



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

July 19, 2010

Washington, D.C. 20531

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Debrah Stafford, Juvenile Justice Director
Tennessee Commission on Children and Youth
Andrew Johnson Tower, Ninth Floor
710 James Robertson Parkway
Nashville, Tennessee 37243-0800

**Re: Compliance Review of the Tennessee Commission on Children and Youth
(09-OCR-0080)**

Dear Ms. Stafford:

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

On March 2, 2009, the OCR conducted an onsite visit of TCCY's offices in Nashville, Tennessee to interview TCCY employees and to conduct a training program for TCCY management and program staff about the federal civil rights laws that the OCR enforces. The OCR would like to thank you for assisting OCR attorney advisor Michael Thomas during his visit.

On February 16, 2010, we sent you a draft Report and asked that you provide any factual inaccuracies. Having received none, this letter serves as the final Compliance Review Report.

Based on the limited scope of this compliance review, the OCR concludes that the TCCY appears to be taking measures to comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about TCCY's (1) guidance to subrecipients about their legal obligations regarding all applicable antidiscrimination statutes, (2) onsite monitoring of subrecipients' compliance with all applicable antidiscrimination statutes, (3) training and technical assistance to subrecipients regarding their obligations under all applicable antidiscrimination statutes, and (4) complaint procedures for responding to discrimination allegations filed under all applicable antidiscrimination statutes. The following Compliance Review Report includes recommendations for improving TCCY's methods for monitoring the civil rights compliance of subrecipients.

Compliance Review Report: Overview and Recommendations

I. Overview

This Compliance Review Report first examines TCCY'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 focuses on the TCCY's implementation of DOJ's Equal Treatment Regulations.

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

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 TCCY's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the TCCY used the following four tools: (1) assurances; (2) onsite visits and other monitoring methods; (3) training programs and technical assistance; and (4) procedures for receiving, investigating, and resolving complaints alleging employment and services discrimination.

1. Assurances

The TCCY's primary mission is "advocacy for improving the quality of life for Tennessee children and families." The TCCY receives DOJ funding through the Office of Juvenile Justice and Delinquency Prevention (OJJDP) for the following programs: the OJJDP's Title V Community Prevention Grants (Title V), the OJJDP's Juvenile Accountability Block Grants (JABG), the OJJDP's Enforcing the Underage Drinking Laws Block Grants (EUDL), and the OJJDP's Title II Formula Grants (Title II). The TCCY provides all funding applicants with a 37-page Application booklet. The *General Information* section of the booklet contains the following language regarding civil rights laws:

The Department of Justice's Equal Treatment Regulation for all organizations, 28 C.F.R. Part 38 prohibits State administering agencies from making award or grant administration decisions on the basis of an organizations [sic] religious character or affiliation, religious name, or religious composition of its board of directors. The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion.

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The TCCY requires all applicants for OJJDP funding to sign a Federal Assurances document (OJP Form 4000/3), located in Appendix IV of the Application booklet, which contains the following language:

It will comply, and all its contractors will comply, with the nondiscrimination requirements in 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.

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, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

It will provide an Equal Employment Opportunity Program, if required to maintain one, where the application is for \$500,000 or more.

(Federal Assurances at ¶¶ 13-15.)

Additionally, the TCCY requires all applicants to sign a state of Tennessee Certified Assurances document, also located in Appendix IV of the Application booklet, that contains the following language regarding civil rights laws:

Applicant agrees that no person, board members, project staff, and participants, on the basis of race, color, national origin, age, or handicap will be excluded from participation in, be denied the benefits of, or be subjected to discrimination under the program receiving Federal Formula Grant funding.

Applicant agrees to employ culturally sensitive and competent staff to ensure that ongoing training is provided.

Applicant agrees to comply with all requirements of the Americans with Disabilities Act (ADA).

(State of Tennessee Assurances at ¶¶ 1-3.)

As of July 2009, the TCCY also requires that all applicants sign a TCCY Assurances document that contains the following language:

Applicant agrees that it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by the Regulations of the U.S. Department of Justice (28 CFR Parts 42 & 50), the Tennessee Commission on Children and Youth (TCCY), and any directives or regulations issued pursuant to that Act and the Regulations, the effect that: no person in the United States shall, on the ground of race, color, or national origin, be excluded from the opportunity to participate in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant received Federal financial assistance from TCCY.

By accepting this Assurance, the Applicant agrees to compile data, maintain records, and submit reports as required to permit effective enforcement of Title VI, and permit authorized TCCY personnel to review such records, books, and accounts as needed to ascertain compliance with Title VI.

(TCCY Assurances at ¶ 1 and ¶ 4).

According to TCCY's juvenile justice director, all applicants must sign the federal, state, and TCCY assurances to receive funding. If an applicant does not sign all of these documents, then the TCCY eliminates it from further funding consideration.

In addition to the Federal Assurances, the State Assurances, and the TCCY Assurances, the TCCY requires that all subrecipients that are awarded funding complete a twenty-four question Title VI Self Survey. According to TCCY, the survey will help it determine whether a subrecipient adheres to the discrimination prohibitions contained in Title VI. The survey includes the following questions:

- Does your agency have a written policy stating that services will be provided to all persons without regard to race, color, or national origin?
- Are notices of non-discrimination posted in conspicuous places, available to all staff and clients?
- Do you have a Title VI poster and brochure from TCCY?
- Do your Title VI posters show the name of the TCCY Monitor to whom complaints should be referred?

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- Are permanent records kept of all Title VI complaints?
- Is there a 504 Self Evaluation on file?¹
- Does your agency have policies and procedures relevant to all Civil Rights laws, such as Title VI and Title VII of the Civil Rights Act of 1964, Rehabilitation Act of 1973, Age Discrimination Act of 1975, American with Disabilities Act, and Tennessee Public Chapter 502²?
- Are staff members periodically re-orientated or refreshed on information detailing their Title VI responsibilities?
- When did you last conduct civil rights training for your staff?
- Is there a particular Title VI area in which you would like assistance? Please describe.

A subrecipient must complete the Title VI Self Survey before it is allocated grant funds. Additionally, prior to receiving funding, the TCCY requires that a subrecipient enter into a Grant Contract with the TCCY that contains the following language:

Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law.

(TCCY's Grant Contract at ¶ D.8).

¹ Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in federally assisted programs and activities. DOJ regulations require that a recipient conduct a self-evaluation, and modify its policies and practices that do not comply with Section 504. *See 28 C.F.R. §42.505(c).*

² Tennessee Public Chapter 502, passed by Tennessee Generally Assembly and signed into law on May 31, 1993, states that pursuant to Title VI, an agency that administers a federally funded program may not, directly or indirectly, discriminate on the grounds of race, color, or national origin; or deny a person the opportunity to participate as a member of a planning or advisory body

The TCCY also disseminates a written *Title VI Compliance Policy and Procedures Manual* to all TCCY staff and to its subrecipients. The forty-three page Manual includes the following language:

The Organization and Civil Rights Coordinator. The overall responsibility for complying with the provisions of Title VI is vested in the TCCY Executive Director, who is accountable for the administration of TCCY and its organizational subdivisions, field offices, and contracting agencies and governmental units.

The Chair of the Juvenile Justice and Minority Issues Committee shall oversee Title VI compliance efforts, in conjunction with the TCCY Title VI Coordinator, Title VI Work Group, which includes the Juvenile Justice and Minority Issues Committee. The responsibility for coordinating Title VI within the TCCY is assigned to and divided among supervisory staff of TCYY.

Civil Rights Policy and Guidelines. Purpose: The purpose of Title VI is to prohibit programs that receive federal funds from discriminating against participants or clients on the basis of race, color, or national origin. The intent of the law is to ensure that all persons, regardless of their race, color, or national origin, are allowed the equal opportunity to participate in these federally funded programs.

(TCCY Title VI Compliance Policy and Procedures Manual 2008-2009 at Part 1, §§ 3-4).

In several instances, the TCCY assurances documents do not consistently address all of the civil rights requirements that apply to all subrecipients of federal financial assistance. First, the assurances documents do not address all of the laws in which subrecipients must comply. Further, they do not comprehensively reflect the EEO requirements. In addition, although the TCCY's application booklet contains a section regarding DOJ's Equal Treatment Regulations, its assurance documents do not reference the regulations. Finally, the TCCY assurances documents do not reference a subrecipient's obligation to provide language assistance to individuals with limited English proficiency (LEP).

2. Onsite Visits and Other Monitoring Methods

The TCCY's written *Title VI Compliance Policy and Procedures Manual* sets forth TCCY's policy for the monitoring of a subrecipient's compliance with its civil rights obligations. TCCY's policy defines a civil rights compliance review as "regular, systemic inspection of agency programs conducted by Central Office TCCY Staff to determined regulatory compliance

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with civil rights laws and regulations done at least once per year. These reviews help to measure the effectiveness of agency civil rights programs. They identify problems such as denial of full benefits, barriers to participation, different treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint.” The policy includes the following language:

Each grantee shall complete a Title VI Self Survey annually, or as otherwise required, and mail it to the TCCY Central Offices in Nashville with their signed contract. Grantees shall maintain a Title VI file for the duration of time that they receive TCCY funding which includes copies of completed Title VI Self Surveys and all other materials related to Title VI compliance. This requirement is also stated with the Assurance of Compliance Form. Sanctions will be levied against grantees that do not comply with established reporting deadlines and record-keeping guidelines.

The Title VI Self Surveys will be reviewed by the TCCY Title VI Coordinator and members of the Title VI Working Group. If serious compliance problems are noted, an exception letter shall be filed with the Juvenile Justice and Minority Issues Committee. At such time, procedures for correcting noncompliance will be stipulated to the contracting agency.

It is established that initial and on-going reviews will be conducted by members of the Title VI Work Group using the Title VI Self Surveys. If Title VI deficiencies are noted, prompt and corrective action will be taken.

(TCCY Title VI Compliance Policy and Procedures Manual 2008-2009 at Part II, §4).

According to TCCY’S *Title VI Compliance Policy and Procedures Manual*, civil rights compliance monitoring not only includes compliance with Title VI, but also includes compliance with the contract nondiscrimination clause, Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, the Age Discrimination Act of 1975, the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, and Title IX of the Education Amendments of 1972. When the TCCY conducts a desk monitoring of a subrecipient’s civil rights compliance, it requires the subrecipient to be able to document the following: (1) all notices of non-discrimination, (2) policies and procedures relevant to civil rights, (3) discrimination training provided to staff; (4) complete records of all formal discrimination complaints, and (5) information showing that services are being provided on a non-discriminatory basis.

In addition to conducting a desk audit to monitor a subrecipient’s civil rights compliance, the TCCY also conducts site reviews to subrecipients at least once per year to ensure that goals and

objectives are being met, that services are being provided in accordance with grant applications, and that the subrecipient is in compliance with its civil rights obligations. One of the items reviewed during a site review is whether subrecipients "adhere to Title VI civil rights requirements." TCCY staff must complete a Title VI Compliance Status Assessment Sheet each time they conduct an on-site monitoring visit to monitor a subrecipients' civil rights compliance. The Assessment Sheet includes the following checklist:

1. Services from this facility are provided to clients without regard to race, color, or national origin.
2. Records are maintained regarding all alleged cases of discrimination.
3. Title VI posters and brochures are prominently displayed and are used to emphasize the Title VI program and complaint opportunities.
4. All physical facilities and physical areas are made available to every client without regard to race, color, or national origin.
5. All staff members receive ongoing training and orientation regarding the obligations and rights involved in the Title VI program, as well as their responsibilities to clients under the Title VI program.
6. New employees are clearly informed about obligations, rights and their responsibilities to clients under the Title VI program.

The section in the TCCY'S *Title VI Compliance Policy and Procedures Manual* regarding civil rights compliance monitoring does not address all of the civil rights requirements that apply to all subrecipients of federal financial assistance, including the nondiscrimination provisions in the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968 (42 U.S.C. § 3789d), and the Juvenile Justice and Delinquency Prevention Act (JJDPA) of 2002 (42 U.S.C. § 5672(b)). These statutes not only prohibit discrimination on the basis of race, color, and national origin, but also prohibit discrimination on the basis of sex and religion. In practice, the TCCY does not monitor its subrecipients' compliance with the sex and religion discrimination prohibitions set forth in the Safe Streets Act and the JJDPA. Additionally, the TCCY has no procedures in place to monitor whether a subrecipient is complying with the Equal Treatment Regulations or the EEOP requirements.

3. Training and Technical Assistance

In its response to OCR's data request, the TCCY explained that grant application training and orientation training are given to subrecipients one time per year at several different locations throughout Tennessee. For example, the TCCY provided grant training in Chattanooga on March 19, 2009, in Knoxville on March 20, 2009, in Nashville on March 25, 2009, in Memphis on March 26, 2009, and in Jackson on March 27, 2009. According to the TCCY, part of its training includes instruction to subrecipients regarding their civil rights obligations under Title VI and DOJ's Equal Treatment Regulations. Attendance at both the grant application training and the orientation training is voluntary.

According to TCCY's juvenile justice director, the participation rate of subrecipients attending the orientation training is eighty percent.

The TCCY's *Title VI Compliance Policy and Procedures Manual* sets forth TCCY's civil rights training policy. The policy includes the following language:

Each year . . . applicants are trained on Title VI compliance during the grant writing orientation training for potential applicants and current grantees. Employees of grant recipients, contractees, and other organizations and governmental units will also receive orientation training as necessary regarding the obligations and rights involved in the Title VI program through their own agencies. This grant writing orientation training began in FY 1997-98 and has continued through this present year. Grantees are given brochures and posters regarding Title VI and are to be displayed in their agency. In-service training for subrecipient grantee employees should continually apprise them of their responsibility to render a high level of service to all recipients and clients regardless of race, color, or national origin.

(TCCY Title VI Compliance Policy and Procedures Manual 2008-2009 at Part I, § 6).

The focus of TCCY's training is on subrecipients' Title VI obligations. TCCY's does not provide training regarding the obligations created by the other civil rights statutes, including the Safe Streets Act, the JJDP, or the Americans with Disabilities Act. Additionally, the TCCY does not train subrecipients on their EEOP obligations.

4. Complaint Procedures

The TCCY's procedures for individuals to pursue complaints of discrimination against a subrecipient are outlined in the Complaints of Discrimination section of TCCY's *Title VI Compliance Policy and Procedures Manual*. The policy includes the following language:

A complaint alleging discrimination against a facility, contracting agency, or governmental unit providing services may be filed by a client with contracting agency staff, Central Office TCCY Monitors or Commission Members, or the U.S. Department of Justice.

Complaints must be filed in writing, preferably on the TCCY Complaint form CY-0092 on page 32 in the Appendix.³

³ TCCY's complaint form, entitled *Complaint Under Civil Rights Act of 1964*, elicits information from the complainant regarding his or her name, address, basis of complaint, and the date of the alleged discrimination.

In accordance with federal regulations, a federal complaint with the Department of Justice must be filed no later than 180 calendar days after the alleged discrimination occurred.

If a complaint is filed both internally with the Commission and externally with the U.S. Department of Justice during the same time, the external complaint supersedes the internal complaint filing. Accordingly, the internal complaint procedures will be suspended pending outcome of the federal complaint.

When a complaint is received at the local level, the TCCY Title VI Coordinator will conduct and complete a fact-finding investigation within 30 calendar days of receipt of the complaint and report the findings If the report includes a finding of noncompliance to Title VI, the report should include recommendations for remedial action by the Grantee. The Grantee must complete a remedial action plan, which includes steps to correct the problem and procedures to avoid future discriminatory issues within thirty (30) days. If the Grantee does not comply with this policy, then TCCY will notify the Grantee that funds will be suspended until compliance is met.

(TCCY Title VI Compliance Policy and Procedures Manual 2008-2009 at Part II, § 5).

The TCCY also provides subrecipients with *Discrimination is Prohibited* posters to display in their offices. The posters include the following language pertaining to filing a complaint: "Who Can File a Complaint? Any persons or organization feeling they have been a victim of discrimination based on race, color, or national origin may file a complaint with the agency in question, with the local TCCY monitor, or with the U.S. Department of Justice." The poster includes the TCCY monitor's name and telephone number, and the subrecipient's local contact information. The poster also includes the telephone number of TCCY's Title VI Coordinator.

The TCCY has for distribution a brochure, entitled, *Discrimination is Prohibited*, explaining its Title VI complaint process. The brochure explains that a complaint can be filed with the TCCY or with the DOJ. The telephone number of DOJ listed on the brochure is that of DOJ's Office of the Assistant Attorney General.

The TCCY also requires subrecipients to have policies and procedures in place regarding the handling of internal Title VI service or employment complaints. An individual alleging service discrimination or employment discrimination against a subrecipient can file a complaint directly with the subrecipient, with the TCCY, or with the OCR. As part of its monitoring activities, the TCCY requires each subrecipient to provide the TCCY with information regarding all complaints of discrimination filed against it.

The TCCY's *Title VI Compliance Policy and Procedures Manual* applies only to race, color, and national origin discrimination complaints filed by individuals alleging service discrimination against a subrecipient. The TCCY does not have an internal complaints policy or procedure to handle service discrimination complaints against subrecipients filed under the other antidiscrimination statutes, nor does it have a policy or procedure to handle any employment discrimination complaints against subrecipients.⁴ The TCCY also does not have an internal complaints policy or procedure to handle employment discrimination complaints from its own employees, applicants for employment, or individuals alleging service discrimination against the TCCY. A subrecipient employee or applicant for employment, and a TCCY employee or applicant for employment can file a complaint of employment discrimination with the U.S. Equal Employment Opportunity Commission (EEOC), the OCR, or the Tennessee Human Rights Commission (THRC). The THRC is responsible for enforcing the provisions of Tennessee law that prohibit discrimination in employment and places of public accommodation based on race, color, gender, age (over 40), disability, national origin, creed or religion. An individual alleging service discrimination against a subrecipient or the TCCY can also file a complaint of discrimination with the OCR or the THRC.

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 Regulations prohibit the DOJ and DOJ funded recipients from discriminating either for or against an organization on the basis of the organization’s religious character or affiliation. *Id.*

As mentioned above, the TCCY subawards funds under OJJDP’s Title V, JABG, EUDL, and Title II programs. In accordance with the Juvenile Justice and Delinquency Prevention Act, the TCCY requires nonprofit applicants to obtain federal tax exempt status to receive OJJDP funds.

The OJJDP’s Title V program focuses on assisting units of local government to reduce risks and to enhance protective factors to prevent youth at risk from becoming delinquent and entering the juvenile justice system. Faith-based organizations are statutorily ineligible to apply directly to the OJJDP or the TCCY for Title V funds. However, the OJJDP encourages faith-based organizations to access these funds by partnering with units of local government in developing a local delinquency prevention plan and implementing prevention activities. *OJJDP FY 09 Title V Community Prevention Grants Program*, at <http://ojjdp.ncjrs.gov/grants/solicitations/FY2009/Title%20V.pdf> (last visited Dec.16, 2009).

⁴ Generally, Title VI’s prohibitions against race, color, and national origin discrimination do not include employment discrimination unless the primary purpose of the federal financial assistance is employment.

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The OJJDP's JABG program supports state and units of local government in their efforts to strengthen juvenile justice systems. While faith-based organizations are statutorily ineligible to apply directly to the OJJDP or the TCCY for funding under the JABG program, Section 1806 of the Omnibus Crime Control and Safe Streets Act of 1968 permits units of local government to contract with such groups to implement appropriate JABG purpose areas. *OJJDP FY 09 Juvenile Accountability Block Grants Program*, at <http://ojjdp.ncjrs.gov/grants/solicitations/FY2009/JABG.pdf> (last visited Dec.16, 2009).

The OJJDP's EUDL program aims to enforce state laws that prohibit the sale of alcoholic beverages to minors and to prevent the purchase or consumption of alcoholic beverages by minors. While faith-based organizations are statutorily ineligible to apply to the OJJDP for funding under the EUDL program, they may apply for funding from the TCCY. *See OJJDP FY 09 Enforcing the Underage Drinking Laws Block Grants Program* at <http://ojjdp.ncjrs.org/grants/solicitations/fy2009/EUDL%20block.pdf> (last visited Dec.16, 2009).

The OJJDP's Title II program focuses on improving juvenile justice systems by increasing the availability and types of prevention and intervention programs. While faith-based organizations are statutorily ineligible to apply directly to the OJJDP for Title II funding, they may apply for funding from the TCCY. *See OJJDP FY 09 Title II Formula Grants Program*, at <http://ojjdp.ncjrs.org/grants/solicitations/FY2009/TitleIIFormula.pdf> (last visited Dec.16, 2009).

In evaluating TCCY's equitable treatment of faith-based organizations, the Compliance Review Report 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 TCCY issues statewide announcements regarding the availability of funds. The announcements are sent to state legislators, juvenile court judges, court staff, youth services officers, county executives, prosecutors, members of the statewide Disproportionate Minority Contact (DMC) Task Force, all subrecipients currently receiving funding, TCCY Commission Members, and approximately two-thousand individuals and organizations that have requested to be put on TCCY's mailing list. The TCCY also sends the announcements to newspapers throughout the state requesting that they print the announcement. In addition, the TCCY posts the information on its website at <http://www.tn.gov/tccy/index.shtml> (last visited Dec. 16, 2009).

The TCCY reviews and evaluates all applications for OJJDP funds. The grant evaluation process is first conducted by TCCY's Juvenile Justice Division staff. A review guide is given to the staff to determine points for consideration when reviewing each application, then a composite average score for each applicant is determined and listed on a spreadsheet along with both

positive and negative comments. The applications are then scored by individual TCCY members on the Grant Review Committee (GRC), which is a subcommittee of the TCCY State Advisory Group. An average score is determined by adding the staff scores plus the GRC's scores. Generally, current subrecipients are discussed first to determine if they will be funded for another year. The GRC members also review the findings and observations from the TCCY's latest monitoring review of the program to determine if the subrecipient's objectives were met. Next, new applicants are considered, looking at three areas: (1) the scores, (2) what part of Tennessee each subrecipient is located (TCCY attempts to spread funding throughout the state), and (3) whether the applicant's program is one of the program categories listed in TCCY's Three-Year Plan that it submits to OJJDP indicating which type of programs it will fund. Once the GRC makes the final funding decision, the TCCY sends award letters to the successful applicants notifying them of the amount of the award under each funded program.

In response to OCR's data request, the TCCY identified twelve faith-based organizations that applied for TCCY funding in fiscal year 2006 through fiscal year 2008, of which three received funding⁵: (1) New Vision, Incorporated (New Vision) in Nashville, (2) Mediation and Reconciliation/Restitution Services in Memphis, and (3) Catholic Charities in Nashville.⁶

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

Generally, and as discussed above, the TCCY reviews the Equal Treatment Regulations with subrecipients during grant training; however, its assurances documents and grant contract document do not reference the Equal Treatment Regulations. Additionally, TCCY's manual regarding civil rights compliance monitoring does not discuss monitoring a subrecipient's compliance of DOJ's Equal Treatment Regulations, nor does the TCCY specifically monitor whether a subrecipient is in compliance with these regulations.

The OCR conducted a site visit to New Vision on March 5, 2009. The goal of New Vision is to reduce the number of children entering state custody in Tennessee. New Vision conspicuously posted TCCY's *Discrimination is Prohibited* poster near the main entrance. During the site visit, the OCR met with staff, including the executive director, toured the facility, and reviewed policies. New Visions is not affiliated with any particular church or religion, but works with

⁵ The faith-based organizations that did not receive funding were denied for reasons other than their faith-based affiliation (e.g., an applicant's target population was unclear, an applicant did not include performance measure outputs and outcomes on a mandatory form, an applicant did not submit an EEO plan, an applicant did not address its policies and procedures, and an applicant's goals were not time bound or measurable).

⁶ Catholic Charities applied and received TCCY funding for its refugee youth program project in fiscal years 2006 and 2007.

churches, schools, and other organizations to provide services to at-risk juveniles. New Visions does not have a preferential employment policy based on religion, and its EEO policy prohibits discrimination against an employee or applicant based on race, creed, color, religion, sex, national origin, ancestry, age, or disability. New Visions serves beneficiaries regardless of their religious affiliation. The executive director indicated that he was aware of the DOJ's Equal Treatment Regulations through TCCY's annual training. The executive director also informed OCR that the TCCY conducts monitoring of its program, which includes a review of New Vision's compliance with civil rights laws, but he is unsure if TCCY specifically monitors New Visions' compliance with DOJ's Equal Treatment Regulations. The OCR attended a session at a local middle school of New Vision's Girls Circle, a "strength based program for teen girls that offers a safe space to address risky behavior, encourage self development, and strengthen relationships." There were nineteen female students attending the session. The students sat in a circle and talked about problems and issues they were having. There was no religious instruction or proselytization. The OCR did not find any evidence that New Vision uses federal resources for inherently religious purposes. 28 C.F.R. § 38.1(b)(1), 38.2(b)(1).

II. Recommendations

The TCCY already has in place a number of procedures for monitoring the civil rights compliance of its subrecipients. To strengthen the Department's monitoring efforts and its inclusion of faith-based organizations in the grant funding process, the OCR offers the following four recommendations: (1) modify the civil rights/nondiscrimination provisions in its assurances documents, (2) modify its compliance checklist and modify its monitoring policy, (3) refine its training for subrecipients regarding their obligations to comply with all applicable antidiscrimination statutes, and (4) develop a comprehensive policy for addressing discrimination complaints filed under all of the applicable antidiscrimination statutes.

A. Modify the Civil Rights/Nondiscrimination Provisions in Assurances Documents

While the OCR commends the TCCY for seeking to ensure that all applicants and subrecipients are aware of their federal civil rights obligation under Title VI, the OCR recommends that the TCCY take steps to ensure that DOJ subrecipients agree to assurances that accurately reflect all of their federal civil rights obligations. To that end, the OCR recommends that TCCY revise its assurances documents to incorporate the following language or substantially similar language, which would apply to all subrecipients of DOJ funding, regardless of the program or 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. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Ex. Order 13279 (equal protection of the laws for faith-based and community 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 U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), and the Tennessee Commission on Children and Youth (TCCY).

The recipient will determine whether it is required to formulate an Equal Opportunity Program (EEO), in accordance with 28 CFR 42.301 *et. seq.* If the applicant is not required to formulate an EEO, it will submit a certification form to the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), and the TCCY indicating that it is not required to develop an EEO. If the applicant is required to develop an EEO, but is not required to submit the EEO to the OCR, the applicant will submit a certification form to the OCR and the TCCY certifying that it has an EEO on file which meets the applicable requirements. If the applicant is awarded a grant of \$500,000 or more and has fifty or more employees, it will submit a copy of its EEO to the OCR and the TCCY. Non-profit organizations, Indian Tribes, and medical and education institutions are exempt from the EEO requirement, but are required to submit a certification form to the OCR to claim the exemption. A copy of the certification form should also be submitted to the TCCY. Information about civil rights obligations of grantees can be found at <http://www.ojp.usdoj.gov/ocr/>.

The TCCY also should consider requiring subrecipients to agree to the following language or substantially similar language regarding language assistance services:

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, recipient must take

reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing your budgets and in conducting your programs and activities. Additional assistance and information regarding your LEP obligations can be found at <http://www.lep.gov>.

Finally, the TCCY may wish to add a sentence stating that in accordance with federal civil rights laws, the subrecipient shall not retaliate against individuals for taking action or participating in action to secure rights protected by these laws.

B. Modify the Title VI Compliance Status Assessment Sheet Checklist and Modify TCCY's Policy Regarding Monitoring of Subrecipients

The TCCY is to be commended for its efforts to monitor subrecipients through onsite visits and desk reviews, the Title VI Self Surveys, as well as for its use of its Title VI Compliance Status Assessment Sheet checklist. Going forward, however, the OCR recommends that the TCCY ensure that it monitors the compliance of subrecipients with not only Title VI, but other applicable federal civil rights laws that prohibit discrimination on the basis of sex, religion, age, and disability. The TCCY should modify its Title VI Compliance Status Assessment Sheet checklist to ensure that it evaluates all of the various civil rights requirements that apply to 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 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 whether the subrecipient is taking reasonable steps to provide meaningful access to programs and activities for LEP persons). Additionally, the checklist should include questions that evaluate 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. To assist the TCCY in refining its checklist, the OCR has prepared a sample Federal Civil Rights Compliance Checklist, which is enclosed at Attachment A. The TCCY can use this checklist to modify its current Compliance Status Assessment Sheet checklist.

C. Refine Training to Subrecipients Regarding Their Obligations to Comply with Federal Civil Rights Laws

While the TCCY is making a concerted effort to provide training to subrecipients regarding their obligations to comply with Title VI and DOJ's Equal Treatment Regulations, the TCCY should refine its training program to ensure that subrecipients are aware of their obligations under other

applicable federal civil rights laws, such as informing subrecipients about (a) the prohibition of discrimination not only under Title VI, but also under the Safe Streets Act, the JJDP, the Americans with Disabilities Act, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, (b) the EEOP requirements, (c) providing meaningful access to programs and activities for LEP individuals, and (d) having procedures in place to receive and evaluate complaints from employees and beneficiaries alleging discrimination not only under Title VI, but also under the Safe Streets Act, the JJDP, the Americans with Disabilities Act, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The TCCY should provide mandatory periodic training at least once during a grant cycle, whether it provides the training in person, during a teleconference, or by other means. The OCR can provide technical assistance to the TCCY in designing a civil rights training program.

D. Develop a Comprehensive Policy for Addressing Discrimination Complaints

As previously noted, the TCCY has procedures in place regarding Title VI service discrimination complaints filed against subrecipients. However, the TCCY does not have an internal complaints policy or procedure to handle employment discrimination complaints from subrecipient employees and applicants for employment, its own employees and applicants for employment, or individuals alleging service discrimination against the TCCY.

The TCCY has an obligation as a recipient of federal financial assistance to have a policy that comprehensively addresses how it responds to employment and services discrimination complaints it receives from TCCY and subrecipient employees and beneficiaries filed under all of the antidiscrimination statutes. Specifically, the TCCY should ensure that it has 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, including complaints filed under Title VI, the Safe Streets Act, the JJDP, the Americans with Disabilities Act, the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. The TCCY can either designate the Title VI Coordinator to oversee the complaint process for all complaints, or it can designate another coordinator to oversee the complaints filed under these statutes;
- notifying employees and beneficiaries of the TCCY, as well as employees and beneficiaries of subrecipients, of prohibited discrimination in funded programs and activities and the TCCY's policy and procedures for handling employment and service discrimination complaints filed under the statutes prohibiting discrimination on the basis of race, color, national origin, sex, religion, age, disability, and retaliation;

- establishing written procedures for receiving employment and service discrimination complaints filed not only under Title VI, but also under the Safe Street Act, the JJDP, the Americans with Disabilities Act, the Rehabilitation Act, and the Age Discrimination Act from subrecipient employees and beneficiaries, and from TCCY employees and beneficiaries. The TCCY should include in the written procedures an explanation of the filing time limits under each of the antidiscrimination statutes (e.g., the filing time limit under Title VI, the Americans with Disabilities Act, the Rehabilitation Act, and the Age Discrimination Act is 180-days, the filing time limit under the Safe Streets Act and the JJDP is one-year);
- referring each complaint that is not investigated internally to an appropriate agency for investigation and resolution, such as the EEOC or the THRC; or referring the complaint to the OCR, which will review the complaint and work with the TCCY to resolve it;
- notifying the OCR in writing when the TCCY refers a discrimination complaint to another agency or when it investigates the complaint internally; and
- training TCCY program staff on their responsibility to refer discrimination complaints or potential discrimination issues to the TCCY's complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

To assist the TCCY in developing written complaint procedures to address discrimination complaints, a sample policy entitled *Procedures for Responding to Discrimination Complaints from Employees of the [State Administering Agency's] Subrecipients under U.S. Department of Justice Grant Programs* is enclosed as Attachment B, and a sample policy entitled, *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* is enclosed as Attachment C. The TCCY may use or modify these policies or develop its own policies for addressing discrimination complaints. Additional information about applicable laws, complaint forms, and the OCR's investigative process is available at OCR's website at <http://www.ojp.usdoj.gov/ocr/crc>.

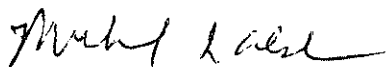
Debrah Stafford, Juvenile Justice Director
Tennessee Commission on Children and Youth
July 19, 2010
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III. Conclusion

We find that the TCCY should implement OCR's recommendations to ensure substantial compliance with the federal civil rights laws that the OCR enforces. On request, the OCR is available to provide technical assistance to the TCCY in addressing the concerns raised in this Compliance Review Report. **Immediately upon receipt of this letter, a responsible TCCY official should contact attorney advisor Michael Thomas to develop a timeline and goals for implementing OCR's recommendations.**

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

Sincerely,



Michael L. Alston
Director

cc: Linda O'Neal, Executive Director

ATTACHMENT A:

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:

ATTACHMENT B

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.]

ATTACHMENT C

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.]