

**NEBRASKA DEPARTMENT OF EDUCATION
METHODS OF ADMINISTRATION (Civil Rights) COMPLIANCE MANUAL**

INTRODUCTION

The Nebraska Department of Education in conjunction with the Office for Civil Rights (OCR) are mandated pursuant to the “Carl D. Perkins Career and Technical Education Improvement Act of 2006” to monitor the operations of Local Education Agencies (LEAs) career and technical programs throughout the State of Nebraska, which receive federal funds to ensure compliance with several civil rights statutes. It is our responsibility to ensure that the recipients of State and Federal funds are not engaging in unlawful discrimination. The Methods of Administration Compliance Manual provides procedures for the investigation of civil rights complaints and visits led by the Methods of Administration (MOA) Coordinator to ensure compliance with the civil rights statutes.

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Article I: PURPOSE

Nebraska is mandated by the United States Department of Education to develop a Methods of Administration (MOA) review process to ensure civil rights compliance with Title VI of the Civil Rights act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disability Act (ADA) of 1990 of ALL recipients, as defined below. If unlawful discrimination occurs under the civil rights statutes, the Nebraska Department of Education, the United States Department of Education Office for Civil Rights (OCR), and/or the United States Department of Justice (DOJ) have the authority to enforce compliance through the denying of federal funding.

Article II: DEFINITIONS

As used in this Civil Rights Compliance Manual, the following terms shall mean:

<i>Civil Rights Statutes</i>	The following constitute civil rights statutes that are enforced against Local Education Agencies by the Nebraska Department of Education: <ul style="list-style-type: none"> • Title VI of the Civil Rights Act of 1964; • Title IX of the Education Amendments of 1972; • Section 504 of the Rehabilitation Act of 1973; and • Title II of the Americans with Disabilities Act of 1990.
<i>Covered Class</i>	Shall mean those individuals for whom the specified statute was meant to protect from discrimination. Specifically discrimination based on: <ul style="list-style-type: none"> • Race, Color, or National Origin (Title VI); • Sex (Title IX); • Disability (Section 504 or Title II of the ADA)
<i>CTE</i>	Shall mean Career and Technical Education
<i>ED</i>	Shall mean the United States Department of Education.
<i>LEP</i>	Limited English Proficiency (sometimes also referred to as ELL (English Language Learner)
<i>Local Education Agency</i>	The Local Education Agency (LEA) shall be any 9-12 school, school system or community college located within the State of Nebraska. Use of the term LEA can be used generically or to describe a specific school, school system or community college.
<i>LOF</i>	Shall mean Letter of Findings
<i>MOA</i>	Shall mean Methods of Administration
<i>OCR</i>	Shall mean the United States Department of Education Office for Civil Rights.
<i>Recipient</i>	Nebraska high schools or community colleges with a career and technical program, who participate in or receive Federal or State funds distributed by the Nebraska Department of Education

<i>Statistical Significance</i>	Occurs when statistical data reveals an over- or under-representation of a specific covered class within a program or activity of the recipient or the over- or under-representation is not congruent and proportional to the population of the covered class at issue within the particular school or school system.
<i>NDE</i>	Shall mean Nebraska Department of Education
<i>Section 504</i>	Shall refer to Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104 (Section 504).
<i>Title VI</i>	Shall refer to Title VI of the Civil Rights Act of 1964.
<i>Title IX</i>	Shall refer to Title IX of the Education Amendments of 1972.
<i>Title II</i>	Shall refer to Title II of the Americans with Disabilities Act of 1990.
<i>Voluntary Compliance Plan</i>	The Voluntary Compliance Plan (VCP) shall be an agreement entered into by the Recipient and the Nebraska Department of Education acknowledging a finding of non-compliance, statements affirming Recipient's intent to put safeguards in place to prevent non-compliance, statements detailing the safeguards and the necessary accessibility corrective actions for compliance, and the timeline for both the corrective corrections as well as the future safeguards to be fully put in place.

