



Georgia Department of Human Services

Georgia Department of Human Services- Office of Facility and Support Services Limited English Proficiency and Sensory Impairment (LEP/SI) Complaint Process

I. Purpose

These procedures have been established to redress any violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d ("Title VI"), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, ("Title IX"), Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794 ("Section 504"), Title II of the Americans with Disabilities Act of 1990 ("ADA") and the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et seq.*, the Age Discrimination Act of 1975, 42 USC § 6101 *et seq.*, ("Age Act"), the Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP), 7 USC § 2011 *et seq.*, and provisions, directives, and implementing regulations that govern DHS' administration of federal public assistance programs. To the extent these procedures conflict with applicable laws, regulations, or directives, such laws, regulations, and directives shall be controlling. This complaint Process does not apply to complaints of discrimination in employment under Title VII of the Civil Rights Act of 1964, as amended.

II. Right to File a LEP or SI Complaint

All DHS constituents have a right to file a complaint of discrimination on the basis of race, color, national origin, disability, age, sex and, in some cases, religion or political beliefs, or for reprisal or retaliation for engaging in prior civil rights activity. The United States Department of Health and Human Services ("HHS") prohibit reprisal or retaliation for prior civil rights activity. No staff or contractor of DHS shall retaliate against a constituent complainant or his/her designee for filing a civil rights complaint or against anyone testifying or assisting in an investigation or engaging in any other protected civil rights activity. Furthermore, utilization of this complaint process is not a prerequisite to filing a complaint with the United States Department of Health and Human Services ("HHS").

DHS must ensure that public notice(s) of right to file a discrimination complaint are posted in accordance with federal regulations and policy guidance.

Note: A "complainant", as used in this document, is a constituent who makes a verbal or written complaint alleging unlawful discrimination. DHS is prohibited from disclosing Personally Identifiable Information (PII) or Protected Health Information (PHI) to unauthorized individuals. Therefore, DHS will not disclose or allow access to the complainant's PII or PHI without the appropriate authorization. In situations where a companion or other individual requests a reasonable modification or communication assistance on behalf of a person with a disability, DHS will contact the constituent with a disability or authorized representative to clarify the request.

III. Denials of Request for Reasonable Modifications under the ADA/Section 504

A request for Reasonable Modification, auxiliary aid, or service for qualified individuals with disabilities may only be denied by the DHS Commissioner or his/her designee.

IV. Procedure for Filing LEP and SI Complaints

A. Filing program complaint of discrimination with Federal Agencies

Notify the public that any constituent or representative may file a verbal or written complaint of discrimination with HHS by mail, fax, or e-mail. See below for information on where to file your Civil Rights or ADA/Section 504 complaint:

U.S. Department of Health and Human Services
Office for Civil Rights Centralized Case Management Operations
200 Independence Ave., S.W. Suite 515F, HHH Building
Washington, D.C. 20201
Customer Response Center: (800) 368-1019
Fax: (202) 619-3818
TDD: (800) 537-7697
Email: ocrmail@hhs.gov

To file a complaint electronically via the HHS Office of Civil Rights Complaint Portal:

<https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>

B. Filing Complaints of Discrimination in Public Assistance Programs with DHS

Any constituent or representative also may file a verbal or written complaint alleging unlawful discrimination **(including if a constituent disagrees with decisions made regarding requests for reasonable modifications, auxiliary aids or services or believes DHS failed to provide a requested reasonable modification or communication assistance under the ADA/Section 504)** by contacting his or her local DHS office or the following DHS state office:

- 1. For discrimination complaints based on national origin (e.g., failure to provide an interpreter for constituents with limited English proficiency), including complaints about decisions made regarding requests for auxiliary aids or services, communication assistance and reasonable modifications under the ADA/Section 504), forward to:**

Georgia Department of Human Services
Program Manager, Limited English Proficiency and Sensory Impairment Program
47 Trinity Ave SW FL-28
Atlanta, GA, 30334
(404) 657-5244*

- 2. For complaints based on race, color, national origin (non-LEP), age, sex, religion, political beliefs or disability, forward to:**

Georgia Department of Human Services
Office of General Counsel
47 Trinity Ave. SW FL-28
Atlanta, GA 30303
(404) 463-0590*

***Constituents with a hearing or speech disability may call 711 for an operator to connect with us.**

C. Communication Assistance

Constituents have a right to free communication assistance to assist in filing a complaint. DHS staff must provide interpreters and translated information when communicating with constituents with limited English proficiency and auxiliary aids and services for constituents with disabilities.

