



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

VIA CERTIFIED RETURN RECEIPT REQUESTED

April 25, 2012

Drewry Fennell
Executive Director
Delaware Criminal Justice Council
State Office Building -- Tenth Floor
820 French Street
Wilmington, DE 19801

Re: Delaware Criminal Justice Council Compliance Review (09-OCR-0057)-
FINAL

Dear Mr. Fennell:

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of federal financial assistance from the Office of Community Oriented Policing (COPS), the Office on Violence Against Women (OVW), and the OJP's bureaus and program offices¹ comply with federal civil rights laws. As you know, recipients of federal financial assistance have an obligation not to discriminate against protected classes of people either in employment or in the delivery of services.

In carrying out the OCR's civil rights enforcement responsibilities, the OCR is conducting a broad compliance review of all State Administering Agencies (SAA) in accordance with federal regulation 28 C.F.R. § 42.206. The focus of this review is to determine both compliance with applicable federal civil rights laws and SAA monitoring procedures for ensuring the compliance of subrecipients with these laws. As part of that review, the OCR is evaluating the Delaware Criminal Justice Council (CJC). Of particular interest to the OCR is the CJC's compliance with the federal regulations that the DOJ issued in January of 2004, Equal Treatment for Faith-Based Organizations, 28 C.F.R pt. 38. The regulations advise SAAs not to discriminate either in favor of or against faith-based organizations. The regulations also instruct funded faith-based

¹ These offices and bureaus are: the Bureau of Justice Assistance (BJA); Bureau of Justice Statistics (BJS); Community Capacity Development Office (CCDO); National Institute of Justice (NIJ); Office of Juvenile Justice and Delinquency Prevention (OJJDP); Office of Victims of Crimes (OVC); and Sex Offender, Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office.

organizations not to discriminate in the delivery of services or benefits based on religion or to use federal funds for inherently religious activities.

On March 25, 2009, during the tenure of Executive Director, James Kane, the OCR conducted an onsite visit to the CJC's office in Wilmington, Delaware, to interview CJC staff and to conduct a training program on the federal civil rights laws that the OCR enforces. On the same day, the OCR conducted an onsite visit to Bethel Temple Community Development Corporation (Bethel Temple CDC), a CJC faith-based subrecipient. The OCR would like to thank CJC staff for assisting OCR attorney [REDACTED] during the onsite visit.

Based on the CJC's responses to our Data Request and the information we gathered onsite, the OCR concludes, concerning the limited scope of our review that the CJC is not fully compliant with the requirements of the federal civil rights laws that the OCR enforces. Specifically, we recommend that the CJC: (1) strengthen its assurances and special conditions to ensure subrecipients comply with all applicable federal civil rights laws, (2) expand its existing monitoring protocols, (3) add civil rights training for subrecipients, and (4) develop complaint procedures for responding to discrimination allegations from its employees as well as employees and beneficiaries of its subrecipients. The following Compliance Review Report includes recommendations for improving the CJC's methods for monitoring the civil rights compliance of subrecipients and ensuring compliance with its federal civil rights obligations.

On December 21, 2012, the OCR issued a draft Compliance Review Report to the CJC inviting the CJC to provide comments on any factual inaccuracies. On March 28, 2012, Chris Kervick, Criminal Justice Planning Coordinator and Director of Grants Management, informed the OCR by way of the telephone that the CJC had no corrections as to the factual accuracy of the Report. Consequently, the OCR issues this final Compliance Review Report without any changes, modifications, or corrections from the draft of December 21, 2012.

Compliance Review Report: Overview and Recommendations

I. Overview

The Compliance Review Report first examines the CJC's procedures for monitoring whether subrecipients are meeting their obligations to comply with the federal civil rights laws that are a condition for receiving federal financial assistance. The Report then assesses the CJC's implementation of the DOJ's Equal Treatment Regulations.

A. General Monitoring Procedures to Ensure Subrecipient Compliance with Applicable Federal Civil Rights Laws

In reviewing the CJC's monitoring of subrecipients' compliance with their federal civil rights obligations, the OCR examined how the CJC used the following four tools: (1) standard assurances; (2) onsite visits and other monitoring methods; (3) training programs and technical assistance; and (4) procedures for receiving, investigating, and resolving complaints alleging discrimination in the delivery of services.

1. Standard Assurances and Special Conditions

Recipients of federal financial assistance from the OJP are responsible for certifying that contractors and subrecipients under DOJ programs comply with applicable federal civil rights laws. The CJC administers the following DOJ grant programs: Justice Assistance Grant (JAG), Residential Substance Abuse Treatment (RSAT), Paul Coverdell Forensic Science Improvement, Juvenile Accountability Block Grant (JABG), Victim of Crime (VOCA) Victim Compensation, and VOCA Victim Assistance. The CJC uses standard assurances labeled "Assurances" in its subaward process.

Paragraph thirteen of the Assurances states that the applicant assures and certifies that it and all of its contractors will comply with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789(d), or the Victims of Crime Act (as appropriate);² Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973 as amended; Subtitle A Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C,D,E, and G; and Department of Justice regulations on disability discrimination, 28 C.F.R. Part 35 and Part 39.

Paragraph fourteen of the CJC's Assurances states that in the event that a federal or state court or federal or state administrative agency makes a finding of discrimination after a

² The CJC omits the citation for each of the statutes listed with the exception of the Omnibus Crime Control and Safe Streets Act of 1968.

due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the findings to the OCR.

Paragraph fifteen of the CJC's Assurances states that the CJC applicant will develop an Equal Employment Opportunity Program (EEOP), if required, where the application is for \$500,000 or more.

The CJC's Assurances do not refer to the Equal Treatment for Faith-Based Organizations regulation at 28 C.F.R. Pt. 38.

The CJC also requires grantees to sign and submit special conditions prior to the disbursement of funds. The CJC's special conditions does not include a provision on compliance with the DOJ's guidance for providing services to people with limited English proficiency (LEP). *See* U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (2002) (DOJ Guidance).

Recommendation

The OCR recommends that the CJC revise its standard assurances to include the following or substantially similar language, which would apply to all applicants for and subrecipients of DOJ funding, regardless of the amount of federal financial assistance at issue:

Recipient will comply (and will require any subgrantees or contractors to comply) with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Exec. Order No. 13279 (equal protection of the laws for faith-based and community organizations); Exec. Order No. 13559 (fundamental principles and policymaking criteria for partnerships with faith-based and neighborhood organizations); and 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based

Organizations).

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs and Criminal Justice Council (CJC).

Recipient will provide an Equal Employment Opportunity Plan (EEO) to the Office for Civil Rights, Office of Justice Programs and the JJC, if required to submit one; otherwise, it will provide a certification to the Office for Civil Rights, Office of Justice Programs and the CJC that it has a current EEO on file, if required to maintain one. For public grantee agencies receiving less than \$25,000, or public grantee agencies with fewer than 50 employees, regardless of the amount of the award, no EEO is required. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

The CJC may also consider revising its special conditions to include, under the section entitled "Special Attention," the following language or substantially similar language regarding language assistance services, which would apply to all DOJ-funded programs:

As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, the recipient must take reasonable steps to ensure that LEP persons have meaningful access to its programs. Meaningful access may entail providing language assistance services, including oral interpretation and written translation, where necessary. In conducting its programs and activities, the recipient is encouraged to consider the language service needs of LEP persons whom it serves or encounters. Additional assistance and information regarding LEP obligations can be found at <http://www.lep.gov>.

2. Onsite Visits and Other Monitoring Methods

In its Data Request Response, the CJC states that grant monitors visit each subrecipient at least once per quarter. Grant monitors use a monitoring checklist that covers review of budget and management concerns.

The monitoring checklist used by grant monitors includes one question somewhat related to federal civil rights compliance. Question twenty-one under "Management Concerns" asks, "Is there evidence of employment discrimination or nepotism?"

Recommendation

As part of its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the CJC should incorporate an evaluation of compliance with civil rights requirements in the CJC's quarterly grant-monitoring visits. The CJC should amend its monitoring checklist to include the following: (1) whether the subrecipient has an EEOP on file with the CJC, has sent one to the OCR for review (if required), or provided a EEOP Certification Form to the OCR; (2) whether the subrecipient has findings of discrimination to report to the CJC or the OCR; (3) whether the subrecipient has developed a language assistance plan describing how it will provide services to LEP individuals; (4) whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act; or (5) whether the subrecipient has a designated coordinator for grievance procedures as required by section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972. Additionally, the CJC should include questions on this checklist to evaluate whether the subrecipient is complying with DOJ's Equal Treatment Regulations, including the prohibitions to use federal funds to engage in inherently religious activities and to discriminate against program beneficiaries based on religion. The OCR has developed the attached Federal Civil Rights Compliance Checklist. The CJC may wish to use this checklist for monitoring purposes or incorporate this checklist into its existing monitoring instruments.

