulty or expense in light of the nature and cost of the accommodation and the overall resources of the employer, the type of business in question, and the impact on the operations of the business. "Reasonable accommodation" includes, but is not limited to, modifying existing facilities to make them accessible, acquiring or modifying equipment, providing readers or sign language interpreters, offering part-time or modified work schedules, or restructuring the duties of the job.

Examples:

- An employer normally requires all employees to have a driver's license but that requirement is not job-related and consistent with business necessity for the position of secretary. A secretary employed by the company develops epilepsy, and, as a result, is unable to renew his license. Therefore, the employer cannot apply the driver's license requirement to the secretary who is unable to renew his license because he developed epilepsy.
- A job training program offered by an employer may be required to provide sign language interpreters for deaf employees when it is necessary to enable them to participate in the training.
- An accountant with a vision impairment is hired by a welfare provider. That employer may be required to provide reasonable accommodation for the accountant by obtaining computer equipment to enable the accountant to read printed material.
- A welfare recipient who uses a wheelchair obtains a job on the clerical staff of an employer whose offices are in a building that has two steps at the entrance. The employer may be required to provide reasonable accommodation for the employee by providing a ramp at the building entrance.

Index: Technical Assistance for Caseworkers

- I. What Federal Nondiscrimination Laws Apply to TANF Programs?
- II. Who Is Covered by Federal Nondiscrimination Laws?
- III. What Conduct Is Prohibited In Federally Funded Programs and Activities?
- IV. What Type of Conduct Is Prohibited in Employment Settings?
- V. What Conduct on the Basis of Disability is Prohibited?
- VI. How Are The Nondiscrimination Laws Enforced?
- VII. Who May File A Complaint of Discrimination?

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Quick OCR Welfare Reform Index: OCR Home OCR's Welfare Reform Page Letter to State and TANF Administrator Civil Rights Laws and Welfare Reform, An Overview Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

VI. How Are The Nondiscrimination Laws Enforced?

Generally, if an individual files a complaint alleging that he or she was denied benefits or otherwise discriminated against in a program or activity that received Federal funds, the agency that provided the Federal funds may conduct an administrative investigation of the complaint. An investigation may include interviews and collection of data from the complainant and welfare provider. If an agency believes discrimination has occurred, it will initially seek voluntary compliance by the welfare provider. The agency may also offer technical assistance to the welfare provider to prevent future instances of discrimination. If the complaint cannot be resolved voluntarily, the agency may seek to terminate a welfare provider's Federal funding, or may refer the complaint to the United States Department of Justice, Civil Rights Division, which may file a lawsuit in Federal court to enforce compliance. Individuals may file private lawsuits to enforce their rights under Title VI, Title IX, Section 504, or the Age Discrimination Act and, in certain circumstances, may recover damages if they prevail.

Individuals who work also may have rights under the Federal employment discrimination laws that protect against unlawful discrimination in hiring, work assignments, promotions, etc., and may file a complaint with the appropriate Federal agency. Individuals, after complying with administrative complaint procedures at the Federal agency level, may also bring lawsuits to enforce their rights (including the potential for damages) under Title VII, the ADEA, and IRCA's antidiscrimination provision. Individuals may file private suits to enforce their rights under the ADA, Section 504, and EPA without first filing an administrative complaint.

Federal contractors and subcontractors are required to comply with Executive order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act, as amended.

These laws ban discrimination and also require Federal contractors, subcontractors, and contractors working on federally assisted construction contracts to take affirmative action to ensure that all individuals have an equal opportunity for employment, without regard to race, color, religion, sex, national origin, disability, or status as a Vietnam era or special disabled veteran. These laws are administered by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). In certain circumstances, OFCCP also acts as an agent for the Equal Employment Opportunity Commission in the enforcement of the ADA and Title VII.

Index: Technical Assistance for Caseworkers

- I. [What Federal Nondiscrimination Laws Apply to TANF Programs?](#)
- II. [Who Is Covered by Federal Nondiscrimination Laws?](#)
- III. [What Conduct Is Prohibited In Federally Funded Programs and Activities?](#)
- IV. [What Type of Conduct Is Prohibited in Employment Settings?](#)
- V. [What Conduct on the Basis of Disability is Prohibited?](#)
- VI. [How Are The Nondiscrimination Laws Enforced?](#)
- VII. [Who May File A Complaint of Discrimination?](#)

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

Quick OCR Welfare Reform Index:	OCR Home	OCR's Welfare Reform Page	Letter to
State and TANF Administrator	Civil Rights Laws and Welfare Reform, An Overview		Technical
Assistance for Caseworkers on Civil Rights Laws and Welfare Reform			

Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform

VII. Who May File A Complaint of Discrimination?

Any individual who believes that he or she is a victim of discrimination on the basis of race, color, national origin, citizenship status, unfair documentary practices concerning employment eligibility, disability, age, or sex in a covered program or activity (i.e., against any welfare provider), may file a complaint with the Federal agency that provides assistance to the program in issue, or with the U.S. Department of Justice, which will refer the complaint to the appropriate agency. Each of these nondiscrimination laws prohibit retaliation against individuals because they oppose practices that they reasonably believe are unlawful under the discrimination statutes, or because they participate in proceedings under these statutes.

A welfare provider who receives a complaint from a welfare participant, or who is asked how to file a complaint, should promptly forward that complaint to the agency that provides Federal assistance to the program in question, or refer that individual to that agency. For example, if the alleged discrimination occurred in a welfare benefits program, complaints may be sent to:

U.S. Department of Health and Human Services

Office for Civil Rights

200 Independence Avenue, S.W., Room 509F

Washington, D.C. 20201

1-800-368-1019

An individual who believes that he or she is a victim of employment discrimination by any employer in violation of Title VII, the ADEA, the ADA, Section 504, or the EPA may file a complaint with the local office of the Equal Employment Opportunity Commission. To locate a local EEOC office, call 1-800 669-4000 (voice) or 1-800 669-6820 (TTY). Complaints on behalf of classes of individuals are also permitted. Complaints generally must be filed within 180 days of the alleged discriminatory event. Although some statutes may provide for a longer filing period, individuals are encouraged to file their complaints as soon as possible after becoming aware of the discriminatory event.

An individual who believes that he or she is a victim of employment discrimination by an employer or referrer for a fee in violation of IRCA's antidiscrimination provision may file a complaint with the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (1-800-255-7688).

