

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 308
NONDISCRIMINATION REQUIREMENTS OF DEPARTMENT SERVICE PROVIDERS

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AUTHORITY: Implementing the U.S. Constitution; 1964 Civil Rights Act, Titles VI and VIII (42 U.S.C. 2000d et seq. and 2000e et seq.); 1973 Rehabilitation Act, Sections 503 and 504 (29 U.S.C. 793 and 794); and the Age Discrimination Act (42 U.S.C. 6101 et seq.) and implementing and authorized by the Children and Family Services Act [20 ILCS 505/1].

SOURCE: Adopted and codified at 5 Ill. Reg. 5831, effective June 5, 1981. Amended and recodified from 89 Ill. Adm. Code 308 at 18 Ill. Reg. 11510.

Section 308.10 Purpose

These rules describe the Department's policies to ensure that private providers receiving public funds and providing services to Department clients do not discriminate in their employment and service delivery practices. These rules also describe the means available to the Department and other appropriate government agencies for obtaining nondiscrimination assurances from providers, monitoring related contract provisions and terminating contracts when discrimination is indicated. Refer to Part 429, Equal Employment Opportunity through the Department of Children and Family Services, and to Part 337, Service Appeal Process for descriptions of how the Department assures nondiscrimination in employment and service provision.

Section 308.20 Definitions

"Affirmative action", as in these rules, is the undertaking of specific personnel steps in recruiting, selecting, placing, transferring, promoting, and other basic terms and conditions of employment, for the purpose of eliminating present effects of past discrimination.

"Affirmative action exhibits" means affirmative action compliance reporting forms submitted by purchase of service providers to the Department, as specified by the Purchase of Service Contract.

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"Civil rights compliance review" means a formal assessment conducted by the Department or other appropriate governmental agencies to determine whether the provider, directly or indirectly through its employees, has discriminated in service delivery or employment practices or failed to comply with any other laws or regulations related to the civil rights of individuals.

"Employment discrimination" or "discrimination", as used in these rules means any policy, procedure or practice which has an adverse effect on an applicant employee or group of employees with regard to their hiring, firing, compensation, terms, conditions, or privileges of employment, on the basis of race, color, religion, sex, national origin, age, or physical or mental handicap unrelated to ability.

"Purchase of service provider" means an agency or individual offering services to a Department client through a signed contract for paid services.

Section 308.30 The Department's Nondiscrimination Policy with Respect to Private Purchase of Service Providers

- a) The Department shall contract only with service providers who, in the provision of their services and opportunities for employment, exercise nondiscriminatory policies and practices. All purchase of service providers must provide contractual exhibits assuring that they do not discriminate in their employment and service delivery practices. Such providers include all child welfare service providers, social service providers, or any other purchase of service providers with whom the Department may contract.
- b) Each provider shall comply with Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq. and 2000e et seq.); Section 503 and 504 of the Rehabilitation Act (29 U.S.C. 793 and 794); the U.S. Constitution; the 1970 Illinois Constitution; any state and federal laws, regulations or orders which prohibit discrimination in employment on the grounds of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service other than a dishonorable discharge and service delivery on the grounds of race, sex, color, religion, national origin or ancestry, the inability to speak or comprehend the English language or by reason of any handicap. Refer to Part 307, Indian Child Welfare Services which defines the special rights of American Indians.
- c) Purchase of service providers should notify the Department's administrator responsible for affirmative action whenever a discrimination complaint is filed against them.

Section 308.40 Affirmative Action and Civil Rights Compliance

- a) Affirmative Action Exhibits

The Department requires all purchase of service providers to file semiannual affirmative action exhibits with the Department's administrator responsible for affirmative action as required in their contract with the Department.

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- b) Civil Rights Compliance Review
 - 1) Purchase of service providers will be subject to periodic civil rights compliance reviews conducted by the Department or other appropriate governmental agencies. Such review will be conducted whenever a report, complaint, or any other information indicates a possible failure to comply with nondiscrimination requirements.
 - 2) In instances where there is a preliminary finding of noncompliance, a reasonable period will be granted to allow the provider to comply. If the provider fails to make a good faith effort to achieve compliance during the period granted, the purchase of service contract shall be terminated.
 - 3) The Department shall order a review when the Illinois Department of Human Rights or the United States Equal Employment Opportunity Commission issues a probable cause finding in response to a complaint.
 - 4) If the results of a review indicate that discrimination has occurred, the service provider will be requested to submit quarterly reports on the status of employment or service delivery.

- c) Workforce Analysis

A workforce analysis, as specified in the Purchase of Service Contract, will be required from providers. Should the workforce analysis reflect an underutilization of any of the protected classes (Blacks, Hispanics, Native Americans, Asian Americans and women) in a particular job category or classification, compared to what would reasonably be expected by their presence, with requisite skills, in the labor market, the Department's administrator responsible for affirmative action will make recommendations that good faith efforts be made to correct this employment condition.

Section 308.50 Complaints Alleging Discrimination in Service Delivery

- a) No person, on the grounds of race, color or national origin, may be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.
- b) Any applicant or recipient of Department aid, care, service, or any program provided by the Department who believes that he is being discriminated against by a Department provider or a subcontractor of the Department should file a written complaint with the Department's administrator responsible for affirmative action within 30 days of the alleged discriminatory act. The complaint should give all related information concerning the alleged discrimination.
- c) Upon receipt of the complaint, the Department's administrator responsible for affirmative action will initiate an investigation of the circumstances related to the complaint, and provide a written report to the Director of the Department of Children and Family Services. If in the report there is not adequate evidence to support the allegation(s), the complainant will be so notified. In cases where there are reasonable grounds to believe that discrimination has occurred, the Department will work with the provider and the client to resolve the matter through advice and conciliation.

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- d) Any person alleging discrimination in purchased service delivery has the right to file a complaint with the United State Department of Health and Human Services, Office of Civil Rights, or the Department of Labor, Office of Federal Contract Compliance.

Section 308.60 Complaints Alleging Discrimination in Employment

- a) An applicant for employment or an employee may notify the Department's administrator responsible for affirmative action about alleged discrimination in employment. The Department's affirmative action staff shall within 10 days, if practicable, investigate the allegations. The determination and result of such investigation will be sent to the complainant and the purchase of service provider.
- b) A person alleging employment discrimination by a Department provider also has the right to file a complaint with the Illinois Department of Human Rights or the United State Equal Employment Opportunity Commission.

Section 308.70 Contract Termination

Contract termination shall result when the Department determines that discrimination, either in service delivery or employment, is indicated and the provider continues to fail to comply within any reasonable compliance period the Department may grant. Contract termination can also result from proof of discrimination determined in a court of law unless the provider takes immediate steps to correct the discriminatory practices, when such steps meet Department or court approval. Indicated and proved discrimination will be reported to appropriate state and federal authorities.