3. Training and Technical Assistance

In its Data Request Response, the CJC states that it provides grant writing and administration training once every fiscal year to new subrecipients who have not received previous CJC grants. The training does not include information on federal civil rights requirements. The CJC has no other training or technical assistance for its subrecipients.

Recommendation

The CJC should provide mandatory training on federal civil rights compliance requirements for every DOJ subrecipient at least once during a grant cycle, whether the CJC provide training in person, by teleconference, or through other means. In particular, the CJC should ensure that subrecipients are aware of their obligations under federal civil rights law to comply with the DOJ's Equal Treatment Regulations, to provide services to LEP individuals, and to report any complaints of discrimination to the OCR. The CJC should focus on developing mandatory training for its staff and subrecipients on addressing discrimination complaints in funded programs as discussed in Part I.A.4. below. To assist the CJC in developing training, the OCR has developed an online training resource available at: <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>.

Developing comprehensive civil rights requirement training for subrecipients should be another top priority for the CJC.

4. Complaint Procedures

The State of Delaware, through its Department of Labor, has procedures for responding to complaints of employment discrimination from CJC employees and employees of its subrecipients. The Delaware Department of Labor is responsible for enforcing provisions of Delaware's law prohibiting discrimination in employment. 19 Del. C. § 712. Accordingly, the Delaware Department of Labor receives, investigates, and issues findings regarding allegations of employment discrimination. *See id.*

The CJC does not have direct beneficiaries. To the extent subrecipient beneficiaries allege that they are unable to access certain services or benefits from subrecipients, the CJC does not have procedures for receiving and handling such complaints. For instance, if a beneficiary of a subrecipient wanted to file a complaint alleging service discrimination by the subrecipient, the CJC has no procedures for responding to the complaint.

During the onsite visit, CJC staff members with whom the OCR spoke stated that they were not aware of any beneficiary of a subrecipient requesting to file a service discrimination complaint against a subrecipient.

Recommendation

Although Delaware statutes set forth procedures to respond to employment discrimination complaints from its own employee and the employees of its subrecipients, the CJC should have comprehensive written policies implemented that address how it will respond to complaints it receives from its employees and the employees of its subrecipients. The CJC should also have in place written policies to respond to service discrimination complaints it receives from program beneficiaries against its subrecipients. The absence of any complaints by beneficiaries of its subrecipients may be commendable but it may also suggest that the CJC's complaint procedures are inadequate.

The CJC should develop comprehensive complaint policies that at a minimum include the following elements:

- designating a coordinator who is responsible for overseeing the complaint process;
- notifying CJC employees and subrecipients of prohibited discrimination in funded programs and activities as well as the CJC's policies and procedures for handling discrimination complaints;

- establishing written procedures for receiving discrimination complaints from employees of the CJC and from employees and clients, customers, or program participants of subrecipients implementing funding from the DOJ;
- investigating each complaint internally or referring the complaint to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission (EEOC), the Delaware Department of Labor, or OCR. If the complaint is referred to an agency other than the OCR, the CJC will notify the OCR of the referral;
- notifying the complainant that he or she may also file a complaint with the OCR by submitting a written complaint to the following address: Office for Civil Rights, Office of Justice Programs; U.S. Department of Justice; 810 Seventh Street N.W.; Washington, DC 20531;
- training CJC program staff on their responsibility to refer discrimination complaints or potential discrimination issues involving subrecipients to the CJC's complaint coordinator for processing as soon as the alleged discrimination comes to their attention;
- notifying employees and clients, customers, and program participants of prohibited discrimination and the procedures for filing a complaint of discrimination, and ensuring that subrecipients do the same.

The OCR has enclosed sample templates to assist the CJC in developing its complaint policies. Information about the applicable laws, complaint forms, and the investigative process is available at the OCR's website at: www.ojp.usdoj.gov/ocr/crc.