Individuals who work for Federal contractors or subcontractors, including individuals who obtain employment as a result of welfare implementation, and who believe they have been discriminated against, may file complaints directly with any of OFCCP's regional or district offices throughout the country, or with the OFCCP office in Washington, D.C. Complaints must be filed within 180 days from the date of the alleged discrimination, or within 300 days in the case of complaints filed under Section 503 of the Rehabilitation Act.

Complaints should be in writing, signed by the complainant or by an authorized representative, and should contain the following information: the complainant's name, address, and telephone number; the name and address of the agency or entity that the complainant believes discriminated against him or her; and the alleged discriminatory action, including when, how, and why the complainant believes he or she

was discriminated against on the basis of race, color, national origin, religion, citizenship status, unfair documentary practices concerning employment eligibility, disability, age, or sex. Since the subject matter of a complaint may constitute violations of more than one of the Federal laws prohibiting discrimination, individuals should be aware that they may, in certain circumstances, utilize one or more of the available complaint procedures.

Index: Technical Assistance for Caseworkers

- I. What Federal Nondiscrimination Laws Apply to TANF Programs?
- II. Who Is Covered by Federal Nondiscrimination Laws?
- III. What Conduct Is Prohibited In Federally Funded Programs and Activities?
- IV. What Type of Conduct Is Prohibited in Employment Settings?
- V. What Conduct on the Basis of Disability is Prohibited?
- VI. How Are The Nondiscrimination Laws Enforced?
- VII. Who May File A Complaint of Discrimination?

[Return to top](#)

Date of last revision: August 30, 1999

**OCR
Home Page**

[Return to OCR Home Page](#)

**HHS
Home Page**

[Return to HHS Home Page](#)

Alvenc - sk
New language on

LEP is on page

2 + 3 in italics.

Edna is also getting

copy - Cynthia



MAY 17 1999

Director
Office for Civil Rights
Washington, D.C. 20201

MEMORANDUM

TO: Cynthia Rice
Domestic Policy Council
The White House 20502

FROM: Thomas E. Perez 
Director
Office for Civil Rights

SUBJECT: Civil Rights - Welfare Reform Documents

Several months ago we cleared through your office the previous draft of the attached documents. As you know, the documents provide an overview and technical assistance for state and local agencies implementing welfare reform.

After your office cleared the documents, we held consultation meetings with advocacy groups and state and local government representatives. The documents were revised to address some of the concerns raised in those meetings. The new drafts were then cleared through HHS, Labor, Justice, Education, Agriculture and the EEOC. We are now submitting the revised documents for your review.

Once your review is completed, the documents will be submitted to Secretary Shalala for signature and transmittal to Governors and state agencies. Prior to the distribution of the documents, interested Federal agencies will be notified of the date of distribution.

If you have any questions, please feel free to call me. We will work with you to expedite the clearance of the documents. My number is 619-0403.

Attachments

Dear Governor:

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereafter referred to as the "PRWORA") transforms our nation's welfare system into one that requires work, promotes parental responsibility, and protects children. The Temporary Assistance to Needy Families (TANF) provision of the PRWORA gives States broad discretion in the implementation of programs to meet these work requirements. It also imposes several new obligations on States, including the implementation of programs that impose increased work requirements on welfare beneficiaries. We have enclosed several documents that will be useful in understanding the application of civil rights laws to your programs, as you implement the PRWORA.

Under the PRWORA, States and many other providers of welfare services have legal obligations to comply with Federal civil rights laws that prohibit discrimination based on race, color, religion, sex, national origin, age, and disability. The requirements of the Federal civil rights laws are explained in the enclosure, "**Civil Rights Laws and Welfare Reform - An Overview**," and apply to entities that provide funds, employment, training, food stamps, and other benefits under the PRWORA. This document contains a list of Federal agencies available to answer your questions on the application of civil rights laws to your programs. *and ways to comply with these requirements.*

We have also enclosed another document, "**Technical Assistance For Caseworkers on Civil Rights Laws and Welfare Reform**," designed to provide caseworkers with real life examples of how civil rights laws apply in situations commonly encountered in casework. We urge you to share this important information on the requirements of the Federal civil rights laws with your personnel and other appropriate individuals. This information was developed jointly by the United States Departments of Health and Human Services, Labor, Justice, Education, and Agriculture. We hope it will be useful to your agency in implementing the PRWORA and ensuring continued compliance with civil rights laws.

Sincerely,

Enclosures

FAX TRANSMISSION

**OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH & HUMAN SERVICES**

Date: 06-18-99

TO: Cynthia Rice, Special Assistant to the President for
Domestic Policy
THE WHITE HOUSE

Pages w/ cover: Please see below-Comments section

Telephone: (202) 456-2846

FAX: (202) 456-7431

Carole Brown, Special Assistant to the Director
Tel: (202) 619-0805
Fax: (202) 619-3818

COMMENT: Two revised documents are attached:

"Technical Assistance for Caseworkers on Civil Rights Laws
and Welfare Reform" (16 + Cover)

"Civil Rights Laws and Welfare Reform - An Overview" (8 + Cover)

FROM: Thomas E. Perez
Office for Civil Rights
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D. C. 20201

Room No./Bldg.
522A - Humphrey

Phone No.
202-619-0403
Fax
202-619-3437

MAY 8, 1999

CIVIL RIGHTS LAWS AND WELFARE REFORM - AN OVERVIEW

A variety of Federal nondiscrimination laws require that Federally assisted programs be administered in a manner that does not discriminate or have the effect of discriminating on the basis of race, color, national origin, disability, sex, age, religion or political belief.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereafter referred to as PRWORA) specifically incorporates Title VI of the Civil Rights Act of 1964, as amended (Title VI), Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990 (ADA). Title VI, Section 504 and the Age Discrimination Act, along with Title IX of the Education Amendments of 1972, as amended (Title IX), continue to apply to States and other public and private entities that receive Federal financial assistance and that provide funds, training, food stamps, and other services and benefits under the Temporary Assistance for Needy Families (TANF) provisions of the PRWORA.

Title VII of the Civil Rights Act of 1964, as amended (Title VII), the Equal Pay Act of 1963 (EPA) and the Age Discrimination in Employment Act (ADEA) continue to require nondiscrimination in employment by States and public and private entities that administer, operate or participate in employment programs under TANF even if these entities do not receive Federal assistance. The receipt of Federal assistance also is not required for coverage of public or private entities by the ADA.