Article III: ONSITE REVIEWS AND ISSUING LETTERS OF FINDINGS

Each year, the Nebraska MOA Coordinator, Mary Janssen, conducts onsite reviews of Nebraska High Schools with a career and technical program to determine civil rights compliance based on a two-year (2-year) targeting plan submitted to OCR. Below is the general overview of Nebraska's targeting plan for civil rights compliance. The overview in no way represents the full extent of the legal analysis, which is conducted on a case-by-case basis, but is meant to represent the minimum analysis conducted.

Section 301: Overview of the Civil Rights Laws

Compliance with the following laws is required by all recipients that receive federal financial assistance:

- Title VI of the Civil Rights Act of 1964, and its implementing regulation at 34 C.F.R. Part 100 (Title VI), prohibits discrimination based on race, color, or national origin by recipients of federal financial assistance.
- Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106 (Title IX), prohibits discrimination based on sex in any program or activity receiving federal financial assistance.

- Section 504 of the Rehabilitation Act of 1973, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), prohibits discrimination based on disability by recipients of federal financial assistance.
- Title II of the Americans with Disabilities Act (ADA) of 1990, and its implementing regulation at 28 C.F.R. Part 35 (Title II), prohibits discrimination on the basis of disability by public entities.
- Guidelines for Eliminating Discrimination and Denial of Services on the Basics of Race, Color, National Origin, Sex and Handicap in Vocational Education Programs.

Section 302: Targeting Plan for Civil Rights Compliance

Under the United States Department of Education's September 1996 *Revisions to the Memorandum of Procedures*, the minimum number of annual onsite reviews should be based upon 2.5% of the total universe of recipients and State Operated Programs. To meet that goal, the Nebraska Department of Education ranks its recipients. All recipients are ranked pursuant to a point system based on six (6) selection criteria:

1. The difference in the percentage of total minority enrollment compared to the percentage of CTE minority enrollment. (Schools percentage of difference should be as near to zero (0) as possible to establish that *minority students* are equally placed in career and technical courses).
2. The difference in the percentage of *female students* in career and technical courses compared to the percentage of the total *female student* population. (Schools percentage of difference should be as near to zero as possible to establish that *female students* are equally placed in career and technical courses).
3. The difference in the percentage of *students with disabilities* in career and technical courses compared to the percentage of the total *students with disabilities* in the total population. (Schools percentage of difference should be as near to zero (0) as possible to establish that *students with disabilities* are equally placed in career and technical courses).
4. The difference in the percentage of *LEP students* in career and technical courses compared to the percentage of the total *LEP student* population. (Schools percentage of difference should be as near to zero (0) as possible to establish that *LEP students* are equally placed in career and technical courses).
5. The difference in the percentage of *free and reduced lunch students* in career and technical courses compared to the percentage of the total *free and reduced lunch students* population. (Schools percentage of difference should be as near to zero (0) as possible to establish that *free and reduced lunch students* are equally placed in career and technical courses).
6. The length of time since the subrecipient's last onsite review.

From this ranked list, onsite visits will be conducted at the highest ranked recipients, including one (1) large-sized school, two (2) medium-sized schools and three (3) small-sized schools. Each year one postsecondary college onsite visit is made. In the event a school cannot be visited because of bad weather or undue circumstances, the next school on the targeting list will be visited. Discretionary considerations may be given in the event of complaints or policy changes that may be brought to the attention of the Nebraska Department of Education.

Section 303: Onsite Reviews/Visits

The purpose of the Onsite Civil Rights Compliance Review is to ensure Nebraska schools are providing access to educational programs in compliance with the requirements of the federal civil rights statutes. The reviews usually take one to two days and are conducted by Mary Janssen, who is the MOA Coordinator. During the onsite visit, the MOA Coordinator will do a walk-through of the facility and will speak with students, staff, and faculty. The MOA Coordinator will request the recipient to provide documentary information for the onsite review by providing a list of documents for the recipient to have available during the onsite visit. The Materials Checklist can be found in Section 603 of the Appendix.

During the onsite review, four areas are analyzed to determine civil rights compliance:

- A) Administration
- B) Access and Admissions
- C) Guidance and Counseling
- D) Equal Opportunity

These areas are explained in detail in the *Civil Rights Onsite Review Checklist* found in Section 602 of the Appendix.

Section 305: Letter of Findings

Each recipient will receive a Letter of Findings (LOF), within thirty (30) days of the onsite review. The LOF shall include:

- Statement of why the recipient was chosen for the civil rights compliance review;
- Statement of areas of compliance; and
- Statement of areas of non-compliance, with a brief explanation of the legal standards and factual analysis.

The LOF will also provide procedures for submission of a voluntary compliance plan to remedy any area of non-compliance.

Article IV: INITIATING ENFORCEMENT ACTION

Section 401: Voluntary Compliance Plan

The Voluntary Compliance Plan (VCP) should be submitted to the MOA Coordinator within sixty (60) days from the date of the LOF. The VCP should include:

- (a) A clear statement of the specific actions that will be taken to remedy each area of compliance;
- (b) The Staff person(s) responsible for each action; and
- (c) A reasonable projected timeline for completing the action.

The VCP must be signed by the Superintendent of Schools or the President of the community college. A sample copy of the VCP is located in Section 601 of the Appendix.

Section 402: Request for Review

NDE is committed to a high quality resolution of every onsite review and LOF. Any questions or concerns about a LOF should be raised with Mary Janssen, the MOA Coordinator, whose name will appear in the letter. Each recipient will also be informed that if there are still concerns after consulting with the MOA Coordinator, the recipient may send a **written request** for reconsideration to Katie Graham, Career Education, and Nebraska Department of Education within fifteen (15) days of the date of the LOF. Contacting the MOA Coordinator neither tolls the 15-day timeline for filing a request for reconsideration, nor is a prerequisite to file a request for reconsideration with NDE. The written request should be as specific as possible, focusing on factual or legal concerns that could change the disposition of the LOF. A review will entail an assessment of all documents, audio/video tapes, etc. General dissatisfaction with the LOF will not be sufficient. The decision of Katie Graham on a review constitutes the final agency decision on the matter.

Additionally, any determination made by this Department with regard to the civil rights statutes, as defined above, is subject to review by OCR.

Section 403: Failure to Voluntarily Submit Voluntary Compliance Plan

When the MOA Coordinator's onsite review results in a finding of areas of noncompliance of the civil rights statutes and regulations and the recipient declines to enter into a VCP, within sixty-days (60) of the LOF, the MOA Coordinator may refer the matter to OCR or Department of Justice.

Article V: COMPLIANCE MONITORING

Section 501: Recipients Operating Under VCP

Periodically, Mary Janssen, the MOA Coordinator, will obtain sufficient information to determine whether the commitments made by the recipient have been implemented consistent with the terms of the VCP. In many instances, verification of remedial actions

can be accomplished by careful review of reports, documentation and other information submitted. In some instances, an onsite visit may be required to verify actions taken by the recipient to ensure compliance with the VCP and federal civil rights laws.

Section 502: Recipients NOT Operating Under VCP

Any recipient may be periodically subjected to a compliance inquiry or full investigation if Mary Janssen, the MOA Coordinator, receives notification from any source that a recipient is potentially violating the applicable civil rights statutes. Notification may range from a phone call from a concerned citizen to events witnessed by a NDE employee, while conducting an onsite visit. If the recipient is found to be out of compliance with the applicable statute after inquiry or investigation, the MOA Coordinator will issue an LOF stating the recipient's noncompliance. At such point, the provisions of Article IV shall apply to the recipient.

Section 503: Conclusion of Monitoring

The MOA Coordinator will conclude the monitoring process when he/she determines that the recipient has fully implemented the terms of the VCP, including any subsequent modifications. The recipient will be notified in writing of this decision. A VCP should be completed within a 2-year period.

Article VI: APPENDIX

Section 601: Civil Rights Onsite Review Interviews

Section 602: Civil Rights Onsite Materials Checklist

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