B. Monitoring Compliance with Equal Treatment Regulations

The Equal Treatment Regulations ensure that “[r]eligious organizations are eligible, on the same basis as any other organizations, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). In evaluating the CJC's equitable treatment of faith-based organization, this Compliance Review focuses on two issues: (1) the process for making awards to applicant faith-based organizations, and (2) procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

1. The Process for Making Awards to Applicant Faith-Based Organizations

The Equal Treatment Regulations caution grantmaking agencies to avoid discriminating either in favor of or against an organization based on its religious character or affiliation. 28 C.F.R. § 38.1(e). The CJC staff stated that the CJC neither favors nor disfavors funding faith-based organizations. During the OCR's onsite visit, the CJC grant monitors

explained that the CJC identifies an organization as being a faith-based organization based on the name or title of the organization.³

The CJC posts solicitations for grant applications in newspapers, on the CJC's webpage, <http://cjc.delaware.gov>; through the CJC mailing lists; and most often, by requests for concept papers. According to information the OCR obtained while onsite, CJC grant monitors initially review grant applications. Grant monitors provide written comments on the goals and objectives of the grant application as well as provide recommendations as to whether the application should be approved. Once grant monitors provide their recommendation, a CJC financial officer, the Grants Management Coordinator (GMC), and the grant monitor who provided the recommendations re-review the application. If these individuals agree to approve the grant application, the CJC Executive Committee, comprised of CJC's Executive Director, along with the criminal justice members of the Governor's cabinet, chaired by the state's Lieutenant Governor, review the approved application. The CJC Executive Committee forwards the application to the State's Federal Grants Administration and State Clearinghouse within the Delaware Office of Management and Budget (State Clearinghouse). The State Clearinghouse, an organization with members from the state legislative and the directors of the state's finance and budget departments, authorizes the final approval of the application.

Again, as discussed in Section I.A.1. of this Report, the CJC administers JAG, RSAT, Paul Coverdell Forensic Science Improvement, JABG, VOCA Victim Compensation, and VOCA Victim Assistance grants. In its Data Request Response, the CJC explains that it has a policy requiring all non-profit organizations to obtain a federal tax-exempt status under 26 U.S.C. § 501(c)(3) to be eligible to receive funds. During the onsite visit, CJC grant monitors informed the OCR that the CJC has assisted religious and some non-religious organizations in meeting the tax-exempt requirement by allowing these organizations to partner with an organization that already has a tax-exempt status for the application. As a result, the applicant organization without the Section 501(c)(3) tax-exempt status qualifies for CJC funding.

In fiscal year (FY) 2006, the CJC reported awarding approximately \$124,000 to three faith-based organizations and denying funds to two faith-based organizations. One of the faith-based organizations that did not receive funding had received funding in the previous three years. In FY 2007, the CJC reported awarding approximately \$99,000 to three faith-based organizations and denying funding to one because its program goals included unallowable costs under the applicable grant program.

Recommendation

Unless Section 501(c)(3) status is required under the particular grant program, such as a program funded under the JJDP, the CJC should be mindful that applicants who receive

³ The Equal Treatment Regulations do not provide a definition for faith-based organization

grants can also demonstrate nonprofit status by other means. Although the CJC allows religious organizations to partner with organizations who have 501(c)(3) tax-exempt status to qualify for funding, the OCR recommends that the CJC also consider other means for non-JJDPA grantees to demonstrate their nonprofit status. According to DOJ regulations, entities may show nonprofit status by any of the following means:

- (1) [p]roof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code;
- (2) [a] statement from a State taxing body or the State secretary of state certifying that: (i) [t]he organization is a nonprofit organization operating within the State; and (ii) [n]o part of its net earnings may lawfully benefit any private shareholder or individual;
- (3) [a] certified copy of the applicant's certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant; or
- (4) [a]ny item described in . . . this section if that item applies to a State or nation parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

28 C.F.R. § 38.1 (g).

2. Procedures for Ensuring that Faith-Based Organizations Comply with Applicable Federal Civil Rights Laws

As discussed in Section I.A.2 of this Compliance Review Report, although CJC grant monitors visit subrecipients at least once per quarter, the CJC's monitoring does not generally include a review of subrecipients compliance with their federal civil rights obligations. Currently, the CJC's monitoring checklist has one question vaguely pertaining to federal civil rights compliance and it does not ensure compliance with the Equal Treatment Regulations.

The OCR conducted an onsite visit to one CJC faith-based subrecipient: Bethel Temple CDC, located in Wilmington. In FY 2006, Bethel Temple was awarded approximately \$58,000 and in FY 2007, was awarded approximately \$57,000.

