



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Via Certified Mail

Washington, D.C. 20531

December 3, 2009

Dorene Whitworth
Grants & Project Analyst Supervisor
Nevada Office of the Attorney General
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

RE: Nevada Office of the Attorney General Compliance Review (09-OCR-0099)

Dear Ms. Whitworth:

On June 18, 2007, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), US Department of Justice (DOJ) initiated a compliance review of all State Administering Agencies, including the Nevada Office of the Attorney General (OAG), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the OAG's compliance with applicable federal civil rights laws along with the OAG's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the OAG's implementation and monitoring of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

During the week of March 24, 2009, the OCR conducted an onsite visit to the OAG offices in Carson City, Nevada, to interview grant administrators and to conduct a training program for staff on the federal civil rights laws that the OCR enforces. I would like to thank you for assisting attorneys George Mazza and Debra Murphy during their onsite visit.

Based on the OAG's responses to our data request and the information that the OCR gathered during our onsite visit, the OCR sent the OAG a draft Compliance Review Report on October 20, 2009, and provided you with 30 days in which to notify the OCR of any factual corrections to the draft report. Having received no comments from the OAG, the OCR issues this as our final Compliance Review Report.

Based on the OAG's responses to our data request and the information that the OCR gathered during our onsite visit, the OCR concludes, in regard to the limited scope of our review, that the OAG has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. The OCR has reservations, however, with the adequacy of several aspects of the OAG's monitoring of subrecipients. These include: (1) procedures for processing complaints of discrimination from beneficiaries of OAG and employees and beneficiaries of subrecipients; (2) onsite monitoring of subrecipients for civil rights compliance; and (3) training for subrecipients. Additionally, although the OAG currently has no faith-based subrecipients, the OCR is

concerned that the OAG is not prepared to adequately advise and monitor faith-based subrecipients about their legal obligations regarding the Equal Treatment Regulations.

I. Overview

The OAG is the State Administering Agency in Nevada for the STOP Violence Against Women Formula Grant. This Compliance Review Report first examines the OAG'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. This Compliance Review Report then focuses on the OAG's implementation of DOJ's Equal Treatment Regulations.

A. General Monitoring Procedures

Recipients of federal financial assistance from the OJP are responsible for certifying that contractors and subrecipients under DOJ grant programs comply with applicable federal civil rights laws. In reviewing the OAG's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the OAG uses the following four tools: (1) standard assurances; (2) onsite visits and other monitoring methods; (3) training and technical assistance; and (4) procedures for receiving, investigating, and resolving complaints alleging discrimination in employment or the delivery of services.

1. Standard Assurances

As part of the application process for DOJ funds, the OAG requires applicants to sign two assurance forms titled "Assurances" and "Certification of Non-Discrimination." If an applicant is selected to receive an award, it must sign a third form titled "Special Conditions."

Applicants for any DOJ funding sign a form titled "Assurances," which provides that they will comply with "all Federal statutes, regulations, policies, guidelines and requirements," including several that are specifically enumerated.¹ This form does not mention the Equal Treatment Regulations.

Applicants for the STOP Violence Against Women grant sign a "Certification of Non-Discrimination," which includes the following statement: "The State of Nevada will not provide

¹ In signing this document, the applicant certifies that "[i]t will comply, and all its contractors will comply, with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); 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 CFR Part 35 and Part 39." The assurance also refers to 28 CFR Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures.

support to organizations that in their constitution or practice, discriminate against a person or group on the basis of age, political affiliation, race, national origin, ethnicity, gender, disability, sexual orientation, or religious belief.”² The applicant signs this assurance under the heading “Statement of Approval,” which certifies that “the governing body of [the applicant] has read and understands the nondiscrimination policy” and “declares that [the applicant] operates in accord with said policy [and] does not discriminate against any person or group” on the basis of the enumerated protected classes. In its response to the OCR’s Data Request, the OAG wrote that this “Certification of Non-Discrimination” applies to an applicant’s employment practices and service delivery. However, the form fails to specify whether the obligation not to discriminate extends to both employment practices and services.

