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Washington, D.C. 20531

VIA CERTIFIED RETURN RECEIPT REQUESTED

February 24, 2010

Ronald Gordon  
Executive Director  
Utah Commission on Criminal and Juvenile Justice  
Utah State Capitol Complex  
East Office Building, Suite E330  
PO Box 142330  
Salt Lake City, Utah 84114-2330

**Re: Utah Commission on Criminal and Juvenile Justice Compliance  
Review (08-OCR-0390)**

Dear Mr. Gordon:

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 Administrative Agencies, including the Utah Commission on Criminal and Juvenile Justice (CCJJ), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the CCJJ's compliance with applicable federal civil right laws along with the CCJJ's monitoring procedures for ensuring its subrecipients' compliance with these laws. Of particular interest to the OCR was the CCJJ's implementation and monitoring of the Department of Justice's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

On October 29, 2008, the OCR conducted an onsite visit to the CCJJ's office in Salt Lake City, Utah, to interview CCJJ's administrators and to conduct a training program on federal civil rights laws that the OCR enforces. On the same day, the OCR conducted an onsite visit to the Holy Cross Ministries (HCM), a CCJJ faith-based subrecipient.<sup>1</sup> The OCR would like to thank CCJJ staff, especially Doreen G. Weyland, Grant Specialist, for assisting OCR attorney Sharon L. Cole during the onsite visit.

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<sup>1</sup> The Equal Treatment Regulations do not provide a definition for faith-based organization. The CCJJ's subrecipients self-identify their organizations as faith-based.

Based on the CCJJ's responses to our Data Request and the information we gathered onsite, the OCR concludes, concerning the limited scope of our review, that the CCJJ has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about whether the CCJJ has adequate complaint procedures in place to respond to service discrimination complaints from beneficiaries of CCJJ subrecipient programs. We are also concerned whether the CCJJ provides sufficient training to its subrecipients on applicable federal civil rights laws. The following Compliance Review Report includes recommendations for improving the CCJJ's methods for monitoring the civil rights compliance of subrecipients.

## **Compliance Review Report: Overview and Recommendations**

### **I. Overview**

The Compliance Review Report first examines the CCJJ's monitoring of subrecipients compliance with the federal civil rights laws. The Report then focuses on the CCJJ's compliance with the DOJ's Equal Treatment Regulations.

Depending on the DOJ program, the CCJJ administers DOJ subawards through four CCJJ components: the Substance Abuse and Anti-Violence Coordinating Council Office (USAAV),<sup>2</sup> the Board of Juvenile Justice (JJ), the Office of Crime Victim Reparation (CVR), and the Office of Domestic and Sexual Assault (DMC). The USAAV administers the Justice Assistance Grants (JAG) and Residential Substance Abuse Treatment (RSAT) grants authorized under the Omnibus Crime Control and Safe Street Act (Safe Streets Act) of 1968, as amended (42 U.S.C. § 3711 *et seq.*). The JJ administers Title II formula grants and Title V Community Prevention grants authorized under the Juvenile Justice and Delinquency Prevention Act (JJDP A) of 1974, as amended (42 U.S.C. § 5672). The JJ also administers the Juvenile Accountability Block Grant (JABG) authorized pursuant to the Safe Streets Act. The DMC and the CVR administer Victim Compensation and Victim Assistance grants authorized by the Victims of Crime Act (42 U.S.C. § 1064(e)) and the Violence Against Women Act of 1994, as amended, (Pub. L. No. 109-162, § 105(a), 119 Stat. 2981).

#### **A. Monitoring 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 programs comply with applicable federal civil rights laws. In reviewing the CCJJ's general efforts to ensure subrecipients' compliance with federal civil rights obligations, the OCR examined how the CCJJ used the following four tools: (1) standard assurances; (2) onsite visits and other monitoring methods; (3)

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<sup>2</sup> The CCJJ has identified "USAAV" in various documents as the commonly used acronym for the Substance Abuse and Anti-Violence Coordinating Council Office.

training programs and technical assistance; and (4) procedures for receiving, investigating, and resolving complaints alleging discrimination in the delivery of services.