The PRWORA also imposes new eligibility and verification requirements for immigrants applying for TANF, and other benefits such as food stamps and medicaid. Pursuant to the antidiscrimination provisions of the Immigration Reform and Control Act of 1986 (IRCA), and also Title VII, states and other public and private entities operating programs under TANF have an obligation to apply these eligibility and verification requirements as they apply to employment in a nondiscriminatory manner.

This document reviews the general prohibitions against discrimination and is intended to assist States and other public and private entities that provide services under TANF in applying these nondiscrimination laws to their programs. Additional examples of practices which may violate these nondiscrimination laws are provided in a document for case workers, entitled "Technical Assistance for Caseworkers on Civil Rights Laws and Welfare Reform."

00/21/88 MON 07:52 FAX 202 616 6401 000/10 2000

Agencies participating in the development of these technical assistance documents are: the U.S. Department of Health and Human Services, the U.S. Department of Labor, the U.S. Department of Justice, the U.S. Department of Education, and the U.S. Department of Agriculture.

Civil Rights Requirements

A. Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. ("Title VI")

Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective. Even if there is such a reason the practice cannot continue if there are alternatives that would achieve the same objectives but that would exclude fewer minorities. *Persons with limited English proficiency must be afforded a meaningful opportunity to participate in programs that receive Federal funds. Policies and practices may not deny or have the effect of denying persons with limited English proficiency equal access to Federally-funded programs for which such persons qualify.*

Set forth below are examples of conduct that may violate Title VI:

- ▶ A welfare benefit provider restricts training and/or work assignments based on its clients' race or national origin by assigning minority clients to jobs that pay less or have fewer opportunities for permanent employment than work assignments given to nonminority clients.
- ▶ A predominantly minority community is provided lower benefits, fewer services, or is subject to harsher rules than a predominantly nonminority community.

- ▶ A local welfare office makes assumptions regarding a person's citizenship, immigration status and eligibility for benefits, based on the person's surname, accent or ability to speak English, and asks only those persons who look or sound foreign about their citizenship/immigration status.
- ▶ In determining eligibility of Asian applicants for TANF benefits, a local agency requires substantially more and different documentary proof of citizenship/immigration status than it does in determining the eligibility of non-Asians.
- ▶ A local welfare office located in a neighborhood with a number of immigrant groups provides no language assistance to TANF applicants or participants who are limited English proficient (LEP), but advises them to bring friends or relatives, as interpreters, to their appointments.
- ▶ A training program charges a class member for interpreter services that are needed for the class member to benefit from the training program.
- ▶ A local welfare office which regularly serves LEP persons only makes interpreters available for persons applying for benefits three hours a week.

B. The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq.

The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. A provider generally may not exclude, deny, or provide different or lesser services to applicants or beneficiaries, on the basis of age.

Examples of conduct that may violate the Age Discrimination Act include:

- ▶ In a computer training program, trainees over 40 are discouraged from seeking referrals to computer systems jobs. These older trainees are told that the systems jobs require travel between different job sites, are tiring and are more suitable for the younger trainees.
- ▶ A training program for classroom aides does not admit anyone under 30. The provider believes that persons under 30 are not mature enough to work with school age children.

- ▶ A provider has a job referral arrangement with an employer who refuses to accept anyone over 30 from the provider's automotive repair training class.

C. Civil Rights Laws Applicable to Persons with Disabilities

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 ("Section 504") prohibits discrimination on the basis of disability by recipients of Federal financial assistance. **The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. ("ADA")**, prohibits discrimination on the basis of disability by both public and private entities, whether or not they receive Federal financial assistance. Providers covered by Section 504 and/or the ADA may not deny benefits or services to qualified individuals with disabilities or provide lesser benefits than they provide to others. In general, an individual with a disability is "qualified" if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity with or without reasonable modification to rules, policies or practices. The purpose of these laws is to ensure that covered programs are as accessible to persons with disabilities as they are to nondisabled individuals.

Persons with disabilities may be eligible under some state programs for exemptions from work requirements and/or time limits. However, program providers may not refuse to allow a person with a disability to participate in training programs or be employed because the person has a disability, and they must eliminate unnecessary eligibility standards or rules that deny individuals with disabilities an equal opportunity to participate. This applies to persons with mental or physical disabilities. Eligibility for participation in any benefit, service or program must be based on an individual assessment of each person's ability to meet the eligibility requirements rather than on stereotypes or assumptions about the effects of a type of disability. Program providers are required to make reasonable modifications to policies, practices and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result. If a reasonable modification to the program requirements would enable a person to meet the eligibility requirements without fundamentally altering the program, that modification must be offered.

Set forth below are examples of conduct that may violate Section 504 and the ADA:

- ▶ A benefit provider refers persons with disabilities to placement opportunities inappropriately because of the failure to properly and individually take into account

a person's known disabilities.

- ▶ An employment agency that contracts with a state agency to refer TANF beneficiaries to jobs, has a policy that prohibits the referral of anyone who has ever had a back injury to jobs as nursing aides or home health workers, without any individual assessment of the beneficiary's ability to do the job.

Program providers must ensure that programs and services are provided in the least restrictive environment, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities. Programs that provide special benefits to people with disabilities are permitted, but people with disabilities cannot be compelled to participate in those programs. Even if separate programs are provided for persons with disabilities, the regular program may still be required to provide reasonable modifications.

Program providers must also ensure effective communication with individuals who have hearing, speech or visual impairments. Providers must provide such persons with auxiliary aids if necessary to ensure effective communication, but are not required to provide aids that would cause a fundamental alteration in the program or that would result in undue financial or administrative burdens. Thus, it could be a violation of Section 504 and the ADA if:

- ▶ Information about job openings is available by telephone but it is not available by other effective means for individuals with hearing impairments.
- ▶ A provider fails to provide reasonable accommodation in job training and other programs conducted by the agency, e.g., a trainee who is blind is not provided instructional materials on audiotape or in braille, or other effective means for persons with visual impairments.
- ▶ Information is provided orally but a sign language interpreter or other form of effective communication is not provided for hearing impaired participants.

Finally, providers may not exclude individuals with disabilities because their buildings are inaccessible. A provider is not required to make structural changes in existing facilities where other methods are effective in achieving equal access. In choosing among other methods, priority must be given to those that offer programs in the most integrated setting. However,

providers are not required to take any action that would result in substantial modifications in the nature of the program or in undue financial or administrative burden. New construction and alterations to existing facilities must be made accessible and usable by persons with disabilities except where structurally impracticable.

D. Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et. seq. (Title IX)

Title IX prohibits discrimination on the basis of sex in educational programs and activities that receive or benefit from Federal financial assistance. Generally, a provider may not exclude, deny or provide different or lesser services to applicants or beneficiaries on the basis of sex.

Set forth below are examples of conduct that may violate Title IX:

- ▶ A provider offers job training opportunities in electrical repair work, but has accepted no women into the training program even though several qualified women have requested admission.
- ▶ Equal numbers of men and women are admitted into a provider's cosmetology training program. However, few of the men are referred to jobs in the cosmetology area, while many of the women are.
- ▶ In a culinary training program, men are placed in a variety of food preparation classes taught by chefs, while women are placed in meal planning and serving classes taught by less qualified teachers.

E. Federal Employment Discrimination Laws

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. ("Title VII"), the Age Discrimination in Employment Act of 1967, as amended, 42 U.S.C. Section 621 et. seq. (ADEA) and the Equal Pay Act of 1963, 29 U.S.C. Section 206 (d) (EPA), are Federal employment discrimination laws that offer civil rights protection to all employees, including TANF beneficiaries who make the transition from welfare to employment.

Title VII prohibits private and state and local government employers with 15 or more employees and employment agencies from discriminating on the basis of race, color, sex (including pregnancy), religion or national origin in all aspects of an employment relationship, including hiring, discharge, compensation, assignments, and other terms, conditions and privileges of employment. The ADEA prohibits employers with 20

or more employees, and state and local governments from discriminating against persons 40 or older because of age. The EPA requires payment of equal wages to men and women performing substantially the same work unless the pay discrepancy is based on a seniority or merit system, a system that measures quantity or quality of production, or a factor other than sex. The EPA applies to employers of any size.

Set forth below are examples of conduct by welfare agencies that assign TANF participants to work activities and the employers to whom they are assigned that may violate Title VII:

- ▶ Denying employment opportunities to a TANF participant because he looks "foreign" or has an accent.
- ▶ Prohibiting an employee from wearing religious clothing would be religious discrimination unless this would pose an undue hardship for the employer, e.g. a young Muslim woman who wears a shawl covering her head in keeping with Muslim teachings, or a young man who wears a turban in keeping with Sikh religious teachings.
- ▶ A male supervisor constantly makes remarks about a female mechanic trainee's anatomy and invites her to the movies after work. When she refuses he usually states that there are many other persons interested in her trainee position.
- ▶ An employer refuses to hire female TANF beneficiaries between the ages of 18 and 25 on grounds that they may become pregnant.

Title I of the ADA is another statute that offers protection to TANF beneficiaries engaged in work activities. Title I prohibits private and State and local government employers with 15 or more employees and employment agencies from discriminating in employment, on the basis of disability. As in Section 504, employers must make reasonable accommodation to the known physical or mental limitations of a qualified person with a disability unless the accommodation would impose an undue hardship. It also prohibits retaliation for opposing disability discrimination or participating in the complaint process. Title I applies to all employers who are covered by Title VII and prohibits discrimination based on disability in all aspects of the employment relationship.

In addition to the above statutes it should be noted that employment discrimination by recipients of Federal assistance also is prohibited by Title II of the ADA, Section 504, Title IX and Title VI (Title VI employment jurisdiction is limited to cases in which the primary purpose of the Federal assistance is

to provide employment and to those cases in which the employment discrimination tends to discriminate against beneficiaries). Each of these laws prohibit retaliation against individuals because they oppose practices that they reasonably believe are unlawful under the employment discrimination statutes or because they participate in proceedings under the employment discrimination statutes.

The Federal agencies will continue to work with you and other benefit providers as welfare reform is implemented. Attached are addresses and telephone numbers of the Federal agencies as a helpful reference for questions related to civil rights and welfare reform. Each agency has provided a toll free number for your convenience and is available to provide technical assistance, and answer questions. Please share this information with your colleagues, constituents and other interested organizations.

Attachment: Federal Agency Listing

(C:\wp\27welfre.wpd)

FAX TRANSMISSION**OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH & HUMAN SERVICES****Date:** 06-18-99**TO:** Cynthia Rice, Special Assistant to the President for
Domestic Policy
THE WHITE HOUSE**Pages w/ cover:** Please see below-Comments section**Telephone:** (202) 456-2846**FAX:** (202) 456-7431Carole Brown, Special Assistant to the Director
Tel: (202) 619-0805
Fax: (202) 619-3818**COMMENT:** Two revised documents are attached:"Technical Assistance for Caseworkers on Civil Rights Laws
and Welfare Reform"

"Civil Rights Laws and Welfare Reform - An Overview"

FROM: Thomas E. Perez
Office for Civil Rights
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D. C. 20201**Room No./Bldg.**
522A - Humphrey**Phone No.**
202-619-0403
Fax
202-619-3437

06/21/99 MON 07:42 FAX 202 619 3437 UCR/ES 0003

Section 504, and the Age Discrimination Act.² In addition, all public agencies are subject to the requirements of Title II of the ADA.

Employers are subject to the same Federal laws that prohibit discrimination when they employ welfare participants as when they employ other individuals. All public employers are subject to Title VII and the ADA. Businesses with 15 or more employees, and employment agencies are subject to Title VII and the ADA whether or not they receive Federal financial assistance. Entities that employ four or more employees are covered by IRCA's antidiscrimination provision. All public agencies, businesses with 20 or more employees, and employment agencies are subject to the ADEA. Most employers and public agencies are subject to the EPA.

As discussed above, the **nondiscrimination statutes** prohibit discrimination on the basis of race, color, national origin, age, and disability in programs or activities that receive or benefit from Federal financial assistance, and prohibit discrimination on the basis of sex in education and training programs that receive Federal financial assistance. Discrimination on the basis of disability is prohibited in all programs, services or activities of public entities. ADA coverage does not depend on the receipt of Federal funds. The **employment discrimination statutes** prohibit discrimination on the basis of race, color, religion, national origin, citizenship status, unfair documentary practices regarding employment verification, sex, age, and disability in private and public sector employment. Depending on the circumstances, welfare providers may be subject to coverage under both the **nondiscrimination statutes** and the **employment discrimination statutes**.

Examples of who these laws apply to are:

- State agencies that receive Federal money through a block grant to conduct welfare programs.
- County and town offices that assist in job training as part of a welfare program.
- Private businesses hired by States to identify who is eligible to receive welfare benefits.