Upon receiving a STOP Violence Against Women grant, subrecipients sign a document titled “Special Conditions.” This document reviews the EEO requirements as follows:

Each subgrantee that receives \$25,000 or more in STOP funding **and** has 50 or more employees is required to maintain an Equal Employment Opportunity Plan (EEO) on file for review by the Department of Justice, Office of [sic] Civil Rights, upon request. If an agency has fewer than 50 employees, regardless of the amount of an award, no EEO is required. All recipients, regardless of their type, the monetary amount awarded, or the number of employees in their workforce, are subject to the prohibitions against discrimination in any funded program or activity. Failure to comply as appropriate may result in suspension or termination of funding. (emphasis in original)

During the onsite portion of the Compliance Review, the OAG explained how the assurance documents are reviewed in the application process. The OAG staff conducts an initial eligibility review of applications using a checklist that includes the “Certified Assurances” and “Certification of Non-Discrimination.” If the application does not include these assurances, the OAG staff often contacts the applicant to request the missing documentation. If the applicant still fails to submit the assurances, the application is considered incomplete and receives no further consideration. The applications are then scored by a multi-disciplinary peer review panel. Three peer reviewers review each application using the OAG’s “STOP Violence Against Women Peer Review Rating Form.” Applicants can receive up to seventy-five points divided in the following manner: up to five points for the title page; up to fifty points for the project narrative; and up to twenty points for the budget details and narrative. There are no points available for civil rights.

2. Onsite Visits and Other Monitoring Methods

² Although it is not listed in the “Certification of Non-Discrimination,” color is also a protected class under the civil rights statutes that apply to recipients of federal financial assistance.

In response to the OCR's Data Request, the OAG stated that it conducts a site visit with approximately twenty-five percent of its subrecipients each year. The OAG chooses subrecipients for site visits based upon several factors, including being a new recipient, problems in administering the grant and proximity to other site visits. The OAG explained that while it cannot visit every program annually, it conducts an onsite review of each program at some point during the time it is receiving funds from the OAG. During the OCR's onsite visit, the OAG stated that the monitoring visits to subrecipients focus on programmatic concerns. The OAG grant monitor reviews a sample of the subrecipient's client files and intake forms and discusses with the subrecipient any challenges to implementing the program. The monitor generally does not inquire about civil rights, although the OAG staff stated that the monitor sometimes asks about language services. Additionally, the OAG does not confirm that subrecipients that are required to maintain an EEOP are actually doing so. The grant monitors do not use a scoring sheet of any kind. In addition to these onsite visits, the OAG conducts monthly desk audits of the financial reimbursement claims of each subrecipient.

3. Training and Technical Assistance

The OAG conducts pre-application workshops for those who wish to apply for a STOP Violence Against Women grant. The workshops cover the Violence Against Women Act. program development and budget preparation, and the grant application review process. Other than stating that the signed assurances must accompany an application for the application to be complete, the pre-application workshop does not address any civil rights issues.

The OAG conducts a grants-management training for all subrecipients within the first month of issuing new grants. In its response to the OCR's Data Request, the OAG wrote that this training "includes a definitive discussion about what discrimination means and how to avoid discrimination in the provision of services." During the OCR's onsite visit, however, the OAG confirmed that the civil rights portion of this training just reviews the assurances and the EEOP requirements. The OAG provided the OCR with copies of four powerpoint slides that it uses during the civil rights portion of the training. One slide describes the basic obligations to maintain and/or submit an EEOP as follows: "Grantees receiving \$500,000 or more in federal funds and having 50 or more employees must submit an EEOP to the OCR[.] Grantees receiving \$25,000 or more and having 50 or more employees must maintain an EEOP - certification form required." (emphasis in original) Another slide affirms that all subrecipients, irrespective of their EEOP obligations, must comply with the prohibition on discrimination, and provides the following as examples of discrimination: (1) denying services; (2) providing different services; (3) segregation or other discriminatory treatment; (4) restricting an individual's participation; and (5) treating an individual differently. The other two slides that the OAG provided as part of the civil rights portion of its grants management training did not contain information related to civil rights.