1. Standard Assurances of Civil Rights Obligations

The CCJJ has two standard assurances that address subrecipients' civil rights obligations: (1) paragraphs five, six, and eight of the Certified Assurances and (2) the Civil Rights Requirements form. The CCJJ requires subrecipients to sign both documents as a condition for receiving a grant.

a. Certified Assurances

Paragraph five of the Certified Assurances states that subrecipients must comply with applicable federal civil rights laws:

The subgrantee assures that it will comply, and all of its contractors will comply, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1960 [sic] as amended; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973 as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990; the Department of Justice Nondiscriminating Regulations 28 CFR Part 42, Subparts C, D, E, and G; and their implementing regulations, 41 CFR Part 60.1 et seq., as applicable to construction contracts.

Paragraph six of the Certified Assurances states that subrecipients have an obligation to send findings of discrimination to the CCJJ:

The subgrantee assures that in the event a Federal or State court of 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 findings to the CCJJ.

Paragraph eight of the USAAV's Certified Assurances requires subrecipients to comply with the Equal Treatment Regulations<sup>3</sup> and other federal directives:

The applicant assures that it will comply with the provision of 28 CFR applicable to grants and cooperative agreements, including Part II, Applicability of Office Management and Budget Circulars; . . . Part 38, Equal Treatment for Faith-Based Organizations . . . .

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<sup>3</sup> Notably, only the USAAV's Certified Assurances have a reference to the Equal Treatment Regulations.

b. Civil Rights Requirements Form

The Civil Rights Requirements form states that subrecipients must comply with selected federal civil rights laws and notifies subrecipients of the regulatory obligation to prepare and submit workforce reports:

The applicant agency assures that it will comply with the Civil Rights Act of 1964 as outlined in 28 CFR and the Americans with Disabilities Act of 1990 as outlined in 28 CFR Part 35 . . . .

Equal Employment Opportunity Plan. The purpose of an Equal Employment Opportunity Plan (EEOP) is to insure full and equal participation of men and women regardless of race or national origin in the workforce of the recipient agency. An EEOP is a comprehensive document that analyzes that agency's workforce in comparison to its relevant labor market data and all agency employment practices to determine their impact on the basis of race, sex, or nation origin. Agencies that meet all of the following criteria are required to maintain an EEOP that complies with 28 CFR 42, subpart E:

- i. have 50 or more employees\*; and
- ii. received a grant award of \$25,000 or more; and
- iii. have 3 percent or more minorities in service population (if less than 3 percent minorities in service population, an EEOP must still be prepared, but must focus only on employment practices affecting women)

\*Example: A city police department will expend the grant funds. The applicant agency is the city, not the police department. An EEOP must be maintained if the city, not the police department, has 50 or more employees and meets the other two criteria.

Educational, medical, and non-profit institutions or agencies, as well as Indian tribes are exempt from preparing or submitting EEOPs. However, these agencies must still comply with applicable anti-discrimination laws.

Please note that a policy encouraging equal employment will not satisfy the EEOP requirement. If necessary, contact CCJJ for a seven-step guide to the design and development of an EEOP . . . .

All agencies required to maintain an EEOP must submit a copy of the plan to CCJJ within 60 days of the grant award.

The OCR is not aware of any documents that the CCJJ provides to subrecipients that expressly refer to the obligation of taking reasonable steps to provide limited English proficient (LEP) beneficiaries meaningful access to programs or activities under Title VI of the Civil Rights Act of 1964 and related statutes.

## 2. Onsite Visits and Other Monitoring Methods

The CCJJ provided the OCR with limited information concerning onsite-monitoring visits of its subrecipients. The CCJJ explained that it conducts onsite-monitoring visits on a case-by-case basis, when a program manager spots an issue that requires attention in a subrecipient's quarterly report.

The CCJJ has a document, Financial Monitoring Checklist, which CCJJ program managers use for desk audits that focus on the financial management of grants. The Financial Monitoring Checklist includes the following two questions: "Do you have a written Equal Employment Opportunity Plan (EEOP)?" and "Have there been any adverse findings of discrimination by either a Federal or State Court or State Administrating Agency?"