Bethel Temple CDC, the community development arm of the New Destiny Fellowship Church in Wilmington, Delaware, is a faith-based organization that administers DOJ, OJP's Weed and Seed Program grant. Through Weed and Seed funding, the Bethel Temple CDC engages in programs with federal and state law enforcement agencies to weed out crime, gang violence, and drug use, then seed the community through social and economic restoration.

During the onsite visit, Bethel Temple CDC staff provided the OCR with an example of a specific Weed and Seed funded program, the Fugitive Safe Surrender program. According to Bethel Temple CDC staff with whom the OCR spoke, the Fugitive Safe Surrender program, hosted twice a year, allows individuals with outstanding non-violent warrants in Delaware to meet with an attorney, see a judge, and have their cases adjudicated onsite in the New Destiny Community Church. Bethel Temple CDC staff members also informed the OCR that Bethel Temple CDC provides a summer camp program for youth in the community at the New Destiny Community Church. Bethel Temple CDC staff members stated that although the Bethel Temple CDC is located within the New Destiny Community Church, it offers programs to all members of the community regardless of religion affiliation. Additionally, staff members stated that Bethel Temple CDC does not inquire into the religious affiliation of its employees or program beneficiaries as a condition of participation in its activities. Bethel Temple CDC staff members stated that it has not received any discrimination complaints from employees or program beneficiaries.

During the onsite visit, the OCR did not observe Bethel Temple CDC using federal resources for inherently religious activities in violation of 28 C.F.R. § 38.1(b)(1).

II. Conclusion

We find that while the CJC has taken steps to comply with the federal civil rights laws that the OCR enforces, it is not fully compliant. The CJC should implement the recommendations contained in this Report to ensure compliance with its federal civil rights obligations. On request, the OCR is available to provide technical assistance to the CJC in addressing the concerns raised in this Report. Immediately, upon receipt of this letter, we ask that a responsible CJC official contact Attorney Advisor [REDACTED] to develop a timeline and goals for implementing the OCR's recommendations.

Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact [REDACTED] at [REDACTED].

Sincerely,



Michael L. Alston
Director

Enclosures

Federal Civil Rights Compliance Checklist

1. If the subrecipient is required to prepare an Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F.R. §§ 42.301-.308, does the subrecipient have an EEOP on file for review?

Yes No

If yes, on what date did the subrecipient prepare the EEOP?

2. Has the subrecipient submitted an EEOP Short Form to the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), if required by 28 C.F.R. §§ 42.301-.308? If the subrecipient is not required to submit an EEOP Short Form to the OCR, has it submitted a certification form to the OCR claiming a partial or complete exemption from the EEOP requirements?

Yes – submitted an EEOP Short Form Yes – submitted a certification No

If the subrecipient prepared an EEOP Short Form, on what date did the subrecipient prepare it?

3. How does the subrecipient notify program participants and beneficiaries that it does not discriminate on the basis of race, color, national origin, religion, sex, disability, and age in the delivery of services (e.g. posters, inclusion in brochures or other program materials, etc.)?

Comments:

4. How does the subrecipient notify employees that it does not discriminate on the basis of race, color, national origin, religion, sex, and disability in employment practices (e.g. posters, dissemination of relevant orders or policies, inclusion in recruitment materials, etc.)?

Comments:

5. Does the subrecipient have written policies or procedures in place for notifying program beneficiaries how to file complaints alleging discrimination by the subrecipient with the [State Administering Agency] or the OCR?

Yes No

If yes, an explanation of these policies and procedures:

6. If the subrecipient has 50 or more employees and receives DOJ funding of \$25,000 or more, has the subrecipient taken the following actions:

- a. Adopted grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973, found at 28 C.F.R. Part 42, Subpart G, which prohibit discrimination on the basis of a disability in employment practices and the delivery of services.

Yes No

- b. Designated a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 C.F.R. Part 42, Subpart G.

Yes No

- c. Notified participants, beneficiaries, employees, applicants, and others that the subrecipient does not discriminate on the basis of disability.

Yes No

Comments:

7. If the subrecipient operates an education program or activity, has the subrecipient taken the following actions:

- a. Adopted grievance procedures that provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Title IX of the Education Amendments of 1972, found at 28 C.F.R. Part 54, which prohibit discrimination on the basis of sex.

