



Defense Health Agency

ADMINISTRATIVE INSTRUCTION

NUMBER 101
September 14, 2018

J-1, A&M/PCLO

SUBJECT: Processing Procedures for Complaints Involving Discrimination in Military Health System (MHS) Health Programs and Activities

References: See Enclosure 1.

1. PURPOSE. This Defense Health Agency-Administrative Instruction (DHA-AI), based on the authority of References (a) and (b), and in accordance with the guidance of References (c) through (l), establishes the Defense Health Agency's (DHA) procedures to assess and respond to discrimination complaints, in accordance with Reference (d).
2. APPLICABILITY. This DHA-AI applies to all DHA personnel to include: assigned, attached, or detailed Service members, federal civilians, and other personnel assigned temporary or permanent duties at DHA, to include intermediate management organizations, markets, and medical treatment facilities.
3. POLICY IMPLEMENTATION. It is DHA's policy, pursuant to References (d) through (i), that:
 - a. All MHS Health Programs and Activities be conducted without discrimination on the basis of race or national origin, sex, age, or disability.
 - b. All MHS Health Programs and Activities have a responsibility to maintain informal and formal complaint processes for addressing violations of DoD policy of nondiscrimination in federally-assisted and federally-conducted programs.

4. RESPONSIBILITIES

a. Director, DHA. The Director, DHA, will be responsible for the implementation of this DHA-AI to ensure that DHA appropriately responds to and resolves all complaints in a timely manner.

b. Chief, Privacy and Civil Liberties Office (PCLO), DHA. The Chief, PCLO, DHA, will:

(1) Serve as the central point of contact for receiving and processing all complaints in accordance with Reference (d).

(2) Provide informational support and technical assistance to MHS components in relation to the sample/template nondiscrimination notice (Enclosure 3) requirements and complaint processing.


5. PROCEDURES. See Enclosure 2.

6. RELEASABILITY. **Not cleared for public release**. This DHA-AI is available to users with Common Access Card authorization on the DHA SharePoint site at: <https://info.health.mil/cos/admin/pubs/SitePages/Home.aspx>.

7. EFFECTIVE DATE. This DHA-AI:

a. Is effective upon signature.

b. Will expire 10 years from the date of signature if it has not been reissued or cancelled before this date in accordance with DHA-Procedural Instruction 5025.01 (Reference (c)).



R. C. BONO
VADM, MC, USN
Director

Enclosures

1. References
2. Procedures
3. Sample/Template Nondiscrimination Notice

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5136.01, “Assistant Secretary of Defense for Health Affairs (ASD(HA)),” September 30, 2013, as amended
- (b) DoD Directive 5136.13, “Defense Health Agency (DHA),” September 30, 2013
- (c) DHA-Procedural Instruction 5025.01, “Publication System,” August 21, 2015, as amended
- (d) DHA-Procedural Instruction 6025.02, “Nondiscrimination in Military Health System (MHS) Health Programs and Activities,” June 9, 2017
- (e) Public Law 111-1148, Section 1557, “Patient Protection and Affordable Care Act,” March 23, 2010
- (f) United States Code, Title 42, Section 2000d
- (g) United States Code, Title 20, Section 1681
- (h) United States Code, Title 42, Section 6101
- (i) United States Code, Title 29, Section 794
- (j) DoD Directive 1020.02E, “Diversity Management and Equal Opportunity in the DoD,” June 8, 2015, as amended
- (k) Code of Federal Regulations, Title 32, Parts 199.6 and 199.9
- (l) United States Code, Title 10, Chapter 55

ENCLOSURE 2

PROCEDURES

The DHA's TRICARE Health Program is a government statutory health benefits program solely funded by a DoD appropriation. Therefore, DHA has the responsibility to adjudicate each related complaint. The following are key steps that are necessary to execute proper and timely complaint processing.

1. GENERAL. It is essential to the integrity of the administration of this DHA-AI that workforce members and applicants involved in a complaint cooperate fully. All discrimination allegations involving MHS Health Programs and Activities based on race or national origin as prohibited by Reference (f); sex as prohibited by Reference (g); age as prohibited by Reference (h); and disability as prohibited by Reference (i), will process as follows:

a. Discrimination complaints filed by two or more complainants consisting of substantially similar allegations of discrimination or related to the same matter. Such complaints may be consolidated by the Chief, PCLO, DHA, with the appropriate notification to the complainants.

b. Two or More Complaints of Discrimination Filed by the Same Complainant. These complaints will be consolidated for joint processing after the appropriate notification is made to the complainant.

c. The Chief, PCLO, DHA, will not accept complaints filed more than 180 calendar days after the alleged discrimination took place.

2. COMPLAINT PROCESSING. All complaints directed toward DHA or the TRICARE Health Plan (including National Capital Region, medical treatment facilities, and the Purchased Care Contractors), will be routed to the Chief, PCLO, DHA, for processing. The Chief, PCLO, DHA, will:

a. Upon receipt, review the allegations, and consult with the Office of General Counsel (OGC) prior to taking next steps.

b. Acknowledge receipt of the complaint via formal correspondence.

c. Initiate the investigation with the appropriate investigating entity.

d. Adhere to 30 business days to provide his/her findings and supporting documentation by each investigating entity.

e. Assess the findings for completeness, and draft a response letter to the complainant.

f. Submit the proposed response letter and any supporting documentation to OGC for review and concurrence, prior to submitting a final response to the complainant.

g. Send a final response letter to the complainant within 10 business days of a complete

investigation.

h. Maintain comprehensive files for each complaint, and retain all related correspondence items.

i. Maintain a file on each complaint decision issued at the Service-level.

3. TIME LIMITS

a. The Chief, PCLO, DHA, will have 5 business days following receipt of a complaint to send an acknowledgement letter to the complainant.

b. The Chief, PCLO, DHA, will coordinate with OGC and initiate an investigation within 10 business days of complaint receipt.

c. Each investigating entity will have 30 business days to conduct their investigation and report back to the Chief, PCLO, DHA. If an extension is needed, a request must be submitted to the designated point of contact within PCLO, DHA, no later than 5 business days before the assigned suspense.

d. Upon receipt of a complete investigation report, the Chief, PCLO, DHA, will have no more than 10 business days to consult with OGC and draft a response to the complainant.

ENCLOSURE 3

SAMPLE/TEMPLATE NONDISCRIMINATION NOTICE

Discrimination is Against the Law

[Name of MHS Health Program or Activity] complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. [Name of MHS Health Program or Activity] does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.

If you believe that [Name of MHS Health Program or Activity] has discriminated on the basis of race, color, national origin, age, disability, or sex, you can file a grievance with: [Name and Title of Civil Rights Coordinator], [Mailing Address], [Telephone number], [TTY number—if covered entity has one], [Fax], [Email]. You can file a grievance in person or by mail, fax, or email. If you need help filing a grievance, [Name and Title of Civil Rights Coordinator] is available to help you.

You can also file a civil rights complaint with the DHA PCLO via mail at: Defense Health Agency, Privacy and Civil Liberties Office, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia, 22042-5101: (703) 275-6363. Please contact the DHA PCLO for a complaint form.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DHA	Defense Health Agency
DHA-AI	Defense Health Agency-Administrative Instruction
MHS	Military Health System
OGC	Office of General Counsel
PCLO	Privacy and Civil Liberties Office

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this DHA-AI.

MHS. The DoD medical and dental programs, personnel, facilities, and other assets, operating pursuant to Reference (k), by which the DoD provides healthcare services and support to the Military Services during military operations, and healthcare services and support under TRICARE to members of the Military Services, their family members, and others entitled to DoD medical care. It includes the education and training of DoD medical personnel.

MHS Health Program or Activity. Established for the provision of healthcare services, or the education or training of healthcare personnel.