





Community Health Center of Southeast Kansas

AMERICANS WITH DISABILITIES ACT (ADA)	
Effective Date: June 16, 2022	Policy Section: Personnel
Approval:  _____ Chief Executive Officer	Approval:  _____ Board Chairperson
6/16/22 Date	6.16.22 Date

Purpose:

It is the policy of Community Health Center of Southeast Kansas, Inc. ("CHC/SEK") and its subsidiaries, including Building Health, Inc. ("BHI") and Inspire Health Foundation, Inc. ("IHF") (for the purposes of this policy, hereafter collectively referred to as "CHC/SEK"), to comply with all federal and state laws and regulations as these laws and regulations pertain to individuals with disabilities. In order to ensure non-discriminatory provision of transportation services, non-discriminatory provision of care, and non-discrimination in employment¹, CHC/SEK has developed guidelines for compliance with the Americans with Disabilities Act ("ADA").

Policy:

CHC/SEK recognizes that the ADA, and associated amendments, cover multiple areas of CHC/SEK's operations. To ensure policies applicable to certain areas are appropriately followed, this policy has been broken out into Employment, Transportation, and Patient Care.

Definitions:

In implementing this policy, CHC/SEK will be guided by the applicable definitions stated in the ADA or in case law construing/interpreting the ADA, and applicable state and federal law. In the event of any conflict between the definitions in the ADA and the definitions in this policy, the legal definitions will control.

The following is provided for general guidance of employees and applicants.

"Disability" refers to a physical or mental impairment that substantially limits one (1) or more of the major life activities of an individual, an individual who has a record of such an impairment, and/or an individual has been regarded as having such an impairment (subjected to an action prohibited by the ADA because of an actual or perceived impairment that is not both transitory and minor (a condition/impairment with an actual or expected duration of six (6) months or less)).

¹ 29 C.F.R. § 1630.2(k)(30) & 1630.4(a).

Generally, mitigating measures such as medications and medical devices will not be considered in making a disability determination, although ordinary eyeglasses may be taken into consideration. For example, the mere fact that a person wears ordinary eyeglasses will not qualify that person as "disabled".

"Major life activit(ies)" may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A "major life activity" may also include bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems.

"Direct threat to safety" refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

A "qualified individual with a disability" refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

"Reasonable accommodation" refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.

"Undue hardship" refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include, but are not limited to, (1) the nature and cost of the accommodation, (2) the overall financial resources of the facility at which the reasonable accommodation is to be made, (3) the number of persons employed at that facility, (4) the effect on expenses and resources or other impact upon that facility, (5) the overall financial resources of CHC/SEK, (6) the overall number of employees and facilities, (7) the operations of the particular facility as well as the entire organization, and (8) the relationship of the particular facility to CHC/SEK. *These are not all of the factors but merely examples.*

"Essential job functions" refers to those activities of a job that are the core (i.e. the fundamental job duties of the employment position) to performing the job in question.

"Complainant" refers to a person filing a complaint.²

² Consistent with federal law, an individual with a "disability" would be generally considered an individual with, who as a history of, and/or who would be regarded as having a physical or mental impairment which substantially limits one or more major life activities (which would include, but not be limited to, caring for one's self, walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning). *See 45 C.F.R. 84 et seq.* This definition can change slightly if the circumstance involved relates to employment of the individual. *See C.F.R. 84.3 et seq.* Furthermore, "disability" and "handicap" are used interchangeably in applicable federal and state law. Of note, since CHC/SEK receives federal

Employment:

CHC/SEK will reasonably accommodate qualified individuals with a disability so that these individuals can perform the essential functions of the job in question.

An individual, who can be reasonably accommodated for the job in question, without undue hardship of CHC/SEK, will be given the same consideration for that position as any other employee or applicant.

All employees are required to comply with safety standards. Applicants who pose a direct threat to the health or safety of other individuals in the workplace, which threat cannot be eliminated by reasonable accommodation, will not be hired. Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until an organizational decision has been made in regard to the employee's immediate employment situation.

CHC/SEK's Human Resources Department is responsible for implementing this policy, including resolution of reasonable accommodation, safety, and undue hardship issues. The Human Resources Department will ensure that all relevant notices are posted in areas accessible and frequented by CHC/SEK's employees.

