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Reference Number: 700-02-DD

Title Document: Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973 and Establishment of a Complaint Process

Date of Issue: May 15, 1991
Effective Date: May 15, 1991
Last Review Date: July 16, 2020
Date of Last Revision: July 16, 2020 **(REVISED)**

Applicability: DDSN Central Office, DDSN Regional Centers, DDSN Operated Programs/Services, DSN Boards, and Contracted Service Providers

Purpose:

The purpose of this directive is to establish guidelines and procedures for compliance with Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act of 1975 and the Americans with Disabilities Act (ADA) as they apply to people applying for and receiving services from the South Carolina Department of Disabilities and Special Needs (DDSN), DSN Boards, or other qualified provider agencies.

Note: Compliance with these regulations in regard to employees of DDSN is further addressed under separate policy and procedures. Violations and complaints in regard to such should be referred to DDSN's Human Resource Management Office. Further, this directive does not supersede any portion of the DDSN Employee Grievance Procedure, but applies only to situations outlined in this directive.

Statement of Compliance

No person will be excluded from participation in, denied access to, denied the benefits of or be otherwise subjected to discrimination in the conduct of DDSN sponsored programs, services, and/or supports, and the operation of DDSN Regional Centers and DDSN programs/services on the basis of race, sex, color, national origin, disability, age.

Federal legislation requires that each DDSN entity (i.e., DDSN Regional Center, DDSN operated program/service, DSN Board, and Contracted Service Provider) be in compliance with the four (4) following nondiscrimination acts:

- Title VI of the Civil Rights Act of 1964 - prohibits discrimination of participation in programs and services because of race, color, or national origin, (this includes persons demonstrating limited English proficiency /LEP).
- Section 504 of the Rehabilitation Act of 1973 - prohibits the discrimination of participation in programs and services because of disability including a mental or physical impairment that substantially limits one or more major life activities.
- Americans with Disabilities Act of 1990 - extends Section 504 to cover all private and public entities in the areas of employment, telecommunication, and public accommodation (this includes provision of 24 hour telecommunication relay services). Amendments have expanded the definition to include a physical or mental impairment that limits one or more life activities of such individual, a record of such impairment, or regarded as having such an impairment in general and includes major bodily functions.
- The Age Discrimination Act of 1975 - prohibits the discrimination of participation in programs and services on the basis of age.

PROCEDURES FOR COMPLIANCE

Responsibilities

All DDSN entities shall be responsible for complying with the requirements of the nondiscrimination laws, and establishing a grievance procedure to assure a fair and timely review of all complaints alleging discrimination. All contracts issued by DDSN will contain an “Assurance of Compliance” statement.

Each DDSN entity shall designate a “Compliance Coordinator” whose responsibilities are as follows:

- Review their organization’s compliance with each of the four (4) nondiscrimination acts on an annual basis and maintain records documenting such.
- Post notices advising persons of contacts for reporting or addressing issues of compliance.

- Coordinate the DDSN entity's complaint process and maintain records of all complaints filed and actions taken to bring resolution.
- Maintain records of racial and ethnic data of all individuals served by the DDSN entity.

When indicated, a Plan of Correction (Plan) will be developed to address compliance issues. The Plan shall outline the action to be taken. Implementation of the Plan is the sole responsibility of the DDSN entity, although technical assistance may be obtained from other sources as needed, including DDSN Central Office or external agencies.

State Coordinator Responsibilities

The State Director shall appoint the State Compliance Coordinator whose responsibilities shall include the establishment and monitorship of the compliance review process including general program reviews and audits. The State Coordinator shall receive inquiries and assist in identifying sources of technical assistance. The Coordinator shall also notify the SC Department of Health and Human Services (SCDHHS) of any discrimination complaints that have been filed against a DDSN entity that receives federal financial participation.

Complaint Process

Any DDSN eligible person/applicant or family member who feels they have been discriminated against may personally or through a representative report the incident in writing to the Compliance Coordinator designated by the DDSN entity. Upon receipt of the complaint alleging discrimination, the entity's Compliance Coordinator must immediately investigate the complaint and complete a report.

Every effort shall be made by DDSN entity to resolve the issue through discussion and negotiation at the level the alleged discrimination occurred.

Each DDSN entity shall have at least a two tiered procedure for reviewing discrimination grievances. The DDSN entity's Executive Director shall be involved in one of the review tiers (e.g., review by staff with appeal to Executive Director or reviewed by Executive Director-with appeal to Board of Directors).

Discrimination complaints arising in a DDSN Regional Center or DDSN operated services or program shall follow the DDSN Internal Grievance/Appeal Procedures as outlined in DDSN Directive 535-11-DD: Appeal and Reconsideration Policy and Procedures, which may not necessarily include a review by the Human Rights Committee.

When based on the results of the investigation or review, and corrective actions are indicated, a Plan of Correction shall be developed and monitored to ensure compliance. The Plan of Correction will reflect the original complaint, its remediation, and a target date for completion. The Plan of Correction must be signed by all parties concerned.

Within 30 calendar days of the resolution of the complaint by any DDSN entity, the State Compliance Coordinator shall be notified of the complaint and actions to taken resolve. When a

Plan of Correction is developed as part of the resolution, a copy of the completed and signed Plan will be forwarded to DDSN's State Compliance Coordinator within 30 calendar days of completion.

If a person does not want to file an alleged discrimination complaint with the DDSN entity, a complaint may be filed directly with the South Carolina Human Affairs Commission or the U.S. Department of Health and Human Services (Office of Civil Rights).

Note: Some federal agencies may require a person exhaust the Agency's internal grievance process before filing a discrimination complaint.

Interpreter and Translation Services - Funding Assistance

Title VI of the Civil Rights Act of 1964 requires that reasonable steps be taken to ensure that those with limited English proficiency have meaningful access to services or programs. Affording meaningful access to those with limited English proficiency may mean providing interpreter services for spoken or sign language and/or translation services for written language.

Funding is available to assist entities with the cost of interpreter services and translation services when those services are necessary to afford the person meaningful access to DDSN services. DDSN will not reimburse for interpreter/translation services when necessary to afford access to the services of other entities (e.g., doctors, hospitals, FirstSteps, schools).

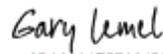
Reimbursement may be sought for services rendered to anyone who is eligible for DDSN services and those who are seeking DDSN eligibility. Forms to be used to request reimbursement are attached to this Directive.

DDSN encourages the use of Interpreters with whom the person/family is comfortable. However, to secure reimbursement, Interpreters must be certified by the American Council on the Teaching of Foreign Languages (ACTFL) and be proficient at or above the intermediate level in oral and listening proficiency in English and the sought foreign language.

Additionally, to secure reimbursement, Translators must be certified by the American Council on the Teaching of Foreign Languages (ACTFL) and be proficient at or above the intermediate level in reading and writing proficiency in English and the sought foreign language.

DocuSigned by:

7/29/2020
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Barry D. Malphrus
Vice-Chairman

DocuSigned by:

7/22/2020
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Gary C. Lemel
Chairman

To access the following attachments, please see the agency website page “Current Directives” at <https://ddsn.sc.gov/providers/ddsn-directives-standards-and-manuals/current-directives>.

Attachment A: Interpreter Services: Request for Reimbursement
Attachment B: Translation Services: Request for Reimbursement