V. Time Period for Submitting Complaints

A complaint is filed timely if it is filed within 180 calendar days of the alleged discriminatory act or if it alleges the discriminatory act is ongoing. The Secretary of Health and Human Services may accept complaints filed after the 180-calendar day deadline if the complainant can provide a 'good cause' explanation for the delay. Therefore, the DHS LEP/SI Program will forward any complaint that does not meet the 180-calendar day deadline to the appropriate federal agency for consideration. The time for filing a complaint with HHS is not governed by this policy.

A. Submission of Written Complaints

Written complaints may be submitted to DHS via hand-delivery, facsimile, e-mail, US mail, or other delivery service utilizing the DHS Discrimination Complaint Form. DHS staff are required to provide the DHS Discrimination Complaint Form to a DHS constituent who requests such form. The DHS Discrimination Complaint Form is not required to make a written complaint. A complaint may also be submitted via letter or e-mail if that is the complainant's/representative's preferred method of communication. Additionally, DHS staff should notify the complainant that they may file a complaint with HHS.

B. Submission of Verbal Complaints

If a complainant or representative makes the allegations verbally or in person, the DHS staff person to whom the allegations are made must write up the elements of the complaint using the DHS Discrimination Complaint Form. At a minimum, the DHS must obtain the following information:

1. Name, address, and telephone number or other means of contacting the constituent alleging discrimination;
2. The location and name of the county, regional or other office delivering the service or benefit;
3. The nature or the incident or action that led the complainant or his/her representative to feel that discrimination was factor, and an example of the

method of administration that is having a disparate effect on the public, potential eligible persons, applicants, or participants;

4. The basis on which the complainant believes discrimination exists;
5. The names, telephone numbers, titles, and business or personal addresses of persons who may have knowledge of the alleged discriminatory action; and
6. The date(s) during which the alleged discriminatory actions occurred, or if continuing, the duration of such actions.

NOTE – DHS staff made are required to assist a constituent or his/her representative, if requested, in navigating through the complaint process, which includes completing the DHS Discrimination Complaint Form and providing information in alternative formats and languages upon request. DHS must ensure translated complaint forms, qualified interpreters, and auxiliary aids and services are available free of charge to DHS constituents and their companions.

VI. LEP and SI Complaint Processing Oversight and Referral

DHS is responsible for ensuring all discrimination complaints filed with DHS for any HHS program are processed in accordance with HHS complaints processing regulations, directives and guidance.

This subsection describes the process for LEP and SI complaint intake, complaint referrals, processing, investigations, and decisions (including a complainant's right to appeal). The process for DHS related complaints is described below:

A. Complaint Intake

All LEP and SI complaints must be forwarded within five (5) business days of receipt to the DHS LEP/SI Program Manager. Complaints must be logged in a manual or computerized tracking system and kept separate from program complaints. Anonymous complaints must be processed as any other complaint, to the extent feasible, based on available information.

The DHS LEP/SI Program Manager or designee will review each complaint to determine if it contains an allegation of discrimination on the basis of a protected class or retaliation or reprisal. Complaints that do not contain such allegations are forwarded to the appropriate office that logs and processes program complaints.

B. Receiving a Complaint for DHS-OFSS SI related Complaints

Within five (5) business days of receipt of a complaint for a DFCS SI related complaint, the DHS LEP/SI Program Manager will forward the complaint to the DFCS Civil Rights, ADA/Section 504 Coordinator or his/her designee to which an acknowledgment letter will be sent to the complainant. At a minimum, the acknowledgment letter must inform the complainant of any planned action, the timeframe for completing the investigation, and request additional information, if needed.

C. Complaint Referrals

1. Complaints Alleging Discrimination Based on Age in HHS Programs

Federal regulations implementing the Age Discrimination Act of 1975 require that all complaints alleging violations of the Act be referred for mediation. DHS must forward all complaints alleging age discrimination, regardless of whether other bases are alleged, to the HHS Regional Office for Civil Rights within five (5) working days after receipt.

If the Federal Mediation and Conciliation Service ("FMCS") mediation is successful, FMCS will notify the appropriate federal agency so that the case can be closed. DHS will receive notification of the closure of the complaint. If mediation is unsuccessful, FMCS will refer the complaint back to HHS for processing through the established complaint processing system.

DHS must participate in mediation on a good faith basis to resolve complaints alleging unlawful discrimination on the basis of age in accordance with 45 CFR 90 and 7 C.F.R. § 15c(7)(d). The representative designated by DHS to participate in mediation must be a neutral party. A person named in the complaint is not a neutral party.