According to the CCJJ's Data Request Response, every January, program managers review all open grants in the Grant Management System to examine whether the subrecipients that are required to prepare an EEOP have an updated one on file. If the subrecipient does not have a current plan on file, the CCJJ sends the subrecipient a letter or an e-mail explaining the need to submit a plan. According to the CCJJ's Data Request Response, the CCJJ staff holds payment of the award pending receipt of a current EEOP.

The CCJJ's Data Request response states that through desk audits the CCJJ staff has monitored (financially and programmatically) approximately seventy-three grants in FY2006, sixty-nine grants in FY2007, and ninety-two grants in FY2008.

## 3. Training and Technical Assistance

The CCJJ does not provide any annual comprehensive training to subrecipients on their federal civil rights obligations. In regard to developing an EEOP, the CCJJ staff states that it provides one-on-one training to subrecipients, upon request. Staff also states that they will direct subrecipients needing technical assistance with drafting EEOPs to the OCR's webpage <http://www.ojp.usdoj.gov.ocr/>.

During the onsite visit, however, the CCJJ staff stated that they rely on the Civil Rights Seven-Step Guide to the Design and Implementation of an Equal Employment Opportunity Plan (1998) [hereinafter Seven-Step Guide] to provide EEOP technical assistance to subrecipients. The Civil Rights Requirements form, discussed in Section I.A.1., also cites the Seven-Step Guide as a resource for use in preparing an EEOP. In

January 2008, however, the OCR replaced the Seven-Step Guide with a web-based EEO tool accessible at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>.

In its Data Request Response, the CCJJ stated that it provides subrecipients general training packets (containing several printed Power Point slides along with an appendix). None of the slides in the training package addresses federal civil rights laws. In the appendix to the training packets, the CCJJ placed copies of the Certified Assurances and Civil Rights Requirements form discussed in Section I.A.1. of this Compliance Review Report.

#### 4. Complaint Policies and Procedures

The State of Utah has a general employment discrimination policy applicable to CCJJ employees. The policy, R477-15, Workforce Harassment Policy and Procedure, states that “it is the State of Utah’s policy to provide all employees a working environment that is free from unlawful discrimination and harassment based on race, religion, national origin, color, sex, age, disability, or protected activity under state or federal law.” The policy has procedures for submitting and investigating employee discrimination complaints.

The CCJJ does not have, however, internal procedures or policies to receive, investigate, and resolve service discrimination complaints made by its beneficiaries or beneficiaries of subrecipient programs. In response to the OCR’s Data Request, the CCJJ stated that beneficiaries who believe discrimination occurred in a CCJJ program or in a subrecipient’s program can file a claim with the OCR by submitting the OCR’s Complaint Verification Form. The CCJJ grant award documents, however, do not identify the OCR as a forum for resolving complaints from beneficiaries.

#### **B. Monitoring Compliance with the Equal Treatment Regulations**

The Equal Treatment Regulations ensure that “[r]eligious organizations are eligible, on the same basis as any other organizations, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). In evaluating the CCJJ’s equitable treatment of faith-based organizations, this Compliance Review Report focuses on two issues: (1) the 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 Data Request Response, the CCJJ stated that it awards grants to religious organizations through the same process as non-religious organizations. The CCJJ staff with whom the OCR spoke explained that the CCJJ treats all organizations that apply for

government grants similarly and does not engage in preferential treatment of applicants based upon religious affiliation or status. The CCJJ staff explained that the CCJJ service area, which comprises the entire state, has several organizations affiliated with the Church of Jesus Christ of Latter-Day Saints. The CCJJ staff opined that although these organizations may be candidates for funding, they are not applying for grants because they are concerned that government funding may limit free exercise of religion.

The CCJJ solicits applicants for competitive grants through its website, <http://www.justice.utah.gov/Grants/default.htm>. The CCJJ staff with whom the OCR spoke stated that CCJJ program managers prescreen competitive grant applications to ensure that applications are complete. After the prescreening, the CCJJ Review Committee reads and scores the remaining applications. The CCJJ staff explained that the CCJJ Review Committee is a body of neutral staff members, usually comprised of staff outside of the program office administering the grant. According to the CCJJ, one of the criteria that program managers use in selecting committee members is expertise in reviewing grant applications.