Yes No

- b. Designated a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 C.F.R. Part 54.

Yes No

- c. Notified applicants for admission and employment, employees, students, parents, and others that the subrecipient does not discriminate on the basis of sex in its educational programs or activities.

Yes No

Comments:

8. Has the subrecipient complied with the requirement to submit to the OCR any findings of discrimination against the subrecipient issued by a federal or state court or federal or state administrative agency on the grounds of race, color, religion, national origin, or sex?

Yes No

Comments:

9. What steps has the subrecipient taken to provide meaningful access to its programs and activities to persons who have limited English proficiency (LEP)?

Comments, including an indication of whether the subrecipient has developed a written policy on providing language access services to LEP persons:

10. Does the subrecipient conduct any training for its employees on the requirements under federal civil rights laws?

Yes No

Comments:

11. If the subrecipient conducts religious activities as part of its programs or services, does the subrecipient do the following:

a. Provide services to everyone regardless of religion or religious belief.

Yes No

b. Ensure that it does not use federal funds to conduct inherently religious activities, such as prayer, religious instruction, or proselytization, and that such activities are kept separate in time or place from federally-funded activities.

Yes No

c. Ensure that participation in religious activities is voluntary for beneficiaries of federally-funded programs.

Yes No

Comments:

Subject: Procedures for Responding to Discrimination Complaints from Clients, Customers, Program Participants, or Consumers of the [State Administering Agency] and the [State Administering Agency's] Subrecipients

Policy Number:

Effective Date:

I. Purpose

[The State Administering Agency (SAA) should explain the purpose of this document, i.e., to establish written procedures for SAA employees to follow when they receive a complaint alleging discrimination from clients, customers, program participants, or consumers of the SAA or of a SAA subrecipient implementing funding from the U.S. Department of Justice (DOJ).]

II. Policy

[The SAA should explain its policy regarding discrimination against clients, customers, program participants, or consumers of the SAA or the SAA's subrecipients, such as a statement that all individuals have the right to participate in programs and activities operated by the SAA and SAA subrecipients regardless of race, color, national origin, sex, religion, disability, and age. The SAA may wish to state that it will ensure that the SAA and its subrecipients are in compliance with the following statutes and regulations:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in the delivery of services (42 U.S.C. § 2000d), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789d(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;

- Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54; and
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I.
- The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ funding on inherently religious activities (28 C.F.R. Part 38).

The SAA may also wish to include a statement that these laws prohibit agencies from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.]

III. Definitions

[The SAA may wish to include definitions of relevant terms, such as “discrimination” and “complaint coordinator.”]

IV. Complaint Procedures

[The SAA should clearly explain its procedures for accepting and responding to discrimination complaints from clients, customers, program participants, or consumers of the SAA and SAA subrecipients. These procedures should include, at a minimum: 1) a designation of the SAA employee who is responsible for coordinating the series of actions described in these procedures; 2) an explanation of how a client, customer, program participant, or consumer may file a complaint of discrimination (i.e. on a specific complaint form, in a letter, in an email, in person, or over the phone); 3) an explanation of how a SAA employee receiving a complaint of discrimination should forward the complaint to the employee who is responsible for coordinating the series of actions described in these procedures; 4) an explanation of whether the SAA will provide the client, customer, program participant, or consumer with any written acknowledgement of the complaint, and how the SAA will correspond with the complainant throughout the investigation; and 5) an explanation of how the SAA will investigate and resolve the complaint, such as whether the SAA will conduct an internal investigation of the complaint, or whether it will refer the complaint to an appropriate external agency for investigation, such as a local or state human rights commission, or the Office for Civil Rights (OCR), Office of Justice Programs, DOJ.

If the SAA’s procedures involve referring the complaint to another agency or agencies for investigation and resolution, the SAA should clearly explain the necessary steps for making this referral. If the SAA’s procedures involve investigating the complaint internally or referring the complaint to an external agency other than the OCR, such as a

local or state human rights commission, the SAA should list the procedures for notifying the OCR in writing of the referral and for notifying the beneficiary that he or she may also file a complaint with the OCR. If the SAA chooses to investigate these complaints internally, the SAA should explain what office or division of the SAA will have responsibility for investigating the complaint and how the SAA will conduct the investigation.

In this section, the SAA should also explain how it will notify clients, customers, program participants, or consumers of the SAA and SAA subrecipients of prohibited discrimination, along with the procedures for filing a discrimination complaint with the SAA and the OCR. Notification may include placing posters in SAA facilities, including reference in program materials, or providing clients, customers, program participants, or consumers with a copy of these complaint procedures. The SAA should also explain how it will ensure that subrecipients have procedures in place for responding to discrimination complaints that clients, customers, program participants, or consumers of a subrecipient file directly with the subrecipient. At a minimum, these procedures should include forwarding the complaint to the SAA, the OCR, or another appropriate external agency, such as a local or state human rights commission; notifying the SAA of any discrimination complaints that the subrecipient does not refer to the SAA; and notifying the complainant that he or she may file a complaint of discrimination directly with the SAA or with the OCR.]

V. Training

[The SAA should describe its procedures for providing periodic training for agency employees on these complaint procedures, including an employee's responsibility to refer discrimination complaints from clients, customers, program participants, or consumers to the employee responsible for coordinating the series of actions described in these procedures. The SAA shall also describe in this section how it will disseminate these procedures to agency employees, such as by posting the procedures on the agency intranet website, providing a copy of the procedures to employees during the training sessions, distributing the procedures to all new employees during orientation, etc.]

Subject: Procedures for Responding to Discrimination Complaints from Employees of the [State Administering Agency's] Subrecipients under U.S. Department of Justice Grant Programs

Policy Number:

Effective Date:

I. Purpose

[Note: Most often, a State Administering Agency (SAA) will already have procedures in place to address discrimination complaints from its own employees and applicants. Therefore, these template complaint procedures are limited to discrimination complaints from employees of the SAA's subrecipients. If the SAA does not already have procedures in place for addressing discrimination complaints from its own employees, it should ensure that these procedures cover complaints from SAA employees as well.

In this section, the SAA should explain the purpose of this document, such as to establish written procedures for SAA employees to follow when they receive a complaint alleging employment discrimination from an employee of a SAA subrecipient implementing funding from the U.S. Department of Justice (DOJ).]

II. Policy

[The SAA should explain its policy regarding employment discrimination by subrecipients, such as a statement that all employees and applicants of the SAA's subrecipients shall be treated equally regardless of race, color, national origin, sex, religion, and disability. The SAA may wish to state that it will ensure that subrecipients comply with all applicable federal laws regarding employment discrimination.]

III. Definitions

[The SAA may wish to include definitions of relevant terms, such as "discrimination," "complaint coordinator," and "retaliation."]

IV. Complaint Procedures

[The SAA should explain its procedures for responding to employment discrimination complaints against SAA subrecipients. These procedures should include, at a minimum: 1) a designation of the SAA employee who is responsible for coordinating the series of actions described in these procedures; 2) an explanation of how a SAA employee receiving a discrimination complaint from an employee or applicant of a SAA subrecipient should forward the complaint to the employee responsible for coordinating the series of actions described in these procedures; 3) an explanation that the employee responsible for coordinating the series of actions described in these procedures should

refer employment discrimination complaints against SAA subrecipients to the U.S. Equal Employment Opportunity Commission (EEOC) or the appropriate state or local fair employment practices agency or human rights commission; and 4) a requirement that the employee responsible for coordinating the series of actions described in these procedures notify the Office for Civil Rights (OCR), Office of Justice Programs, DOJ, in writing when the employee refers a complaint to the EEOC or a state or local fair employment practices agency or human rights commission. Other options for responding to employment discrimination complaints against SAA subrecipients include the SAA investigating these complaints and notifying the OCR of the investigation and outcome, or referring the complaints to the OCR.

In this section, the SAA should also explain how it will ensure that subrecipients have procedures in place for responding to discrimination complaints that employees or applicants file directly with the subrecipient. At a minimum, these procedures should include forwarding the complaint to the EEOC or a state or local fair employment practices agency or human rights commission and notifying the SAA of this referral.]

V. Training

[The SAA should describe its procedures for providing periodic training for agency employees on these complaint procedures, including an employee's responsibility to refer discrimination complaints from employees or applicants of SAA subrecipients to the employee responsible for coordinating the series of actions described in these procedures. The SAA shall also describe in this section how it will disseminate these procedures to agency employees, such as by posting the procedures on the agency intranet website, providing a copy of the procedures to employees during the training sessions, distributing the procedures to all new employees during orientation, etc.]