

Chapter 50: NON-DISCRIMINATION POLICY AND GRIEVANCE PROCEDURE**SECTION 1. POLICY ¹**

It shall be the policy of the State of Maine that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the State of Maine or be subjected to discrimination by the State.

1. Protected individuals with disabilities

- A.** The protections in this non-discrimination policy and grievance procedure shall apply to individuals with disabilities as defined in Title II of the Americans with Disabilities Act and in Section 504 of the Rehabilitation Act, *i.e.*, those persons who have a physical or mental impairment that substantially limits one or more of their major life activities, have a record of such an impairment, or are regarded as having such an impairment.
- B.** The protections in this policy and procedure shall apply, as well, to individuals with physical or mental disabilities as defined in the Maine Human Rights Act (MHRA), which is intended to be interpreted broadly to create greater coverage than under the Americans with Disabilities Act or Section 504. Individuals who have physical or mental impairments that substantially limit a major life activity, that significantly impair physical or mental health, or that require special education, vocational rehabilitation, or related services are protected by the MHRA. Individuals with specific disabilities listed in the MHRA are also protected. The MHRA also protects individuals who have a record of, are regarded as, or are likely to develop a physical or mental impairment or any of the specific disabilities under the MHRA.

- 2.** These procedures apply to all programs, services, and activities of the State of Maine.
- 3.** All programs, services, and activities, including grants and contracts, shall be available to individuals with disabilities in the same manner as accorded to all other persons in Maine.
- 4.** Complaints from individuals with disabilities alleging discrimination with respect to access to State programs, services, and activities shall be processed quickly and fairly. At the same time, complainants should be informed that the Maine Human Rights Commission also will investigate claims of discrimination, if a complaint is filed with that office no later than 180 days after the alleged discriminatory action. Call the Commission at (207) 624-6050 (voice) or (888) 577-6690 (TTY) with any questions concerning their process.
- 5.** The State of Maine designated employee with responsibility for coordinating State compliance with 45 C.F.R. § 84.7(a) and 28 C.F.R. § 35.107(a), the regulations implementing the ADA and Section 504 of the Rehabilitation Act with regard to

¹ This policy is adopted pursuant to the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, (“ADA”); the Rehabilitation Act of 1973, 29 U.S.C. §701 *et seq.* (“Rehabilitation Act”); and the Maine Human Rights Act, Title 5 M.R.S.A. §4551, *et seq.*

programs, services, and activities, is the State Accessibility Coordinator. Pursuant to Executive Order 07 FY 04/05, each department or agency shall designate at least one accessibility coordinator.

SECTION 2. PROCEDURES

1. General

Any individual with a disability who believes he/she has been subjected to discrimination on the basis of disability may discuss the complaint with departmental staff and/or may file a grievance under this procedure.

It is unlawful for the State of Maine, its employees, contractors, or grantees to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

2. Form for filing

A grievance may be made in writing or by tape recording. A grievance may be filed on the "Disability Discrimination Grievance" form attached to this policy ("Attachment 1").

The grievance shall contain the name, address and telephone number of the person filing it (the grievant) and shall state the problem or action alleged to be discriminatory and any remedy or relief sought by the grievant.

3. Process

Grievances shall be processed in the following manner:

A. Step A – Discussion of complaint with department

Any individual with a disability (and/or representative of this person) may file a complaint with the departmental staff or the department head (or the department head's designee) where the problem occurs, within 90 days of the alleged discriminatory action. The complaint at Step A may be verbal, written, or recorded.

Whenever possible, the staff will attempt to resolve complaints informally by discussing the matter with the individual and other relevant persons. The staff may consult with or may refer the complaint to the department's Accessibility Coordinator or the State Accessibility Coordinator.

If the issue is not resolved within ten (10) working days from the date filed, the grievant may elect to move the grievance to Step B.

B. Step B – Filing of grievance

Any individual with a disability (and/or representative of this person) may file a formal grievance with the department's Accessibility Coordinator or the State Accessibility Coordinator within 90 days of the alleged discriminatory action, or within 30 days of the departmental response or the completion of Step A, whichever is latest.

Any such grievance shall be in writing or tape recording identifying the specific complaint, together with the desired resolution, as well as the grievant's name and contact information.

C. Step C – Investigation and decision

The State Accessibility Coordinator shall respond to any grievance that concerns Statewide matters. The State Accessibility Coordinator may assign responsibility to one or more departments for responding to the grievance or portion of a grievance.

The responsible Accessibility Coordinator (or his/her designee) shall conduct an investigation, if an investigation is warranted, of the grievance to determine its validity. The Accessibility Coordinator who is conducting the investigation shall prepare a draft written determination about the grievance and submit it to the responsible department head. The Accessibility Coordinator, after consultation with the department head or his/her designee, shall issue a written decision to the grievant within a reasonable time period.

The responsible Accessibility Coordinator's written decision shall be the State's final decision on the grievance.

4. Other remedies

The availability and use of this grievance procedure does not preclude a person with a disability from filing a complaint of discrimination with the Maine Human Rights Commission, the Civil Rights Division of the U.S. Department of Justice, or with any other appropriate court or government agency.

5. Accommodations

The State of Maine will make appropriate accommodations and modifications to ensure that individuals with disabilities can participate in or make use of these grievance procedures. Individuals who need auxiliary aids or services, or other reasonable modifications to rules, policies, or practices are invited to contact the agency Accessibility Coordinator or State Accessibility Coordinator.

6. Address and phone

The State Accessibility Coordinator may be reached at 150 State House Station, Augusta, ME 04333-0150 or at (207) 592-2087 (voice), (888) 577-6690 (TTY), or (207) 287-5292 (fax).

Attachment 1

**STATE OF MAINE
DISABILITY DISCRIMINATION GRIEVANCE
REGARDING PROGRAMS, SERVICES, ACTIVITIES**

Procedures for filing a grievance are described in State of Maine's "Non-Discrimination Policy and Grievance Procedure." While we encourage you to use this grievance process, you also should be aware that the Maine Human Rights Commission is another avenue for investigating cases that are within its jurisdiction. You must file a complaint with that office no later than 180 days after the alleged discriminatory action. (If your grievance is resolved, you may withdraw your Commission complaint.) Call the Commission at (207) 624-6050 (voice) or (888) 577-6690 (TTY) with any questions concerning their process.

Please tell us if you need assistance in preparing this form, or if you need to submit your grievance in a different format.

Please fill in the following sections. Be specific and provide details to explain exactly what happened or what you are requesting. Feel free to attach additional pages if you need more room.

Name:

Address:

Contact number(s) (landline, cell, TTY):

What is the State program, service, or activity that is the subject of your grievance or your request (for example, participating in a program or attending a public meeting)?

Describe what happened (date, time, place, people involved, and why you believe the incident was discriminatory).

What actions have you already taken to try to resolve this grievance?

How would you like the State to resolve your grievance so that you may participate in the program, service, or activity without discrimination? Please list any alternatives and let us know which you prefer. Potential solutions could include changes to policies, practices, or procedures; removing architectural, communication, or transportation barriers; and providing auxiliary aids and services.

Please be advised that, in order to evaluate this grievance, the State may need to inquire as to the nature of your disability. If this information is provided to the State, it will be maintained in a confidential manner.

Please sign and date this form:

Signature:

Date:

Please give this form to the State employee running the program, or you may send it to: State Accessibility Coordinator, 150 State House Station, Augusta, ME 04333-0150.
Phone: (207) 592-2087 (voice), (888) 577-6690 (TTY), Fax: (207) 287-5292.

For State employee use only

Received by:

Date: