

§ 88.2 Complaint handling and investigating.

(a) *Delegated authority.* The Office for Civil Rights (OCR) has been delegated the authority to facilitate and coordinate the Department's enforcement of the Federal health care conscience protection statutes, which includes the authority to:

- (1) Receive and handle complaints;
- (2) Initiate compliance reviews;
- (3) Conduct investigations;
- (4) Consult on compliance within the Department;
- (5) Seek voluntary resolutions of complaints;
- (6) Consult and coordinate with the relevant Departmental funding component, and utilize existing enforcement regulations, such as those that apply to grants, contracts, or other programs and services;
- (7) In coordination with the relevant component or components of the Department, coordinate other appropriate remedial action as the Department deems necessary and as allowed by law and applicable regulation; and
- (8) In coordination with the relevant component or components of the Department, make enforcement referrals to the Department of Justice.

(b) *Complaints.* Any entity or individual may file a complaint with OCR alleging a potential violation of Federal health care conscience protection statutes. OCR shall coordinate handling of complaints with the relevant Department component(s). The complaint filer is not required to be the entity whose rights under the Federal health care conscience protection statutes have been potentially violated.

(c) *Compliance reviews.* OCR may conduct compliance reviews of an entity subject to the Federal health care conscience protection statutes, where authorized for the funding at issue, to determine whether they are complying with Federal health care conscience protection statutes. OCR may initiate a compliance review of an entity subject to the Federal health care conscience protection statutes based on information from a complaint or other source that causes OCR to suspect non-compliance by such entity with the Federal health care conscience protection statutes.

(d) *Investigations.* OCR shall make a prompt investigation of a complaint alleging failure to comply with the Federal health care conscience protection statutes. This investigation may include a review of the pertinent practices, policies, communications, documents, compliance history, circumstances under which the possible noncompliance occurred, and other factors relevant to determining whether the Department, Department components, recipient, or sub-recipient has failed to comply. OCR may use fact-finding methods including site visits;

interviews with the complainants, Department components, recipients, sub-recipients, or third parties; and written data requests. OCR may seek the assistance of any State agency.

(e) *Failure to respond.* OCR will adopt a negative inference if, absent good cause, an entity that is subject to the Federal health care conscience protection statutes fails to respond to a request for information or to a data or document request within a reasonable timeframe.

(f) *Supervision and coordination.* If, as a result of an investigation, OCR makes a determination of noncompliance with responsibilities under the Federal health care conscience protection statutes, OCR will coordinate and consult with the Departmental component responsible for the relevant funding to undertake appropriate action with the component to assure compliance.

(g) *Resolution of matters.* (1) If an investigation reveals that no action is warranted, OCR will in writing so inform any party who has been notified by OCR of the existence of the investigation.

(2) If an investigation indicates a failure to comply with the Federal health care conscience protection statutes, OCR will so inform the relevant parties and the matter will be resolved by informal means whenever possible.

(3) If a matter cannot be resolved by informal means, OCR will coordinate with the relevant Departmental component to:

(i) Utilize existing enforcement regulations, such as those that apply to grants, contracts, or other programs and services, or

(ii) Withhold relevant funding to the extent authorized under the statutes listed under § 88.1.

(4) If a matter cannot be resolved by informal means, OCR may, in coordination with the Office of the General Counsel, refer the matter to the Department of Justice to the extent permitted by law for proceedings to enforce the statutes listed under § 88.1.