**Affordable Care Act Notice: Grievance Policy and Procedure**

It is the policy of Arc Herkimer not to discriminate on the basis of race, color, religion, age, sex, national origin, marital status, disability, veteran status, military status, sexual orientation, gender identity or expression (including transgender status), predisposing genetic characteristics/genetic information or carrier status, domestic violence victim status, ancestry, ethnic group identification, traits historically associated with race, citizenship, creed, marital status, familial status, reproductive health decision making and all other categories protected by applicable federal, state or local law, including a known relationship or association with any member of a protected class. Arc Herkimer has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 1557 of the Affordable Care Act (42 U.S.C. 18116) and its implementing regulations at 45 CFR part 92[[1]](#endnote-1), issued by the U.S. Department of Health and Human Services. Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities. Section 1557 and its implementing regulations may be examined in the office of:

Jessica French, Director Compliance & Quality

350 South Washington Street, P.O. Box 271 Herkimer, NY 13350

Phone: (315) 574-7000

Fax: (315) 866-8339

Email: jfrench@archerkimer.org

Ms. French has been designated to coordinate the efforts of Arc Herkimer to comply with Section 1557.

Any person who believes someone has been subjected to discrimination on the basis of race, color, religion, age, sex, national origin, marital status, disability, veteran status, military status, sexual orientation, gender identity or expression (including transgender status), predisposing genetic characteristics/genetic information or carrier status, domestic violence victim status, ancestry, ethnic group identification, traits historically associated with race, citizenship, creed, marital status, familial status, reproductive health decision making may file a grievance under this procedure. It is against the law for Arc Herkimer to retaliate against anyone who opposes discrimination, files a grievance, or participates in the investigation of a grievance.

**Procedure:**

• Grievances must be submitted to the Section 1557 Coordinator within (60 days) of the date the person filing the grievance becomes aware of the alleged discriminatory action.

**A complaint must be in writing**, containing the name and address of the person filing it. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought.

• The Section 1557 Coordinator (or her/his designee) shall conduct an investigation of the complaint. This investigation may be informal, but it will be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint.

The Section 1557 Coordinator will maintain the files and records of Arc Herkimer relating to such grievances. To the extent possible, and in accordance with applicable law, the Section 1557 Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances and will share them only with those who have a need to know.

• The Section 1557 Coordinator will issue a written decision on the grievance, based on a preponderance of the evidence, no later than 30 days after its filing, including a notice to the complainant of their right to pursue further administrative or legal remedies.

• The person filing the grievance may appeal the decision of the Section 1557 Coordinator by writing to the (Administrator/Chief Executive Officer/Board of Directors/etc.) within 15 days of receiving the Section 1557 Coordinator’s decision. The (Administrator/Chief Executive Officer/Board of Directors/etc.) shall issue a written decision in response to the appeal no later than 30 days after its filing.

The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, sex, age or disability in court or with the U.S. Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint Portal, which is available at:

<https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>

This website also lists the current phone number and address to file a complaint as well.

Complaint forms are available at: <http://www.hhs.gov/ocr/office/file/index.html> Such complaints must be filed within 180 days of the date of the alleged discrimination.

Arc Herkimer will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed to participate in this grievance process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing taped cassettes of material for individuals with low vision, or assuring a barrier-free location for the proceedings. The Section 1557 Coordinator will be responsible for such arrangements.

1. 45 C.F.R. § 92.1 (excerpted)

   General Provisions

   The purpose of this part is to provide for the enforcement of section 1557 of the Patient Protection and Affordable Care Act, [42 U.S.C. 18116](https://www.govinfo.gov/link/uscode/42/18116), prohibiting discrimination under any health program or activity receiving Federal financial assistance, or under any program or activity administered by an Executive agency, or by any entity established, under

   Title I of such law, on the grounds of race, color, national origin, sex, age, or disability, except as provided in Title I of such law (or any amendment thereto). Section 1557 requires the application of the enforcement mechanisms under Title VI of the Civil Rights Act of 1964 ([42 U.S.C. 2000d](https://www.govinfo.gov/link/uscode/42/2000d) et seq.), Title IX of the Education Amendments of 1972 ([20 U.S.C. 1681](https://www.govinfo.gov/link/uscode/20/1681) et seq.), the Age Discrimination Act of 1975 ([42 U.S.C. 6101](https://www.govinfo.gov/link/uscode/42/6101) et seq.), and Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](https://www.govinfo.gov/link/uscode/29/794)) for purposes of violations of Section 1557 and this part.

   92.2 Nondiscrimination requirements

   (a) Except as provided in Title I of the Patient Protection and Affordable Care Act (or any amendment thereto), an individual shall not, on any of the grounds set forth in [paragraph (b)](https://www.ecfr.gov/current/title-45/section-92.2#p-92.2(b)) of this section, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any health program or activity, any part of which is receiving Federal financial assistance (including credits, subsidies, or contracts of insurance) provided by the U.S. Department of Health and Human Services; or under any program or activity administered by the Department under such Title; or under any program or activity administered by any entity established under such Title.

   (b) The grounds are the grounds prohibited under the following statutes:

   (1) Title VI of the Civil Rights Act of 1964 ([42 U.S.C. 2000d](https://www.govinfo.gov/link/uscode/42/2000d) et seq.) (race, color, national origin);

   (2) Title IX of the Education Amendments of 1972 ([20 U.S.C. 1681](https://www.govinfo.gov/link/uscode/20/1681) et seq.) (sex);

   (3) The Age Discrimination Act of 1975 ([42 U.S.C. 6101](https://www.govinfo.gov/link/uscode/42/6101) et seq.) (age); or

   (4) Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794](https://www.govinfo.gov/link/uscode/29/794)) (disability). [↑](#endnote-ref-1)