

VOLUNTARY COMPLIANCE AGREEMENT

between

THE OFFICE FOR CIVIL RIGHTS

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

and

**NORTH CAROLINA DEPARTMENT OF HEALTH
AND HUMAN SERVICES**

Transactional No: 01-00431 (OCR Reference No: 04-01-700)

I. Background

- A. The parties to this Voluntary Compliance Agreement (Agreement) are the North Carolina Department of Health and Human Services (NCDHHS) and the Office for Civil Rights of the United States Department of Health and Human Services (OCR). NCDHHS is the State agency responsible for administering various federally funded benefit programs including the Aging, Services for the Blind, Child Development, Services for the Deaf and Hard of Hearing, Medical Assistance, Mental Health, Developmental Disabilities and Substance Abuse, Minority Health and Health Disparities, Public Health, Rural Health Development, Social Services, Vital Records and Vocational Rehabilitation.
- B. As a recipient of Federal financial assistance, NCDHHS is subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d *et. seq.* (title VI), and implementing regulation as found at 45 C. F. R. Part 80. Title VI prohibits recipients of Federal financial assistance from discriminating on the basis of race, color, or national origin. Title VI applies to both intentional discrimination and policies, practices or procedures that have a disparate impact on the basis of race, color, or national origin. In health and human service programs, recipients' failure to take reasonable steps in certain circumstances to ensure that individuals who are limited English proficient (LEP) have meaningful access to their programs may constitute discrimination on the basis of national origin, in violation of title VI.
- C. OCR is conducting a compliance review of the NCDHHS to determine whether the agency is instituting reasonable measures to ensure that its LEP clients, and/or, potential clients, have meaningful access to its various programs and activities. During the course of the subject review, OCR is examining whether NCDHHS utilizes appropriate policies, procedures, and practices to meet its obligations in this respect as required under title VI and implementing regulation.

Voluntary Compliance Agreement

Transactional No: 01-00431

(OCR Reference No: 04-01-700)

Page 2

- D. The subject investigation has included on-site reviews of the Departments of Social Services and health departments in Chatham, Randolph, Johnston, Wake and Forsyth counties. On May 24, 2002, OCR issued a preliminary letter of findings, which summarized OCR's determination that the evidence gathered thus far demonstrates that the NCDHHS has taken some steps to provide language assistance to LEP clients. However, OCR's preliminary assessment further indicates that overall, the NCDHHS has not taken enough reasonable steps to ensure that Hispanic/Latino, Hmong and other national origin groups who speak a primary language other than English enjoy meaningful access to its programs and services. As discussed in greater detail in the subject correspondence, OCR's preliminary assessment of the evidence clearly shows that in the absence of appropriate measures national origin minorities who are LEP have greater difficulty accessing the various services, programs and benefits provided by NCDHHS, and/or, are outright denied access to the same. In addition, OCR's assessment of the record discloses that NCDHHS' failure to take reasonable steps also causes some national origin minorities who are also the agency's LEP clients, or prospective clients, to be subjected to differential treatment.

In the subject correspondence OCR also offered to enter into a voluntary compliance agreement with the agency to address OCR's concerns, as well as to address any potential violations of title VI as reflected in the record being compiled during the course of the subject compliance review. By a letter dated August 8, 2002, NCDHHS accepted OCR's offer and expressed its willingness to enter into the subject Agreement with OCR.

II. General Provisions

- A. In consideration of OCR agreeing to discontinue the subject compliance review and issuing formal findings resulting therefrom, the NCDHHS agrees to enter into the subject Agreement setting forth the specific measures it will take to address OCR's concerns and to otherwise satisfy its obligations under title VI.
- B. The parties agree that resolution of the matters addressed in this Agreement is intended to be without prejudice to any other compliance review or complaint investigation that may be pending before OCR, now or in the future.
- C. OCR agrees to provide ongoing technical assistance as requested by NCDHHS to implement this Agreement.
- D. OCR agrees to bring to the attention of NCDHHS any complaint received by OCR within one (1) year of the signing of this Agreement against NCDHHS which involves matters addressed herein in order to attempt informal resolution before investigative activity is initiated.