D. Complaint Processing and Investigation

1. Overview

Each decision issued by DHS shall include a notice of appeal rights. The appeal rights language appears under Section E.

Within (14) business days of receipt of a complaint, either the DHS LEP/SI Program Manager will investigate or will work with State, Regional/District or County management to assign a qualified staff person to investigate the case. The assigned investigator must complete the investigation within 45 business days of the date of the complaint. The investigator must gather and evaluate facts that will either support or refute the complainant's allegation(s), ensuring that all relevant sources of information are investigated, which includes a review of the complainant's case file.

The investigator must send the investigative findings to the DHS LEP/SI Program Manager, who will evaluate the report for completeness and soundness of conclusions. If the findings do not contain sufficient information to support the investigative conclusion, the DHS LEP/SI Program Manager will return the findings to the investigator with a time frame for revising the findings.

Within 90 days of accepting the complaint for investigation, DHS will draft a letter of decision that applies the appropriate law to the relevant facts. If the complaint is regarding limited English proficiency, the DHS LEP/SI Program Manager will issue the final written decision. For all other Civil Rights complaints, the DHS Office of General Counsel and/or the appropriate division within DHS will issue the final written decision.

2. Additional Processing for SI Complaints

SI complaints will be reviewed and investigated by the DHS LEP/SI Program Manager. The DHS LEP/SI Program Manager will compile a report for

completeness and soundness of conclusions. If the findings do not contain sufficient information to support the investigative conclusion, the DHS LEP/SI Program Manager will collaborate with appropriate DHS staff related to the complaint to review the decision before it becomes final. The DHS LEP/SI Program Manager will issue a final written decision on complaints.

E. Complainant's Right to Appeal DHS' Final Decision Regarding a Civil Rights or ADA/Section 504 Complaint:

The DHS LEP/SI Program Manager must send the complainant a letter advising him/her of the investigative findings. The letter must also inform the complainant that if he/she does not concur with the results of the investigation, an appeal may be filed with the U.S. Department of Health and Human Services' Office for Civil Rights. The letter must also include the Appeal Rights for each office.

In each final decision letter, DHS will notify the Complainant of his/her right to appeal such decision (including decisions on SI complaints made regarding requests for auxiliary aids and services or reasonable modifications or failing to provide a requested auxiliary aid and services or reasonable modification). Appeals information must be provided in an alternative format or language that the Complainant can understand.

1. Appeals Language for HHS Complaints.

To appeal decisions involving DHS services, programs, or activities funded by the U.S. Department of Health and Human Services ("HHS") (e.g., transportation, child welfare and Medical Assistance (e.g., Medicaid and TANF), the Complainant may appeal to the HHS Office for Civil Rights within 90 days of receiving the final decision letter from DFCS. The appeal should be addressed to:

Office for Civil Rights
Centralized Case Management Operations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201

F. Resolution of Noncompliance/Corrective Actions:

Upon completion of the investigation, the investigator will work with local office management to recommend corrective action (if appropriate). If it is determined that the complainant was discriminated against on the basis of one of the protected classes, or that DHS personnel violated state or federal requirements, the DHS LEP/SI Program Manager will work with State, Regional and County management to ensure that a corrective action plan is prepared, implemented, and monitored to address the violations. DHS will abide by applicable HHS regulations and directives when ensuring the required corrective actions are achieved in a timely manner.

G. Tracking Complaints and Maintaining Complaint Files:

The DHS LEP/SI Program shall maintain a central file on all LEP and SI complaints processed by DHS. If maintained, county complaint files must be stored separately

from program complaints in a central location for review by LEP/SI Program or federal Civil Rights offices. All Civil Rights complaints must be kept confidential and only accessible by authorized individuals.

VI. Other Procedures

The procedures provided herein are in addition to, and not in lieu of, any other remedies available under federal or state law.

REFERENCES:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d)
- Section 504 of the Rehabilitation Act of 1974 (29 USC §794)
- Title IX of the Education Amendments of 1972, Public Law 92-318, as amended (20 U.S.C. § 1681 *et seq.*)
- Age Discrimination Act of 1975 (42 USC § 6101)
- Title II of the Americans with Disabilities Act (ADA) of 1990 (42 USC §12132) at 28 C.F.R. Part 35 and 28 C.F.R. § 35.107
- Title II of the ADA Amendments Act of 2008 (Public Law 110-325)
- U.S. Department of Health and Human Services regulations at 45 C.F.R. Parts 80, 84, and 91
- USDA Food and Nutrition Service Civil Rights Compliance and Enforcement (FNS Instruction 113-1)

This list is not exclusive.