4. Complaint Procedures

In its response to the OCR's Data Request, the OAG wrote that there are currently no written procedures to respond to discrimination complaints. The OAG did, however, describe a discrimination complaint from a beneficiary of a subrecipient that it received several years ago, as an example of how it would respond to complaints. The complainant was a Hispanic woman who alleged that a subrecipient denied her services because of her race and national origin. The OAG's response was to schedule a site visit to investigate the complaint, which it determined was unfounded. According to the OAG staff, this was the only complaint of discrimination that the office has ever received, either from a beneficiary or employee of a subrecipient or from a beneficiary or employee of the OAG.

Employees of the OAG are covered by the non-discrimination policies and complaint procedures that apply to all employees of the State of Nevada. The Nevada Department of Personnel publishes the "State of Nevada Employee Handbook" (Employee Handbook), which instructs employees about prohibited discrimination and reporting/complaint procedures. The Employee Handbook includes the following non-discrimination policy covering all employees of the State of Nevada:

It is the policy of the State of Nevada that employee recruitment, appointment, assignment, training, compensation and promotion shall occur on the basis of merit and without regard to race, gender, sexual orientation, religion, color, national origin, age, pregnancy, political affiliation, or disability. Ensuring equal employment opportunity is the responsibility of all State officials, managers, supervisors, and employees.

All references to the procedures for filing a discrimination complaint, both on the Department of Personnel's website and in the Employee Handbook, appear under a heading that includes sexual harassment. For example, under the heading "Sexual Harassment and Discrimination Policy," the Employee Handbook describes the following procedures for filing a sexual harassment complaint.

If you experience sexual harassment or witness it, you may report it to your agency coordinator, or you may call the Sexual Harassment/Discrimination Hotline at 1-800-767-7381 and report it to the Sexual Harassment/Discrimination Investigation Unit in the Department of Personnel. Employees are also entitled to file a complaint with the Equal Employment Opportunity Commission, the Nevada Equal Rights Commission or consult with an attorney or labor representative.

Further, the Nevada Department of Personnel website contains four additional documents that describe anti-discrimination policies and/or procedures, all describing sexual harassment complaints in tandem with the other types of discrimination complaints. These four documents are (1) "The Governor's Policy Against Sexual Harassment/Discrimination;" (2) "Sexual Harassment or Discrimination Complaint Form;" (3) "Intake Report of Harassment or

Discrimination;” and (4) “Notice of Employee Rights During an Internal Investigation.” Although the body of each of these documents lists the protected classes as race, gender, sexual orientation, religion, color, national origin, age, pregnancy, political affiliation, and disability, these documents repeatedly refer to “sexual harassment and discrimination,” “sexual harassment or discrimination,” or “sexual harassment/discrimination.” This conflation of sexual harassment with other forms of discrimination could lead a potential complainant to believe that these policies and procedures only cover discrimination that is related to sex.

The Governor’s Policy Against Sexual Harassment and Discrimination provides that each employee should receive a copy of the policy, that each Department director designate an employee to act as a coordinator for reporting complaints, and that these complaint coordinators forward completed harassment/discrimination intake reports to the agency’s Deputy Attorney General and the Sexual Harassment/Discrimination Unit within the Department of Personnel.

B. Monitoring Compliance with Faith-Based Regulations

The purpose of the Equal Treatment Regulations is to ensure that “[r]eligious organizations are eligible, on the same basis as any other organization, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). The Equal Treatment Regulations prohibit the DOJ and DOJ funding recipients from discriminating either for or against an organization on the basis of the organization’s religious character or affiliation. *Id.* In evaluating the OAG’s treatment of faith-based organizations, this Compliance Review Report focuses on two over-arching issues: (1) the review process for making awards to applicant faith-based organizations, and (2) the 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

In its response to the OCR’s Data Request, the OAG wrote that faith-based applicants are neither favored nor discriminated against in its funding process. During the OCR’s onsite visit, the OAG explained that it solicits grant submissions by sending general notices of funding availability to former subrecipients, prosecutors, courts, domestic violence and sexual assault coalitions and media outlets.

The OAG identified one faith-related initiative that was funded in FY 2007 and FY 2008, although the organization that manages the project is not, in fact, a faith-based organization. SafeNest is a domestic violence program in Las Vegas that provides shelter, counseling, and advocacy for victims of domestic violence. In addition, SafeNest provides community outreach and education to educational institutions, businesses, civic groups, health care providers and religious institutions. SafeNest used the FY 2007 and FY 2008 funding from the OAG to employ an Interfaith Coordinator, also an ordained minister, who provides education, support and resources for faith communities on domestic violence. According to the OAG’s response to

the OCR's Data Request, the Interfaith Coordinator works closely with the Southern Nevada Interfaith Task Force on Domestic Violence to train clergy of various faiths on domestic violence and organizes an annual conference on the subject for clergy. The OAG described the domestic violence training as "developing an understanding of how the Bible, the Koran and the Torah relate to domestic violence issues, and how clergy can become a resource for victims within their congregation."

In FY 2007, the OAG received an application from a faith-based organization that it did not fund. Rachel's Sanctuary was a nascent faith-based organization seeking funding through the Healthy Communities Coalition³ to open a safe house for domestic violence victims. The OAG denied funding because Rachel's Sanctuary had not yet established its own non-profit status in the state and had yet to develop any governance documents, policies or organizational structure.

There were no other faith-based applicants in FY 2007 or FY 2008, although the OAG indicated that faith-based organizations are encouraged to apply to the same degree as non-faith-based organizations. The OAG confirmed that its staff and peer review panel would judge each application on the merits of the program, irrespective of the faith orientation of the applicant organization.

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

As mentioned in Sections I.A.1. and I.A.2. of this Report, the OAG monitors civil rights compliance of sub-recipients through the use of pre-award signed assurances, post-award signed "special conditions," and post-award onsite monitoring visits. As the OAG did not fund any faith-based organizations during the compliance review period, the OCR could not investigate the degree to which the OAG monitors subrecipients' compliance with the Equal Treatment Regulations. Neither of the assurances, however, mention the Equal Treatment Regulations, and the OAG staff confirmed during the OCR's onsite visit that its staff does not ask subrecipients about civil rights issues during monitoring visits.

II. Recommendations

The OAG already has some procedures in place for monitoring the civil rights compliance of its subrecipients, such as referring in its assurances to the laws that the OCR enforces. To strengthen the OAG's monitoring efforts, the OCR offers the following recommendations: (1)

³ According to its website, the Healthy Communities Coalition is a partnership of community organizations whose mission is "to promote and support sustainable, culturally inclusive services, community initiatives, and capacity building systems that address all factions of a healthy community for all members." Healthy Communities Coalition of Lyon and Storey Counties, *Our Mission*, at <http://www.healthycomm.org/index.htm> (last visited Sept. 16, 2009).

correct the assurances that subrecipients sign to add the Equal Treatment Regulations and color as a protected class; (2) develop a comprehensive policy, including the establishment of written procedures, for addressing discrimination complaints; (3) convey to the State of Nevada Department of Personnel the OCR's comments about the employee nondiscrimination policies and procedures; (4) monitor subrecipients' compliance with civil rights requirements during onsite monitoring visits and desk monitoring efforts; and (5) provide training to DOJ subrecipients on the civil rights laws that the OCR enforces.

A. Correct the Assurances that Subrecipients Sign to Add The Equal Treatment Regulations and Color as a Protected Class, where it is missing

The OAG should add color to the list of protected classes in the "Certification of Non-Discrimination." The OAG should also include a reference to the DOJ's Equal Treatment Regulations, 28 C.F.R. pt. 38, in its assurances and in DOJ grant application documents that refer to faith-based organizations. Subrecipients that receive funding from DOJ components need to be aware of the obligation to comply with these regulations.

