



Director
Office for Civil Rights
Washington, D.C. 20201

MEMORANDUM

TO: Directors of Federal Offices for Civil Rights

FROM: Jocelyn Samuels *JS*
Director, Office for Civil Rights
U.S. Department of Health and Human Services

DATE: November 5, 2015

SUBJECT: Enforcement Responsibilities under Section 1557 of the Affordable Care Act

We are very pleased to participate in the inaugural “National Civil Rights Conference, 21st Century Civil Rights: Integrity. Integration. Innovation. Initiative.” Given the focus of this Conference, we are especially pleased to present a session for your staff today on “*New Developments in Section 1557 of the Affordable Care Act.*” Section 1557, one of the newest civil rights laws, is the nondiscrimination provision of the Affordable Care Act and prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities. On September 8, 2015, the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR), issued a Notice of Proposed Rulemaking (NPRM) to implement Section 1557 (80 FR 54172), which can be found at www.hhs.gov/ocr, along with other information about Section 1557. The public comment period for this NPRM closes on November 9, 2015. Although we are currently in the rulemaking process, Section 1557 became effective upon enactment of the Affordable Care Act in 2010 and HHS OCR has been accepting complaints under and enforcing protections of Section 1557 since that time.

Consistent with HHS OCR’s enforcement authority, the proposed rule applies to health programs and activities that receive Federal financial assistance from HHS. Although the proposed rule specifically applies only to HHS recipients of Federal financial assistance, the Section 1557 statute makes clear that it applies to all health programs and activities, any part of which receives Federal financial assistance from any Federal agency. As a result, all Federal agencies possess enforcement responsibility for programs they fund that fall under Section 1557 jurisdiction.

I wanted to take this opportunity, as we reflect on the critical importance and impact of Federal civil rights laws and our role as public servants in their vigorous enforcement, to underscore our authority and important responsibility to enforce Section 1557 with respect to the health programs and activities within each of our Federal agency’s respective jurisdictions. As the NPRM states, we encourage you to adopt the rule’s proposed nondiscrimination standards in your Federal agency’s own enforcement of Section 1557 to ensure compliance with the law.

By its terms, Section 1557 also applies to programs and activities that are administered by an Executive Agency or any entity established under Title I of the Affordable Care Act. I have engaged in conversations with many of you about the applicability of Section 1557 to your federally conducted programs. I look forward to continued dialogue with you on how the Federal government can best demonstrate its commitment to equality by addressing discrimination within the health programs and activities the Federal government conducts.

Our office is available to provide technical assistance to you and your staff on any questions you may have about your Section 1557 authority. We also would like to coordinate with you on any complaints you are investigating or any compliance reviews you initiate to ensure consistency across the Federal government in the application of Section 1557. Please contact Robinsue Frohboese, HHS OCR Principal Deputy Director and Senior Policy Advisor at robinsue.frohboese@hhs.gov or (202) 619-0403 for technical assistance and coordination.

Thank you for your commitment to civil rights laws. I look forward to working with you on achieving our shared goal of ensuring nondiscrimination in health programs and activities.