Employee Complaint Procedure:

1. Any individual who believes she or he has been subjected to discrimination on the basis of a disability, in contradiction to the policy stated above, may file a grievance under this procedure. It is against the law for CHC/SEK to retaliate³ against anyone who files a grievance or cooperates in the investigation of a grievance.
2. Grievances must be submitted to CHC/SEK's Vice President of Human Resources ("VPHR") within thirty (30) days of the date that the complainant becomes aware of the alleged discriminatory action.
3. A complaint must be in writing, containing the name and address of the complainant. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought by the complainant.
4. CHC/SEK's VPHR (or designee) shall conduct an investigation of the complaint to determine the complaint's validity. This investigation may be informal, but it must be thorough, affording all interested person an opportunity to submit evidence relevant to the complaint. CHC/SEK will maintain the files and records of CHC/SEK relating to such grievances.
5. CHC/SEK's VPHR will issue a written decision on the grievance no later than thirty (30) days after

financial assistance, the definition of "individual", under this policy/procedure, includes~ individual (director, employee, contractor, agent, volunteer, patient, etc.) who believes he or she has been denied participation, benefits, and/or services based off the individual's disability.

³ Consistent with applicable federal and state laws, "retaliation" is considered any action or stance against the individual, who submitted the complaint, because that individual has filed the complaint or "has made a charge, testi(mony), assisted, or participated in any manner in the investigation, proceeding, or hearing" related to the complaint. See 42 U.S.C. § 12203 et seq. (various sections of federal law use similar language).

the complaints filing with the VPHR.

6. The complainant may appeal the decision of the VPHR by filing an appeal, in writing, to CHC/SEK's Chief Executive Officer ("CEO") within fifteen (15) days of receiving the VPHR's decision.
7. CHC/SEK's CEO shall issue a written decision in response to the appeal no later than thirty (30) days after the appeal's filing with the CEO.
8. The availability and use of this grievance procedure does not preclude an individual from filing a complaint of discrimination on the basis of disability with the Equal Employment Opportunity Commission ("EEOC") at the following locations/addresses:

Gateway Tower II
400 State Ave., Suite 905
Kansas City, KS 66101
United States
Phone: 1-913-340-8810
TTY: 1-800-669-6820
ASL: 1-844-234-5122
Email: kansascityintake@eoc.gov

9. CHC/SEK will make appropriate arrangements to ensure that disabled individuals can participate in, or make use of, this grievance process on the same basis as the non-disabled. Such arrangements may include, but are not limited to, the provision of interpreters for the deaf, providing recorded material for the blind, or assuring a barrier-free location for the proceedings. CHC/SEK's VPHR will be responsible for making such arrangements.

Patient Care:

CHC/SEK will ensure that reasonable accommodations are available for patients⁴ with disabilities. This includes, but is not limited to, the following:

1. Ensuring CHC/SEK's facilities are accessible by patients using mobility assistance devices (e.g., wheelchairs, canes).
2. Ensuring CHC/SEK's facilities have available and accessible parking for patients with disabilities.
3. Ensuring CHC/SEK's facilities have clear routes of travel.
4. Ensuring disabled patients have access to disability accessible patient rooms and medical equipment, where feasible.
5. Ensuring any patient disabilities are documented in the patient's medical record so CHC/SEK's providers are prepared to accommodate the patient's disabilities.
6. Making mobility assistance devices available to patients, when feasible.
7. Reading documents and forms to individuals who are blind.
8. Providing appointment notifications in accessible formats.
9. Identifying medications and other pharmaceuticals.

⁴ In the event that an CHC/SEK employee files a complaint, as the complaint relates to the care and/or treatment that the employee reserved at CHC/SEK, the complaint shall be considered/addressed as a "patient care" related ADA complaint.

10. Guiding patient to locations within the facility, including diagnostic imaging, labs, patient rooms, and bathrooms.
11. Ensure CHC/SEK's providers and employees identify themselves to patients upon entering patient rooms and inform patients what actions are taken.
12. Allowing service animals into the facility, subject to requirements outlined in CHC/SEK's Emotional Support and Service Animal procedure.

Patient Care Complaint Procedure:

1. Any patient who believes she or he has been subjected to discrimination on the basis of a disability, in contradiction to the policy stated above, may file a grievance under this procedure. It is against the law for CHC/SEK to retaliate⁵ against anyone who files a grievance or cooperates in the investigation of a grievance.
2. Grievances must be submitted to CHC/SEK's CCO within thirty (30) days of the date that the complainant becomes aware of the alleged discriminatory action.
3. A complaint must be in writing, containing the name and address of the complainant. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought by the complainant.
4. CHC/SEK's CCO (or designee) shall conduct an investigation of the complaint to determine the complaint's validity. This investigation may be informal, but it must be thorough, affording all interested person an opportunity to submit evidence relevant to the complaint. CHC/SEK will maintain the files and records of CHC/SEK relating to such grievances.
5. CHC/SEK's CCO will issue a written decision on the grievance no later than thirty (30) days after the complaints filing with the CCO.
6. The complainant may appeal the decision of the CCO by filing an appeal, in writing, to CHC/SEK's CEO within fifteen (15) days of receiving the VPHR's decision.
7. CHC/SEK's CEO shall issue a written decision in response to the appeal no later than thirty (30) days after the appeal's filing with the CEO.
8. The availability and use of this grievance procedure does not preclude an individual from filing a complaint of discrimination on the basis of disability with the U.S. Department of Health and Human Services ("HHS") at the following locations/addresses:

- a. For complaints of discrimination that occurred in Kansas:

Midwest Region (Kansas)
Office for Civil Rights
U.S. Department of Health and Human Services
233 N. Michigan Ave., Suite 240
Chicago, IL 60601
Phone: 1-800-368-1019
Fax: 1-202-619-3818
TDD: 1-800-537-7697

⁵ Consistent with applicable federal and state laws, "retaliation" is considered any action or stance against the individual, who submitted the complaint, because that individual has filed the complaint or "has made a charge, testi(mony), assisted, or participated in any manner in the investigation, proceeding, or hearing" related to the complaint. See 42 U.S.C. § 12203 et seq. (various sections of federal law use similar language).

Email: ocrmail@hhs.gov
TDD: 1-800-537-7697
Email: ocrmail@hhs.gov

b. For complaints of discrimination that occurred in Oklahoma:

Southwest Region (Oklahoma)
Office for Civil Rights
U.S. Department of Health and Human Services
1301 Young Street, Suite 1169
Dallas, TX 75202
Phone: 1-80-368-1019
Fax: 1-202-619-3818
TDD: 1-800-537-7697
Email: ocrmail@hhs.gov

10. CHC/SEK will make appropriate arrangements to ensure that disabled individuals can participate in, or make use of, this grievance process on the same basis as the non-disabled. Such arrangements may include, but are not limited to, the provision of interpreters for the deaf, providing recorded material for the blind, or assuring a barrier-free location for the proceedings. CHC/SEK's CCO will be responsible for making such arrangements.

Transportation:

Certain CHC/SEK vehicles⁶ are accessible to persons with disabilities.

CHC/SEK will ensure that the accessibility features on vehicles, including, but not limited to, lifts, ramps, wheelchair securement devices, and public address systems will be maintained in operative condition. CHC/SEK will conduct regular and frequent maintenance checks on these features as well as any recommended preventative maintenance. CHC/SEK will also ensure that all materials pertaining to the transportation program are available in accessible formats such as large print and audio.

Before each trip, CHC/SEK drivers will ensure that all accessibility features are functioning. If the driver notices that the features are non-operational, they will report the issue immediately and the vehicle will be pulled from service until the accessibility feature is repaired. If the feature can be used manually, the vehicle will remain in service until full repairs can be completed.

Driver Assistance

CHC/SEK drivers will be available to assist individuals with disabilities upon request. Drivers will assist passengers using the ramp, lift, and/or securement systems as well as other accessibility-related equipment on the vehicle.

⁶ While CHC/SEK uses various types of vehicles to transport persons (e.g. staff and/or patients), not all CHC/SEK vehicles (e.g. CHC/SEK trucks, box trucks, currier vehicles, vans, etc.) are intended for transportation of patients and/or individuals with disabilities. Accordingly, not all CHC/SEK vehicles are subject to the requirements listed within this policy and/or applicable state/federal laws and regulations.

Drivers will be trained in the use of the accessibility equipment, the operating policies of CHC/SEK, and in proper and respectful assistance and treatment of individuals with disabilities.

Drivers will not lift a passenger, leave the vehicle unattended for an extended period of time, enter a rider's home, care for service animals, provide medical services, or take actions that would clearly be unsafe. If more extensive assistance is needed by the passenger than CHC/SEK can provide, CHC/SEK will work with the passenger and/or their caregiver to address the need.

Boarding/Deboarding

Drivers will provide adequate time for a passenger with a disability to board and deboard the vehicle. Only drivers may operate the lifts or ramps on the vehicle and secure wheelchairs in the securement station.

The lift or ramp may be used by any individual with a disability regardless of mobility device usage if requested.

Prior to opening the doors, the driver will ensure that the location for passenger boarding/deboarding is safe. Passengers will be allowed to use the lift or ramp at any stop so long as the driver can determine that the device can be safely deployed.

Priority Seating

With the exception of any securement stations, the transit system does not require passengers to sit in designated seating.

Priority seating for seniors and individuals with disabilities will be designated by permanent signage in each vehicle. If an individual meeting the criteria for priority seating requests use of a seat currently occupied by another passenger, the driver will ask the passenger to move so that the individual may use the priority seating. Drivers will also ask passengers to move from the securement area if necessary for securement of a mobility device.

Wheelchair Accommodation

All vehicles will meet or exceed the requirements of 49 CFR § Part 38. Dependent on the specifications of the vehicle in use, drivers are required to carry a wheelchair, so long as the lift can accommodate the size of the wheelchair and there is space for the securement of the wheelchair.

If the wheelchair weight exceeds the ramp limits, the passenger will be offered the opportunity to board and disembark the vehicle separately from the wheelchair. Drivers are not required to operate a passenger's wheelchair.

Wheelchair users may opt to transfer to fixed seating while on board the vehicle, however, the wheelchair users are not required to do so.

Other Mobility Devices

Devices that are not wheelchairs but are primarily designed for use by individuals with disabilities will be accommodated to the extent that the ADA-complaint lift, ramp, and/or securement areas can safely do so.

Use of Portable Oxygen

Passengers may travel with respirators and portable oxygen supplies, consistent with applicable U.S. DOT rules on the transportation of hazardous materials.⁷

Service Animals

Trained service animals will be allowed to accompany passengers with disabilities. CHC/SEK drivers will not ask for proof of the animal's qualifications, however, these drivers are permitted to ask what tasks the animal has been trained to perform.

In the event the animal ceases to be under the passenger's control or becomes a direct threat to the health or safety of other passengers or the driver, the animal may be restricted from riding on the vehicle.

Reasonable Modifications

Passengers requiring modification of CHC/SEK's policies and practices to accommodate their disability may contact CHC/SEK. CHC/SEK will work with the passenger to determine an acceptable accommodation.

If the request cannot be determined in advance, CHC/SEK drivers will make a determination of whether the modification should be provided at the time of the request following consultation with CHC/SEK's Transportation Director (or designee).

Requests for modifications may be denied if:

1. Granting the request fundamentally alters the nature of CHC/SEK's services, programs, or activities;
2. Granting the request creates a direct threat to the health and safety of others; and/or
3. The passenger is able to fully use CHC/SEK's services, programs, or activities for their intended purpose without modification.

If CHC/SEK denies a request for modification, CHC/SEK shall take other actions to ensure the passenger receives the services provided.

Transportation Complaint Procedure:

1. Any individual who believes she or he has been subjected to discrimination on the basis of a

⁷ 49 CFR § 172.101.

disability, in contradiction to the policy stated above, may file a grievance under this procedure. It is against the law for CHC/SEK to retaliate⁸ against anyone who files a grievance or cooperates in the investigation of a grievance.

2. Grievances must be submitted to CHC/SEK's CCO within thirty (30) days of the date that the complainant becomes aware of the alleged discriminatory action.
3. A complaint must be in writing, containing the name and address of the complainant. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought by the complainant.
4. CHC/SEK's CCO (or designee) shall conduct an investigation of the complaint to determine the complaint's validity. This investigation may be informal, but it must be thorough, affording all interested person an opportunity to submit evidence relevant to the complaint. CHC/SEK's Compliance Department will maintain the files and records of CHC/SEK relating to such grievances.
5. CHC/SEK's CCO will issue a written decision on the grievance no later than thirty (30) days after the complaints filing with the CCO.
6. The complainant may appeal the decision of the CCO by filing an appeal, in writing, to CHC/SEK's CEO within fifteen (15) days of receiving the CCO's decision.
7. CHC/SEK's CEO shall issue a written decision in response to the appeal no later than thirty (30) days after the appeal's filing with the CEO.
8. The availability and use of this grievance procedure does not preclude an individual from filing a complaint of discrimination on the basis of disability with the Federal Transit Administration ("FTA") at the following locations/addresses:

Federal Transit Administration
Office of Civil Rights
Attention: Complaint Team
East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590
Email: FTACivilRightsCommunications@dot.gov
Phone: 1-888-446-4511

9. CHC/SEK will make appropriate arrangements to ensure that disabled individuals can participate in, or make use of, this grievance process on the same basis as the non-disabled. Such arrangements may include, but are not limited to, the provision of interpreters for the deaf, providing recorded material for the blind, or assuring a barrier-free location for the proceedings. CHC/SEK's CCO will be responsible for making such arrangements.

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⁸ Consistent with applicable federal and state laws, "retaliation" is considered any action or stance against the individual, who submitted the complaint, because that individual has filed the complaint or "has made a charge, testi(mony), assisted, or participated in any manner in the investigation, proceeding, or hearing" related to the complaint. See 42 U.S.C. § 12203 et seq. (various sections of federal law use similar language).