B. Develop Comprehensive Complaint Procedures

While the State of Nevada has written policies in place for receiving and investigating discrimination complaints from state employees, the OAG does not have any procedures for addressing discrimination complaints from beneficiaries of the OAG or from employees or beneficiaries of OAG subrecipients. Accordingly, the OAG should adopt a policy for addressing discrimination complaints that includes at a minimum the following elements:

- designating a coordinator who is responsible for overseeing the complaint process;
- notifying employees, beneficiaries, and subrecipients of prohibited discrimination in funded programs and activities and the OAG's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from the OAG's beneficiaries and from subrecipient employees and beneficiaries;
- referring each complaint to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission or the Nevada Equal Rights Commission, or referring the complaint to the OCR, which will review the complaint and work with the OAG to resolve the complaint;
- notifying the OCR in writing when the OAG refers a discrimination complaint to another agency or when the OAG investigates the complaint internally; and
- training OAG program staff members on the responsibility to refer discrimination complaints, or potential discrimination issues, to the OAG's complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

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. Additionally, the OCR has drafted the enclosed template complaint procedures that the OAG may find helpful as it develops procedures for addressing discrimination complaints from employees and beneficiaries of subrecipients. Developing a comprehensive policy for addressing discrimination complaints should be a top priority for the OAG.

- C. Convey to the State of Nevada Department of Personnel the OCR's Comments about the Employee Nondiscrimination Policy

Section I.A.4. of this Report explains how the wording of the current employee nondiscrimination policy and procedures could lead a potential complainant to believe that these protections only cover discrimination that is related to sex. We recommend that the OAG raise this concern with the State of Nevada Department of Personnel. The OCR recognizes that the OAG does not determine the policies that govern state employment. The OAG, however, should convey these concerns to the appropriate state department so that the nondiscrimination policies that cover Nevada state employees can be clarified.

- D. Monitor for Compliance with Federal Civil Rights Laws During Onsite Monitoring Visits and Remote Monitoring Efforts

The OAG is taking steps to ensure that OAG subrecipients are complying with grant requirements by conducting periodic onsite monitoring visits. At this point, the OAG only conducts onsite monitoring visits to twenty-five percent of its subrecipients, and these onsite monitoring visits do not currently address federal civil rights laws. Pursuant to the OAG's responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the OAG should supplement its onsite monitoring schedule with desk audits and add a civil rights component to both its onsite monitoring visits and its remote monitoring procedures. The OAG should be sure to evaluate a number of civil rights requirements that are binding on recipients of federal funding (e.g., whether the subrecipient has an EEOP on file or has sent one to the OCR for review, whether the subrecipient has findings of discrimination to report to the OCR, whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act, whether the subrecipient has a grievance procedure and a designated coordinator as required by section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972, or whether the subrecipient is taking steps to ensure meaningful access to its services to individuals with limited English proficiency (LEP)). The OCR recognizes that the OAG currently has no faith-based subrecipients, but the OAG's procedures for monitoring subrecipients should contemplate faith-based applicants and subrecipients in the future. The OAG should ask any future faith-based subrecipients whether the subrecipient is complying with DOJ's Equal Treatment Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion. The OCR has developed the enclosed Federal Civil Rights Compliance

Checklist that contains relevant questions regarding civil rights compliance; the OAG may wish to adapt this checklist in creating its own monitoring tools.

E. Provide Comprehensive Training on Federal Civil Rights Laws

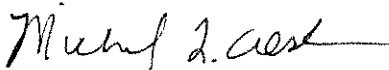
Other than reviewing the assurances with subrecipients and a brief presentation during the post-award grants management training, the OAG does not currently provide any training for its subrecipients about their civil rights obligations. To ensure that subrecipients fully understand their obligations under federal civil rights laws, such as the obligation to comply with the DOJ's Equal Treatment Regulations, to provide services to LEP individuals, and to provide the OCR with findings of discrimination issued by a federal or state court or federal or state administrative agency on the basis of race, color, religion, national origin, or sex, the OAG should provide periodic training programs for its subrecipients on the applicable federal civil rights laws. The OAG should provide this mandatory training for every subrecipient at least once during a grant cycle, whether the OAG provides the training in person, by teleconference, or through other means. The OCR is available to provide the OAG with technical assistance in developing civil rights training programs.

Conclusion

We find that the OAG has taken steps in substantially complying with the federal civil rights laws that the OCR enforces. The OCR is available to provide technical assistance to the OAG in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, please have a responsible OAG official contact Attorney Advisor Debra Murphy 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 Ms. Murphy at [REDACTED]

Sincerely,



Michael L. Alston
Director

Enclosure

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.]

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: