



Commonwealth Council on Developmental Disabilities

Title VI PLAN

2019

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Definitions

Assurance: a written “policy statement” or “contractual agreement” signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.

Complainant: the person who makes the complaint.

Complaint: a verbal or written allegation of discrimination that indicates that a federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color or national origin.

Compliance: a satisfactory condition wherein an applicant, recipient, or sub recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good-faith effort toward achieving this end has been made.

Discrimination: involves any act or inaction, whether intentional or unintentional in any program or activity of a federal aid recipient, sub recipient, or contractor, which results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, sex, national origin, age, disability or in the case of disability, failing to make a reasonable accommodation.

Harassment: the act of systemic and/or continued unwanted and annoying actions of one party or a group including threats and demands. Additionally, unwelcome verbal, written, physical conduct, or electronic communication that either degrades or shows hostility or aversion towards a person because of that person’s race, color, national origin, sex, age, religion, sexual orientation, gender identity, genetic information, disability, political affiliation, veteran status or any other category protected by state and/or federal civil rights laws.

Interpretation: the process of listening to something in one language and orally interpreting it in another. The mix of LEP services under the Oral Languages Services is as follows:

- Hiring bilingual staff
- Hiring staff interpreters
- Using telephone interpreter lines
- Using community volunteers
- Use of family members, friends, and other customers/passengers as interpreters

Limited English Proficiency or LEP: individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English can be limited English proficient.

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Minority: a person or groups of persons differing from others in some characteristics who may be subjected to differential treatment based on race, color or national origin. Includes *African Americans, Hispanics or Latinos, American Indian or Alaska Native, Asians and Native Hawaiian or Other Pacific Islander.*

Non-compliance: the condition wherein a recipient has failed to meet prescribed requirements and has shown a lack of good-faith effort in implementing all of the Title VI requirements.

Program: includes any event sponsored by or funded by the CCDD.

Sub-recipient grantee: any public or private agency, institution, or organization to whom federal financial assistance is intended (through another recipient) for any program.

Third party: a person or entity other than the CCDD staff or council members.

Title VI Coordinator: refers to the responsible CCDD staff in matters relating to Title VI.

Title VI Plan: the system of requirements developed to implement Title VI of the Civil Rights Act of 1964. When appropriate, the phrase "Title VI Plan" also refers to the civil rights provisions of other federal non-discrimination authorities to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, age and disability, including income level and Limited English Proficiency in programs or activities receiving federal financial assistance.

Translation: translation is the replacement of a written text from one language into an equivalent written text in another language.

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Overview

The Commonwealth Council on Developmental Disabilities (CCDD) is established in accordance with Kentucky Revised Statute 41.410 and the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (the DD Act).

The mission of CCDD is to promote systematic change, capacity building, and advocacy activities that are consumer and family-centered and consistent with the DD Act specifically, Subtitle B - Federal Assistance to State Councils on Developmental Disabilities §121-129 (2000). The CCDD has implemented procedures and assurances to assure equal employment opportunity for all employees, members and participants in Council activities and projects.

Scope of Applicability

Policy Statement

The CCDD complies with applicable federal and state civil rights laws and does not discriminate, exclude or treat people differently in employment or its programs. The CCDD prohibits harassment and discrimination based on race, color, national origin, sex, age, religion, sexual orientation, gender identity, genetic information, disability, political affiliation, veteran status or any other protected category.

The CCDD additionally supports federal regulations and Commonwealth Executive Order 13166 ensuring meaningful access to Limited English Proficiency persons to all programs and activities.

Prohibited activities include unwelcome verbal, written, physical conduct, or electronic communication that either degrades or shows hostility or aversion towards a person because of that person's race, color, national origin, sex, age, religion, sexual orientation, gender identity, genetic information, disability, political affiliation, veteran status or any other category protected by state and/or federal civil rights laws.

Responsible Officials

The responsibility for complying with the provisions of the Title VI program is vested in the CCDD Executive Director who is responsible for the overall administration of the CCDD in state administrative processes and as delineated in the DD Act. The Council shall, consistent with State law, recruit, hire and supervise an Executive Director. The Executive Director is appointed under the Office of the Treasury.

The CCDD Executive Director

Kellie McCain, Executive Director
656 Chamberlin Ave, Suite C
Frankfort, KY 40601
502-782-8601
Kellie.McCain@ky.gov

The responsibility for coordinating compliance with this affirmative action plan is assigned to the CCDD Title VI Coordinator. Duties associated with this responsibility include, but are not limited to, the following:

- Oversight and coordination of CCDD compliance with Title VI

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- Completing necessary reports
- Providing guidance and advice on the Title VI Program
- Annually updating the CCDD's Title VI Program Plan
- Investigating of complaints

CCDD Title VI Coordinator

Jennifer Hicks

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Frankfort, KY 40601

502-782-8608

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Statement of Assurances

Standard Title VI Assurances

The Commonwealth Council on Developmental Disabilities (herein after referred to “CCDD”) hereby agrees that as a condition to receiving any Federal financial assistance, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d U.S.C. 2000-d and all other pertinent directives. No person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity for which the CCDD or any sub-recipient receives Federal financial assistance. The CCDD and all sub-recipients are subject to and will comply with the following:

Statutory/Regulatory Assurances

- Title VI of the Civil Rights Act (prohibits discrimination on the basis of race, color, national origin);
- Title IX of the Education Amendments Act of 1972, as amended (prohibits discrimination on the basis of sex in education programs or activities);
- Section 504 of the Rehabilitation Act of 1973, as amended (prohibits discrimination on the basis of disability);
- The Age Discrimination Act of 1975, as amended (prohibits discrimination on the basis of age);
- The Americans with Disabilities Act, as amended (prohibits discrimination on the basis of disability);
- 49 C.F.R. part 27 (titled Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- 28 C.F.R. part 35 (titled Discrimination on The Basis of Disability in State and Local Government Services);
- 28 C.F.R. section 50.3 (U. S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964);

The Civil Rights Act of 1987 clarified the original intent of Congress, with respect to Title VI and other nondiscrimination requirements (The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally funded.

Sub-recipient Grant Assurances

Commonwealth Council on Developmental Disabilities (CCDD)

FY 20__ - 20__

Assurances:

This award is issued under Title 1, Subtitle B of Developmental Disabilities Assistance and Bill of Rights Act of 2000.

The Second Party agrees to perform the services herein and has the legal authority to apply for federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

1. Understands the administration of the project will be aimed toward making a contribution to the statewide quality and extent of community life for persons with developmental disabilities; consideration will be given to the involvement of consumers and residents of service areas in the planning, management, and operation of such services; special consideration will be given to the needs of those residing in urban and rural poverty areas; applicant shall maximize the use of community resources, including volunteers whenever appropriate; participation in the project will be generally representative of the population of the state, with particular attention to the participation of minority groups.
2. Agrees to be evaluated at least twice a year by CCDD relative to how the project is meeting the objectives and making progress toward achieving expected outcomes.
3. Will submit periodic program and financial reports in the manner described by CCDD, a final program report, if applicable, and such other reports as may be required by CCDD in order to administer the program. Failure to submit reports in a timely manner may result in delayed funding or termination of the agreement.
4. Will initiate and complete the work within the applicable time frame, or an adjusted time frame approved by CCDD, after receipt of approval by CCDD.
5. Records shall be maintained in accordance with KRS 45A.410 for a period of NOT LESS THAN five (5) years, or until any pending issues related to the records of an audit or review has been resolved, whichever is later; the aforementioned records requirements, if applicable, shall be included in all approved subcontracts.
6. To ensure consistency of the CCDD brand across all media, the second party must provide assurances that any products, publications, etc. produced by the project shall follow the guidelines of the CCDD brand style guide. The second party shall further assure that it will work closely with the CCDD staff in the development of products, publications, and any proofs, etc., shall be submitted to staff for review and editing before printing and/or production. Proofs include any published materials (newspaper, magazines, etc.).
7. Will ensure services provided under this project are administered and/or supervised by qualified personnel; such qualifications are determined by reference to current certification and occupational standards, federal, state and local licensing laws.
8. Any direct services provided will be provided in an individualized manner; the human rights of all individuals with developmental disabilities will be protected.

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9. Will establish ethical safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain. Further, applicant will notify CCDD, in writing, of any potential conflict of interest that may affect the award.
10. Will adhere to Commonwealth Anti-Harassment and anti-discrimination regulations as provided by the Office of Diversity, Equality and Training and Executive Order 2008-473 prohibiting harassment on the basis of race, color, national origin, sex, age, religion, sexual orientation, gender identity, genetic information, disability, political affiliation, veteran status or any other category protected by state and/or federal civil rights laws.
11. Payment will be made upon receipt of appropriate, acceptable and timely bills submitted to the CCDD by the Second Party. Payment by the CCDD to the Second Party, as well as the Second Party's continued performance, shall be subject to the availability and allocation of local agency or governmental funds, or state or federal funds necessary to finance the performance of the services described in this agreement.
12. Will comply with applicable administrative requirements and cost principles in accordance with 2 CFR Part 200, "Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards." All costs shall be reasonable, allowable, and allocable; applicant shall assume sole and entire responsibility for the payment of its taxes.
13. Will generate and document matching expenditures as required by federal regulations and CCDD; that such matching expenditures are not included as contributions for any other federally-assisted project/program and are not paid by the federal government under another award.
14. Will comply with all applicable federal and state laws, regulations, guidelines and requirements including, but not limited to the following:
 - a. The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (P.L. 106-402), as amended,
 - b. All federal statutes relating to nondiscrimination. These include but are not limited to:
 - c. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
 - d. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex;
 - e. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps;
 - f. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age;
 - g. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - h. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - i. Sections 523 and 527 of the Public Health Service Act of 1912 {42 U.S.C. §§290 (dd)-(3) and 290 (ee)(3)}, as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - j. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;

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- k. Section 507 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1995, Purchase of American-Made Equipment and Products (P.L. 103-333), which states, “It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.”;
- l. Part C of the Pro-Children Act of 1994 (P.L. 103-227), which provides that smoking may not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by federal programs whether directly or through state or local governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, and contracts. The law does not apply to children’s services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment;
- m. CFR 75.215 Disclosure of lobbying activities. Recipients are subject to the restriction on lobbying as set forth in 45 CFR part 93.
- n. Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104);
- o. Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235), Salary Limitation (Section 203), Gun Control (Section 217), Restriction on Distribution of Sterile Needles (Section 522), Anti-Lobbying (Section 503);
- p. Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and,
- q. The requirements of any other nondiscrimination statute(s) which may apply to the application.

Compliance and Program Review

The CCDD Quality Management System (QMS) is a monitoring plan to assure compliance with federal and state regulations. The QMS includes a methodology, frequency, measurements and assurances to identify areas of nonperformance so that corrective action or technical assistance can be provided. The systems also identifies areas of strength so success can be recognized and built on.

The QMS has three objectives:

1. Program Performance
2. Allowable Expenditures
3. Compliance with applicable laws and regulations

The CCDD utilizes several methods to determine effectiveness and compliance for all CCDD funded activities. Methods identify the operations that are completed to assure a quality system. Elements of the system identify the factors in which quality is measured against. The QMS encompasses both methods and elements to identify strengths and areas of need in internal and vendor operations.

Elements

- Policy and Procedures
- By-Laws
- Five Year State Plan
- Contract Deliverables
- CCDD Assurances
- Federal Performance Measures
- Parliamentary Procedure
- Federal Program Performance Review (PPR)
- On Line Reporting System
- Federal 425 Financial Report

Methods

- Program Performance Review
- Financial Accountability Review
- Desk Review
- Remediation
- Vendor and Project Quarterly Reporting
- Consumer Satisfaction Surveys
- Council Member Evaluation and Review
- Quarterly Management Review
- Weekly Updates to Executive Committee
- Weekly Staff Meetings

Remediation for Program Compliance

Remediation is a reconciliation process addressing findings in any area of performance including contract compliance, fiscal accountability and program integrity. Upon the finding and documentation of findings or citations, CCDD staff will begin the facilitation of a remediation process adhering to any applicable federal and state authorities or Parliamentary Procedure when addressing Council business activities. Remediation may include, but is not limited to: conflicts of interest, contract noncompliance, Council complaints, financial matters, vendor performance and matters regarding Open Records and Meetings laws.

When such issue occurs, CCDD staff will begin documentation of the issue. A report will be provided to the Executive Director and Council Chairperson. The Executive Director will identify the appropriate remediation process to take and communicate the matter with the Council Chairperson. Follow up steps will be taken according to any applicable regulation including state and federal law, Parliamentary Procedure or written policy. In the event federal or national

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associations must be alerted, the Executive Director, with input from the Council Chairperson, will serve as liaison and provide the appropriate information.

Complaints

Any employee, council member or third party who has a complaint of discrimination or harassment at Council activities or programs, has a duty to immediately bring the problem to the attention of management. The complainant may be made to the Executive Director or the CCDD Title VI Coordinator. The complainant may also be made directly to the Kentucky Commission on Human Rights at 1-800-292-5566 or kchr.mail@ky.gov.

Any staff receiving a complaint of discrimination or harassment shall report the complaint to the Executive Director, the agency Title VI coordinator or directly to the Kentucky Commission on Human Rights. Failure to do so may be grounds for disciplinary action.

Process

Persons making a complaint should use the CCDD Complaint Form. Allegations of discrimination received by fax or e-mail will be acknowledged and processed.

Allegations received verbally will be reduced to writing and provided to the complainant for confirmation or revision before processing.

Complaints should include the following:

- The complainant's contact information
- Identification of the person or agency alleged to have discriminated or harassed
- Sufficient information regarding the facts that led the complainant to believe that discrimination has occurred
- Date(s) of the alleged discriminatory act(s)
- Signature of the complainant or the complainant's representative

Complaints will be promptly and carefully investigated. All employees, council members and third parties are assured that they will be free from any and all reprisal or retaliation from filing such complaints. Further, all persons are assured that they will be free from any and all reprisals and retaliation for participating in an investigation of harassment.

Receipt of complaints shall be acknowledged in writing to the complainant. The acknowledgement shall include notification that an investigation will be conducted within 10 business days.

The Title VI Coordinator shall conduct a full investigation, when warranted, and furnish a preliminary written report, including recommendations for resolution to the CCDD Executive Director for a final determination.

The CCDD Executive Director shall notify the complainant of the results within 10 business days of completion of the investigation.

Records pertaining to complaints, inquiries and investigations will be maintained by the CCDD Title VI Coordinator.

Withdrawal of a Complaint

The complainant may withdraw his or her complaint at any time after filing and prior to the issuance of a determination or resolution by the CCDD. The withdrawal must be in writing. The complainant should use the CCDD Withdrawal of Complaint Form. The following information should be included:

- The complainant's contact information
- Identification of the person or agency alleged to have discriminated or harassed
- Sufficient information regarding the reason for withdrawal
- Date(s) complaint filed
- Signature of the complainant or the complainant's representative

Complaint Disposition

If a complaint cannot be resolved by the CCDD to the satisfaction of the complainant, the complainant may file a separate complaint with the Kentucky Commission on Human rights at 1-800-292-5566 or kchr.mail@ky.gov.

Agency Title VI Training Plan

All staff and council members will be provided Title VI training that includes the CCDD Title VI plan. Training will be completed annually. New staff and council members will receive Title VI training at orientation.

Technical assistance and refresher training will be available as needed to all staff and council members. The CCDD TITLE VI coordinator is designated to review Title VI issues on a quarterly basis.

Public Notice and Outreach

The CCDD will discuss and/or distribute Title VI Program information using mass media including, but not limited to the following:

- Title VI Plan Brochure
- Title VI Plan
- CCDD website
- Inclusion of Title VI Program language in contracts
- New employee/council member orientation
- Council member handbook
- Public Policy Committee

Record Keeping and Reporting

All Title VI complaints will be maintained by CCDD. Title VI data and Limited English Proficiency will be reviewed on a quarterly basis and reported in the CCDD annual report and as applicable in the federal program performance review.

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The CCDD will report Title VI demographics of staff and council members in the federal Five Year Plan along with subsequent annual updates as required.

Limited English Proficiency (LEP)

The CCDD has an on-going commitment to ensure effective communication by developing and implementing best practices and procedures for identifying and assessing the language needs of its LEP staff, members and participants. CCDD will include in the comprehensive assessment in the federal Five Year Plan information on minorities and LEP within the Commonwealth. CCDD will provide for a range of language assistance options, which include, but are not limited to the following:

- Kentucky Relay Service – TDD/Voice Users
- Written and telephonic language service
- Access to qualified interpreters
- Community-based organizations/volunteers
- Staff identified for LEP assistance

In addition, sub recipient grantees are required in CCDD Assurances to address LEP as indicated below:

“Limited English Proficiency (LEP) Understands the administration of the project will be aimed toward making a contribution to the statewide quality and extent of community life for persons with developmental disabilities; consideration will be given to the involvement of consumers and residents of service areas in the planning, management, and operation of such services; special consideration will be given to the needs of those residing in urban and rural poverty areas; applicant shall maximize the use of community resources, including volunteers whenever appropriate; participation in the project will be generally representative of the population of the state, with particular attention to the participation of minority groups.”

Appendix

Complaint Form

COMMONWEALTH COUNCIL ON DEVELOPMENTAL DISABILITIES

COMPLAINT UNDER CIVIL RIGHTS ACT OF 1964

Date: _____

TO: Commonwealth Council on Developmental Disabilities

I, _____, hereby file an official complaint against

Name of Person or Agency

located at: _____

Complainant's Name: _____

Complainant's Address: _____

Basis of complaint (include witnesses or other evidence): _____

Date of alleged discrimination: _____

Complainant's Signature

Date Signed

Withdrawal of Complaint Form

COMMONWEALTH COUNCIL ON DEVELOPMENTAL DISABILITIES

WITHDRAWAL OF COMPLAINT OR APPEAL

Date: _____

TO: Commonwealth Council on Developmental Disabilities

I, _____, hereby withdraw my

Check appropriate term:

complaint or

appeal (appeal from finding)

filed on _____ against _____
Date Name

located at _____

Complainant's Name: _____

Complainant's Address: _____

Reason for Withdrawal: _____

Signed: _____