² For ease of reading, all references in this section to "nondiscrimination statutes" should be understood to include Title VI, the ADA, Section 504, the Age Discrimination Act and, when concerning education programs, Title IX. In addition, all references to "employment discrimination statutes" should be understood to include Title VII, the ADEA, the ADA, Section 504, IRCA's antidiscrimination provision, and the EPA.

- Private businesses that help welfare participants find jobs or training.
- County offices that distribute food stamps receive Federal money.
- Local offices that operate federally funded child nutrition programs (for example, National School Lunch Program and Women, Infants and Children).

Although not all welfare providers receive Federal assistance, all businesses or public agencies that hire welfare participants or refer participants for employment are subject to the employment discrimination statutes if they have the requisite number of employees. Of course, if they receive Federal assistance, they are also covered by the nondiscrimination statutes.

Examples:

- State agencies that refer welfare participants to businesses or public agencies for employment.
- Private businesses that contract with States to provide job referral services for welfare participants.

III. What Conduct Is Prohibited In Federally Funded Programs and Activities?

Welfare providers that receive Federal financial assistance may not discriminate against people on the basis of race, color, national origin, disability, or age in how they run their program or activity, or on the basis of sex in education programs. Entities may not subject persons to harassment on the basis of race, color, national origin, disability, or age, or on the basis of sex in education programs. (Section V below discusses nondiscrimination on the basis of disability in more detail.)

Welfare providers may not indirectly discriminate on these bases through contractors or by means of any other arrangement. Welfare providers are responsible for ensuring that their contractors administer their program in a nondiscriminatory manner. It should be noted that public entities and private businesses that contract with states to administer welfare programs are subject to the nondiscrimination statutes because they act as agents of the recipient in carrying out the program or activity, not because they are recipients of Federal assistance.

Programs *may not exclude or deny welfare benefits* to persons based on their race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Welfare caseworkers may not reject an applicant for benefits because he is or appears to be an African-American, Hispanic, Asian, American Indian, Alaskan Native, or a member of another racial or ethnic minority.
- County employees may not make an assumption regarding a person's citizenship and/or eligibility for welfare or food stamp benefits based on the person's last name and then reject the applicant on this basis.
- A TANF contractor's employees may not deny benefits to persons who are not fluent in English because they assume persons who are or appear to be from other countries, and are not English proficient, are not eligible for such benefits.

Programs may not impose different standards or procedures to determine who may receive benefits on the basis of race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Employees may not require an African-American male to submit additional or different documents than what is asked of a white male to establish his legal status and eligibility for welfare benefits in the absence of evidence to warrant further inquiry.
- If a local welfare office accepts a particular INS Form to establish a white woman's eligibility for welfare benefits, the welfare office cannot require a Hispanic male applicant who submits the same form to provide additional proof of his legal status and eligibility for welfare benefits in the absence of evidence to warrant further inquiry.
- A provider of TANF assistance under a program requiring verification of qualified immigration *status may not accept a self declaration of such status*

from applicants who appear to be of African origin, yet require all immigrants from Spanish speaking nations to submit INS documentation because of an assumption that these applicants are illegal aliens.

- A welfare provider's intake personnel may not report suspected illegal aliens to the INS on the basis of race, color, or national origin. Independent evidence supporting such suspicions is necessary.
- A county welfare office may not subject a Russian immigrant to alien verification requirements because of his national origin when the applicant is applying for benefits under a program that does not require such verification.
- An employee of a contractor hired by a State may not delay a review of applications from older individuals (over age 40) until after she evaluates applications from younger persons.
- Employees should not question the authenticity of documents submitted by applicants who are or appear to be Hispanic, in the absence of independent evidence to warrant such inquiry. All documents should be presumed to be authentic and legitimate, if they appear genuine on their face and relate to the individual.
- A welfare office may not refuse to provide translated written materials to applicants when a significant proportion are limited English proficient. Limited English proficient individuals are entitled to effective communication in a language and mode of communication understood by that individual.
- If States choose to impose drug testing on participants, they must do so without regard to race, color, or national origin. For example, if a sample of the participant population is tested, the race and ethnicity of members in this sample may not be disproportionate to the race and ethnicity of participants overall. Further, States must ensure that the consequences of positive tests are not imposed differently based on the race or ethnicity of the participant.
- Employees of a State welfare office may not reject white applicants for food stamp assistance because they assume that only minority applicants have large families to provide for.

Programs *may not provide different benefits* to persons on the basis of their race, color, national origin, disability, or age, or on the basis of sex in education programs.

Examples:

- Employees must provide complete information to all persons who ask questions about the type of benefits, including job training assistance, placement, and other services, and not fail or refuse to provide the same, complete information on opportunities to persons who are or appear to be Asian.
- A county employee may not reject applicants for job training programs because they are or appear to be Hispanic.
- A contractor's employee may not enroll a male participant in a computer training program and deny a female participant an opportunity for the same program solely because the employee assumes the woman has poor math skills and will not succeed at computer training.
- A welfare caseworker may not assume that a single mother with four children would be unable to complete a rigorous training course because of her family responsibilities.
- A welfare agency employee may not assume, because a welfare participant is over 50 years, that he is too weak for certain training classes for manual labor, or too old to be placed in computer training classes, while younger welfare participants with the same background, are placed in these training classes.
- A welfare office located in an area consisting of predominantly Haitian immigrants with limited English proficiency must provide written materials or other communication services that describe all of the benefits and services offered to applicants and participants in both English and French.
- A rural county welfare office that serves Vietnamese and Russian immigrants should arrange for language assistance.
- In order to provide equal access to services, an employment referral service in a large metropolitan area with a significant number of Spanish speaking welfare participants and applicants might have bilingual staff in positions that require frequent contact with participants.

IV. What Type of Conduct Is Prohibited in Employment Settings?

Employment discrimination laws protect workers and prospective workers from discrimination based on race, color, national origin, citizenship status, unfair documentary practices related to employment eligibility, religion, sex, age, or disability. These laws cover both individual employers and employment agencies, including welfare agencies and contractors that provide job placement services for welfare participants. ***The laws prohibit discrimination in all aspects of the employment process: hiring and discharge, compensation, assignments, and all other terms, conditions, and privileges of employment.*** These laws protect all workers who are in an employment relationship, or are being considered for employment — where the employer has the right to control the "means and manner" of the individual's work, whether or not the employer pays the individual's salary.

Examples:

- Individuals who refer welfare participants to an employer may not make assignments on the basis of race, color, national origin, citizenship status, religion, sex, age, or disability. Thus, for example, a job placement service for welfare participants may not assign African-Americans to janitorial and sanitation positions and whites with similar backgrounds to entry-level office positions.
- Employers and those referring welfare participants to employers may not retaliate against participants because they opposed practices that they reasonably believed were unlawful under the employment discrimination statutes or because they participated in proceedings under the employment discrimination statutes.
- Employers and those referring welfare participants to employers may not discriminate on the basis that a person looks "foreign" or has an accent.
- Employers and those referring welfare participants to employers may not make hiring or referral decisions on an assumption that participants over the age of 50 are too weak for manual labor.
- Employers and those referring welfare participants to employers may not refuse to hire or refer an individual because his or her immigration status is that of a permanent resident, asylee, or refugee.

- Employers must accommodate an employee's or welfare participant's religious practices unless doing so would create an undue hardship. For example, people must normally be permitted to wear religious attire unless doing so would create a safety hazard. Furthermore, a welfare agency may not refuse to refer an individual for employment because of his or her need for religious accommodation.
- A contractor that provides job training or referral services may not use a high school diploma requirement for participation in training programs, or use another requirement that excludes disproportionate numbers of minorities, unless such a requirement is job related and consistent with business necessity. Further, such a requirement may not be used if there is available to the contractor an alternative that would exclude fewer minorities and also serve the contractor's legitimate interest in efficient and satisfactory job performance.
- Employers may not discriminate on the basis of race, color, national origin, citizenship status, sex, age, religion, or disability in the payment of wages. Also, employers must pay equal wages to women and men who perform substantially equal work, unless the pay discrepancy is based on a seniority system, a merit system, a system that measures quantity or quality of production, or on a factor other than sex.
- Employers may not place female welfare participants in office positions while male welfare participants are placed in manual labor positions based on assumptions of the individual's skills or strength.
- Employers may not harass a welfare program participant on the basis of race, color, sex, religion, national origin, age, or disability and must take immediate and appropriate corrective action if it becomes aware of such harassment. For instance, an employer may not threaten to fire a female welfare recipient for failure to grant the employer sexual favors.

V. What Conduct on the Basis of Disability Is Prohibited?

Programs and Services

Welfare providers may not discriminate against any qualified individual with a disability in providing services or administering any program or activity, whether or not the program receives Federal financial assistance. In general, an individual with a disability is "qualified" if that person meets the essential eligibility requirements for receipt of services or participation in the program or activity. Welfare providers may

not refuse to allow a person with a disability to participate because the person has a disability, and they must eliminate unnecessary eligibility standards or rules that deny an individual with a disability an equal opportunity to participate. Welfare providers may not harass a program participant or applicant on the basis of a disability.

Examples:

- The director of a county day care program for the children of welfare participants who are attending employment training programs may not refuse to accept children who have emotional problems or who take medication for a disability into the program.
- A community college offering job-training for welfare participants may not require students with disabilities to provide medical histories if such histories are not required of all students.
- A welfare office may not refuse to permit guide dogs and other service animals assisting individuals with disabilities to accompany those individuals into the office.
- A welfare office may not exempt individuals with disabilities from work activities, education, or training opportunities based on assumptions that such individuals are not qualified to participate in training or work.
- An intake clerk in a food stamp office may not create a hostile environment by mimicking a person with Turret's Syndrome.

Welfare providers are required to make reasonable modifications in policies, practices, and procedures that deny equal access to individuals with disabilities, unless a fundamental alteration in the program would result.

Examples:

- A job-training course for welfare participants must extend testing time when a person with a learning disability requests extra time to complete the test because of his or her disability. The course provider may ask the individual who is seeking extra time to provide reasonable documentation of the learning disability and the additional time that is required.

- A welfare program with a complicated application will need to modify its application form or provide someone to help fill out the form when a person with a mental disability is unable to complete the form.
- A state welfare agency may seek alternatives to the work participation requirement if an individual with a disability, with or without reasonable accommodation, is not able to perform the essential functions of any available job.

Welfare providers must ensure that programs and services are provided in an integrated setting, unless separate or different measures are necessary to ensure equal opportunity for individuals with disabilities. Programs that provide special benefits to people with disabilities are permitted, but people with disabilities cannot be compelled to participate in those programs.

Examples:

- A county social service center that provides a hot lunch program for senior citizens may not require people with HIV to be served in a separate room from the other participants.
- A county vocational training program may offer special training opportunities for people with vision impairments, but it may not require people with vision impairments to participate in the special program or refuse to permit them to participate in courses open to other program participants.

Welfare providers must ensure effective communication with individuals who have hearing, speech, or vision impairments. Programs must provide auxiliary aids and services (such as Braille material, sign language interpreters, readers, or text telephones (TTY's)) when necessary to ensure effective communication but they are not required to provide auxiliary aids that will result in a fundamental alteration of the program or service or that will result in undue financial and administrative burdens.

Examples:

- A municipal job placement program that makes information about job openings available by telephone must ensure that the information is available to users of TTY's.

- A city welfare office that provides printed information about eligibility requirements to applicants must ensure that the same information is provided on audiotape or in Braille for people who have vision impairments.
- Job training programs for welfare participants must provide sign language interpreters for deaf students when it is necessary to ensure effective communication for those students.

Welfare providers may not exclude individuals with disabilities from programs and activities because buildings are inaccessible, but the providers are not required to take any action that would result in a fundamental alteration in the nature of the program or activity, or in undue financial and administrative burdens. This means generally that providers need not remove physical barriers, such as stairs in existing buildings, as long as they make their programs accessible to individuals with disabilities in other locations or through other methods, such as home visits.

Examples:

- A welfare office that is located on the second floor of a building that has no elevator may make its services accessible to an applicant who uses a wheelchair by meeting with that applicant in an accessible ground floor office. However, if all the other participants met together for discussions on the second floor and they could not meet on the ground floor, the limited access would be insufficient.
- A food stamp office located in an inaccessible space may make its services accessible to a person with a mobility impairment by alternative methods. For example, a food stamp office may mail an application to an applicant and conduct a home visit to determine eligibility, or interview the applicant's designated representative at the office. Food stamps may also be mailed to that person's residence or picked up by the representative.
- A job training program that usually offers classes in an inaccessible second-floor classroom may make its program accessible by relocating the class to an accessible classroom in another building.