Voluntary Compliance Agreement

Transactional No: 01-00431

(OCR Reference No: 04-01-700)

Page 3

- E. NCDHHS agrees, for two (2) years following the signing of the Agreement, to bring to the attention of OCR any changes it proposes to make in its “DHHS Policy on the Prohibition Against National Origin Discrimination As it Affects Persons with Limited English Proficiency”, or related computer formats, which involve the matters addressed herein, in order to address any OCR concerns before changes are made.
- F. This Agreement primarily addresses programs/activities under the jurisdiction of the U. S. Department of Health and Human Services.

III. Specific Provisions

- A. NCDHHS shall, if it has not already done so, adopt the attached DHHS Title VI Policy (i.e., Title VI of the Civil Rights Act of 1964; Policy on the Prohibition Against National Origin Discrimination As It Affects Persons with Limited English Proficiency” within thirty (30) days of executing the subject Agreement. The agency further agrees to submit to OCR copies of the adopted policy, containing appropriate signatures, within fifteen (15) days after it has been finalized.
- B. Prior to adopting DHHS Title VI Policy, the agency agrees to review and consider instituting revisions as proposed by OCR. With respect to revisions proposed by OCR which NCDHHS elects not to incorporate in the final policy, the agency agrees to submit a written explanation to OCR regarding each such unacceptable revision within twenty (20) days of executing the subject Agreement.
- C. NCDHHS agrees to begin immediately after the executing of this Agreement to undertake necessary steps to implement the DHHS Title VI Plan. The agency further agrees to have all such steps completed within one (1) year from the date of this Agreement.
- D. Beginning ninety (90) days from the execution of this Agreement, the NCDHHS agrees to submit quarterly reports to the OCR detailing its efforts to implement every aspect of the DHHS Title VI Policy, including, but not limited to the following:
 - 1. Dissemination of the DHHS Title VI Policy (how, when and to whom with sample copies).
 - 2. Copies of any instructions and time frames for completion regarding the development of individual plans.
 - 3. Confirmation, by name, date, division, institutions, office, local covered entity, etc., regarding the completion of each plan, including the identification of the staff position responsible for implementing the activities related to the plan.

Voluntary Compliance Agreement

Transactional No: 01-00431

(OCR Reference No: 04-01-700)

Page 4

4. Copies of the local plans submitted by departments of Social Services and Health situated in Chatham, Randolph, Johnston, Wake and Forsyth counties. NCDHHS agrees to review these plans, and upon approval submit them to OCR for follow-up review and concurrence.
5. Copy of the annual compliance report prior to dissemination.
6. Notification to OCR of the date due and location of the first annual compliance reports required by the DHHS Title VI Policy.
7. Notification to OCR of the date of the first compliance reviews to be conducted by the Department including the name and location of the entities reviewed and a copy of the review report.

IV. Enforcement

- A. The parties agree that if OCR determines that NCDHHS has materially breached any provisions of this Agreement OCR shall promptly notify NCDHHS and give it thirty (30) days to implement corrective action to overcome such a breach. OCR reserves the right to initiate a compliance review or to take appropriate action to enforce the provisions of this Agreement including referring the matter to the Department of Justice for further action.
- B. NCDHHS agrees to retain the records and to provide the written documentation required under this Agreement. NCDHHS also agrees to provide other information as may be requested and necessary to assure OCR that the provisions of this Agreement have been fulfilled.

V. Signatures

The following parties enter into this Agreement.

Carmen Hooker Odom, Secretary
North Carolina Department of
Health and Human Services

Roosevelt Freeman
Regional Manager
Office for Civil Rights

Date: _____

Date: _____