

APPENDIX D: NONDISCRIMINATION CLAUSE

The provider shall comply with all applicable provisions of State and Federal constitution, laws, regulations, and judicial orders pertaining to nondiscrimination and equal employment opportunity including the provisions of the Nondiscrimination Clause, as described below.

In compliance with Title VI and VII of the Civil Rights Act of 1984, the Pennsylvania Human Relations Act and Section 504 of the Federal Rehabilitation Act of 1973, the provider assures the following:

- A. The provider does not and will not discriminate against any person because of race, color, religious creed, ancestry, national origin, age, sex or handicap:
 - 1. In providing services or employment, or in this relationship with other providers; and
 - 2. In providing access to services and employment for handicapped individuals.

- B. The provider will comply with 16 PA Code, Chapter 49 and all regulations promulgated to enforce the statutory provisions against discrimination.
 - 1. The provider shall not discriminate against any employee, applicant for employment, independent grantee, or any other person because of race, color, religious creed, ancestry, national origin, age, sex or handicap. Such affirmative action shall include, but is not limited to employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training. The provider shall post in conspicuous places, available to employee agents, applicants for employment, and other persons, a copy of this Nondiscrimination Clause.
 - 2. In advertisements or requests for employment placed by it or on its behalf, the provider shall state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age or sex.
 - 3. The provider shall send each labor union or worker representative with which it has a collective bargaining agreement or other grant or understanding, a notice advising said labor union or worker representative of its commitment to this Nondiscrimination Clause. Similar notice shall be sent to every other source of recruitment regularly utilized by the provider.

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4. It shall be no defense to a finding of noncompliance with this Nondiscrimination Clause that the provider had delegated some of its employment practices to any union, training program, or other source of recruitment, which prevents it from meeting its obligations. However, if the evidence indicates that the provider was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
 5. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that the provider will be unable to meet its obligations under this Nondiscrimination Clause, the provider shall then employ and fill vacancies through other nondiscriminatory employment procedures.
 6. The provider shall comply with all State and Federal laws prohibiting discrimination in hiring or employment opportunity. In the event of provider noncompliance with the Nondiscrimination Clause of this Agreement or with any such laws, this agreement may be terminated or suspended, in whole or in part, and the provider may be declared temporarily ineligible for further Commonwealth agreements/grants, and other sanctions may be imposed and remedies invoked.
 7. The provider shall furnish all necessary employment documents and records to the CCIS and permit access to its books, records and accounts for purposes of investigation to ascertain compliance with the provisions of this clause. If the provider does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the granting agency.
 8. The provider shall actively recruit minority and woman sub grantees or sub grantees with substantial minority representation among his/her employees.
 9. The provider shall include the provisions of this Nondiscrimination Clause in every sub grant, so that such provisions will be binding upon each sub grantee.
 10. The provider obligations under this clause are limited to the provider facilities within Pennsylvania or, where the grant is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.
- C. The provider will comply with the Fair Labor Standards Act of 1938 as amended, 29 USC 201 et seq., as may be applicable.

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- D. Pursuant to federal regulations promulgated under the authority of The American with Disabilities Act, 28 C.F.R. 35.101 et seq., the provider understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement, or from activities provided under this Agreement. As a condition of accepting and executing this Agreement, the provider agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth of Pennsylvania through agreement with outside providers.
- E. The provider shall be responsible for and agrees to indemnify and hold harmless, the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits and actions brought by any party against the Commonwealth of Pennsylvania as a result of the provider's failure to comply with the provisions of paragraph D above.