Welfare providers must ensure that newly constructed buildings and facilities are free of architectural and communication barriers that restrict access or use by individuals with disabilities. Welfare providers are not required to retrofit existing buildings to eliminate barriers, but when alterations are undertaken, the altered elements must be

made accessible. However, if program access cannot be provided without structural modifications, structural modifications must be made.

Employment

The ADA prohibits employment discrimination against any qualified individual with a disability because of that individual's disability in regard to job application procedures, the hiring and discharge of employees, employee compensation, advancement, job training, or any other terms, conditions, or privileges of employment. For purposes of employment, an individual with a disability is "qualified" if that individual, with or without reasonable accommodation, can perform the essential functions of the job in question.

Employers and those referring welfare participants to employers may not impose qualification standards that screen out any individual with a disability or a class of individuals with disabilities unless such standards are shown to be job related and consistent with business necessity. Even if the standard is job related and consistent with business necessity, the employer or referring entity that imposes the standard must consider whether there is a reasonable accommodation that will enable a welfare participant with a disability to meet the standard.

The ADA limits an employer's ability to ask questions of applicants and employees regarding the existence, nature, or severity of a disability and to require medical examinations. Employers may not ask disability-related questions of applicants or require medical examinations before an offer of employment is made. Preemployment medical examinations and disability related questions are permitted after an offer of employment has been made so long as the questions or exams are given to all individuals in the job category. However, if an applicant has a known disability that may prevent the individual from performing the essential function of the job, the employer may ask how, with or without reasonable accommodation, the applicant would perform the specific tasks required. If an applicant's known disability will not interfere with the performance of a job-related function, then the employer may request a description or demonstration of how the applicant would perform the job duties only if the employer makes the same inquiry of all applicants in the same category. After an applicant is hired, an employer may ask disability-related questions or require medical examinations only if they are job-related and consistent with business necessity.

Examples:

- A welfare recipient has just applied for a job as a data entry clerk. As she is filling out a personnel form, she mentions this is the first job she has had since

she developed Corporal Tunnel Syndrome. The personnel manager cannot ask her for the name of her doctor so he can check that she is not still under treatment. The personnel manager may ask her to demonstrate or describe how she would perform her job-related duties.

- An employer may want to require that all job applicants have a driver's license. This requirement may exclude an individual with epilepsy, mental illness, or blind people as a group. If driving is an essential function of the position, for example, a bus driver's job, no change in this policy would be required. However, if an applicant is seeking a position for which having a driver's license is merely convenient — for example, a secretarial position, the employer would be prohibited from applying this requirement to an applicant who does not have a driver's license because of a disability.

Employers are required to provide reasonable accommodations to employees to enable them to perform the essential functions of the job unless the employer can demonstrate that providing a reasonable accommodation would cause an undue hardship to the employer. An "undue hardship" is an action requiring significant difficulty or expense in light of the nature and cost of the accommodation and the overall resources of the employer, the type of business in question, and the impact on the operations of the business. "Reasonable accommodation" includes, but is not limited to, modifying existing facilities to make them accessible, acquiring or modifying equipment, providing readers or sign language interpreters, offering part-time or modified work schedules, or restructuring the duties of the job.

Examples:

- An employer normally requires all employees to have a driver's license but that requirement is not job-related and consistent with business necessity for the position of secretary. A secretary employed by the company develops epilepsy, and, as a result, is unable to renew his license. Therefore, the employer cannot apply the driver's license requirement to the secretary who is unable to renew his license because he developed epilepsy.
- A job training program offered by an employer may be required to provide sign language interpreters for deaf employees when it is necessary to enable them to participate in the training.
- An accountant with a vision impairment is hired by a welfare provider. That employer may be required to provide reasonable accommodation for the

accountant by obtaining computer equipment to enable the accountant to read printed material.

- A welfare recipient who uses a wheelchair obtains a job on the clerical staff of an employer whose offices are in a building that has two steps at the entrance. The employer may be required to provide reasonable accommodation for the employee by providing a ramp at the building entrance.

VI. How Are The Nondiscrimination Laws Enforced?

Generally, if an individual files a complaint alleging that he or she was denied benefits or otherwise discriminated against in a program or activity that received Federal funds, the agency that provided the Federal funds may conduct an administrative investigation of the complaint. An investigation may include interviews and collection of data from the complainant and welfare provider. If an agency believes discrimination has occurred, it will initially seek voluntary compliance by the welfare provider. The agency may also offer technical assistance to the welfare provider to prevent future instances of discrimination. If the complaint cannot be resolved voluntarily, the agency may seek to terminate a welfare provider's Federal funding, or may refer the complaint to the United States Department of Justice, Civil Rights Division, which may file a lawsuit in Federal court to enforce compliance. Individuals may file private lawsuits to enforce their rights under Title VI, Title IX, Section 504, or the Age Discrimination Act and, in certain circumstances, may recover damages if they prevail.

Individuals who work also may have rights under the Federal employment discrimination laws that protect against unlawful discrimination in hiring, work assignments, promotions, etc., and may file a complaint with the appropriate Federal agency. Individuals, after complying with administrative complaint procedures at the Federal agency level, may also bring lawsuits to enforce their rights (including the potential for damages) under Title VII, the ADEA, and IRCA's antidiscrimination provision. Individuals may file private suits to enforce their rights under the ADA, Section 504, and EPA without first filing an administrative complaint.

Federal contractors and subcontractors are required to comply with Executive order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act, as amended. These laws ban discrimination and also require Federal contractors, subcontractors, and contractors working on federally assisted construction contracts to take affirmative action to ensure that all individuals have an equal opportunity for employment, without regard to race, color, religion, sex, national origin, disability, or status as a Vietnam era or special disabled veteran. These laws are administered by the

Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). In certain circumstances, OFCCP also acts as an agent for the Equal Employment Opportunity Commission in the enforcement of the ADA and Title VII.

VII. Who May File A Complaint of Discrimination?

Any individual who believes that he or she is a victim of discrimination on the basis of race, color, national origin, citizenship status, unfair documentary practices concerning employment eligibility, disability, age, or sex in a covered program or activity (i.e., against any welfare provider), may file a complaint with the Federal agency that provides assistance to the program in issue, or with the U.S. Department of Justice, which will refer the complaint to the appropriate agency. Each of these nondiscrimination laws prohibit retaliation against individuals because they oppose practices that they reasonably believe are unlawful under the discrimination statutes, or because they participate in proceedings under these statutes.

A welfare provider who receives a complaint from a welfare participant, or who is asked how to file a complaint, should promptly forward that complaint to the agency that provides Federal assistance to the program in question, or refer that individual to that agency. For example, if the alleged discrimination occurred in a welfare benefits program, complaints may be sent to:

U.S. Department of Health and Human Services
Office for Civil Rights
200 Independence Avenue, S.W., Room 509F
Washington, D.C. 20201
1-800-368-1019

An individual who believes that he or she is a victim of employment discrimination by any employer in violation of Title VII, the ADEA, the ADA, Section 504, or the EPA may file a complaint with the local office of the Equal Employment Opportunity Commission. To locate a local EEOC office, call 1-800 669-4000 (voice) or 1-800 669-6820 (TTY). Complaints on behalf of classes of individuals are also permitted. Complaints generally must be filed within 180 days of the alleged discriminatory event. Although some statutes may provide for a longer filing period, individuals are encouraged to file their complaints as soon as possible after becoming aware of the discriminatory event.

An individual who believes that he or she is a victim of employment discrimination by an employer or referrer for a fee in violation of IRCA's antidiscrimination provision

may file a complaint with the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (1-800-255-7688).

Individuals who work for Federal contractors or subcontractors, including individuals who obtain employment as a result of welfare implementation, and who believe they have been discriminated against, may file complaints directly with any of OFCCP's regional or district offices throughout the country, or with the OFCCP office in Washington, D.C. Complaints must be filed within 180 days from the date of the alleged discrimination, or within 300 days in the case of complaints filed under Section 503 of the Rehabilitation Act.

Complaints should be in writing, signed by the complainant or by an authorized representative, and should contain the following information: the complainant's name, address, and telephone number; the name and address of the agency or entity that the complainant believes discriminated against him or her; and the alleged discriminatory action, including when, how, and why the complainant believes he or she was discriminated against on the basis of race, color, national origin, religion, citizenship status, unfair documentary practices concerning employment eligibility, disability, age, or sex. Since the subject matter of a complaint may constitute violations of more than one of the Federal laws prohibiting discrimination, individuals should be aware that they may, in certain circumstances, utilize one or more of the available complaint procedures.

saved as welcrdoj.616

FAX TRANSMISSION

OFFICE FOR CIVIL RIGHTS
DEPARTMENT OF HEALTH & HUMAN SERVICES

Date: 08-24-99

TO: Eric Gould
WH DPC

(RENE -

these are
the cover letters
to the OCR
guidance.

Any comments?

Li

Pages w/ cover: 4

Telephone: 456-7871

FAX: 456-7431

COMMENT:

Info to Governors + State Agencies to
be mailed on 08-27-99

Carol Brown
619-0805

FROM: Thomas E. Perez
Office for Civil Rights
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D. C. 20201

Room No./Bldg.
522A - Humphrey

Phone No.
202-619-0403
Fax
202-619-3437



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

AUG 27 1993

Dear State and TANF Administrator:

The implementation of welfare to work programs raises a series of challenges and opportunities. One such challenge is ensuring that welfare reform programs are implemented in a manner that is consistent with Federal civil rights laws.

In an effort to assist you in understanding the application of Federal civil rights laws to your programs, we are enclosing two technical assistance documents, along with a letter that Secretary Shalala sent to all governors explaining the documents. These documents, entitled "Civil Rights Laws and Welfare Reform - An Overview," and "Technical Assistance For Caseworkers on Civil Rights Laws and Welfare Reform," explain in detail how Federal civil rights law interface with welfare to work programs. Our goal in preparing these materials is to assist you in recognizing potential civil rights issues and thereby enabling you to prevent problems from occurring as you administer welfare to work programs.

Regional office staff from the HHS Office for Civil Rights (OCR) and Administration for Children and Families (ACF) will be contacting you to provide additional technical assistance and to answer any questions or concerns you may have related to the guidance documents. A list of Federal agencies is enclosed for your convenience. Please feel free to contact the regional office that serves your State.

Sincerely,

Thomas E. Perez
Director, OCR

Alvin C. Collins
Director, Office of Family Assistance
ACF

Enclosures



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

AUG 27 1999

Dear Governor

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (hereafter referred to as the "PRWORA") transforms our nation's welfare system into one that requires work, promotes parental responsibility, and protects children. The Temporary Assistance to Needy Families (TANF) provision of the PRWORA gives States broad discretion in the implementation of programs to meet the work requirements in ways that promote work, responsibility and self-sufficiency and strengthen families. As we implement welfare reform programs and create new programs, we must ensure all eligible people have equal opportunities to participate in welfare-to-work programs free from discrimination. We are forwarding to you today two documents that we hope will be useful in understanding the application of civil rights laws to your programs. These documents will also be sent to each State agency.

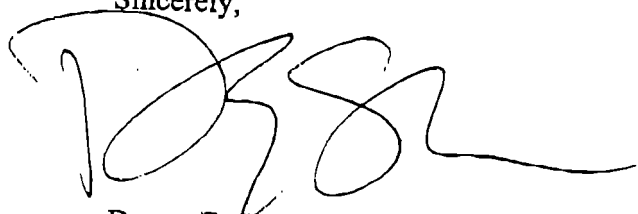
Under the PRWORA, States and many other providers of welfare services have legal obligations to comply with Federal civil rights laws that prohibit discrimination based on race, color, religion, sex, national origin, age, and disability. The requirements of the Federal civil rights laws are explained in the enclosure, "**Civil Rights Laws and Welfare Reform - An Overview,**" and apply to entities that provide funds, employment, training, and other benefits under the PRWORA. This document includes a list of Federal agencies available to answer your questions on the application of civil rights laws to your programs. We have also enclosed another document, "**Technical Assistance For Caseworkers on Civil Rights Laws and Welfare Reform,**" designed to provide caseworkers with specific examples of how civil rights laws apply in situations commonly encountered in casework.

We urge you to share this important information on the requirements of the Federal civil rights laws with your personnel and other appropriate individuals. This information was coordinated with a number of Federal agencies, including the United States Departments of Health and Human Services, Labor, Justice, Education, Agriculture and the Equal Employment Opportunity Commission. HHS' Administration for Children and Families and the Office for Civil Rights will

Page 2 -

be contacting the TANF agency in each State to provide additional technical assistance and to answer any questions or concerns related to the guidance documents. We hope this material will be useful to your State in implementing the PRWORA and ensuring continued compliance with civil rights laws.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Shalala', with a long horizontal flourish extending to the right.

Donna E. Shalala

Enclosures