In FY2006, FY2007, and FY2008, through the competitive grant award process, the CCJJ funded only one faith-based organization, HCM. The HCM received funding under the STOP Violence Against Women formula grant program [hereinafter STOP Grant], which the CVR administers. In FY2006, HCM received approximately \$35,000; in FY2007, HCM received approximately \$19,000.<sup>4</sup>

The CCJJ does not require non-profit organizations to obtain federal tax-exempt status in order to be eligible to receive funding.

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

The CCJJ does not have separate procedures for monitoring subrecipient compliance with the Equal Treatment Regulations. The CCJJ staff with whom the OCR spoke stated that faith-based organizations undergo the same monitoring as other CCJJ programs.

The OCR conducted an onsite monitoring visit to the HCM and met with HCM's Executive Director, who is a member of a Roman Catholic religious order of women, and the HCM's Immigration Director.

The HCM's mission statement states that it is, "committed to sharing resources given to us by our loving God. We reach out to those in need—the poor, the underserved, the oppressed, the forgotten—and offer our hands and hearts to minister to their health and

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<sup>4</sup> At the time the OCR conducted the site visit to the CCJJ, the CCJJ had not awarded the FY2008 grants. The CCJJ, however, has confirmed that HCM has received FY2008 funding.

well being.” Holy Cross Ministries Mission,  
<http://www.holycrossministries.org/Mission/Mission.html> (last visited Dec. 8, 2008).

The HCM uses the STOP Grant to fund a program that provides legal counsel to U and T Visa applicants. Through the U Visa program, noncitizen victims of domestic violence, who agree to assist government officials in the investigation or prosecution of their assailants, receive visas. Through the T Visa program, individuals trafficked into the United States for illegal purposes, receive an opportunity to obtain temporary lawful status.

The HCM administrators explained that the HCM does not consider religious affiliation when hiring staff. They also said that the HCM does not take the religion of participants in the U and T Visa counseling programs into consideration when providing services. The HCM does not inquire into the religious affiliation of its Board of Trustees or require its members to be any certain religious affiliation.

During the onsite visit, the OCR did not observe the HCM engaging in inherently religious activities, such as worship, religious instruction, or proselytization, in DOJ-funded programs or activities. Based on the information provided in response to the OCR’s Data Request and observed during the onsite visit, the OCR finds no evidence that the HCM uses federal funds for inherently religious purposes.

## **II. Recommendations**

The OCR offers the CCJJ the following six recommendations to incorporate into its administration of the DOJ grants to ensure compliance with federal civil rights laws: (1) develop a comprehensive policy, including the establishment of written procedures, for addressing discrimination complaints, especially in the delivery of services; (2) add a citation referring to DOJ’s Equal Treatment Regulations in all of its Certified Assurances for subrecipients; (3) modify and update the nondiscrimination provisions in all of its certified assurances; (4) use a federal civil rights laws compliance checklist when conducting desk audits or onsite visits; (5) provide training to subrecipients on their obligations to comply with federal civil rights laws; and (6) update the information on EEO technical assistance in the Civil Rights Requirement form.

### **A. Develop Comprehensive Complaint Procedures**

The CCJJ should adopt a policy for addressing discrimination complaints that include, at a minimum, the following elements:



1. Designating a coordinator who is responsible for overseeing a complaint process and reviewing initial complaints;<sup>5</sup>
2. Notifying subrecipient employees and subrecipient beneficiaries of prohibited discrimination in the programs or activities of recipients receiving federal funds;
3. Establishing procedures for handling complaints alleging discrimination in DOJ-funded programs or activities from not only CCJJ employees and beneficiaries but also for employees and beneficiaries of the CCJJ's subrecipients;
4. Referring each complainant to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission or the Antidiscrimination & Labor Division, Labor Commission of Utah, or referring the complainant to the OCR to review the complaint and work with the CCJJ to resolve it;
5. Notifying the OCR in writing when the CCJJ refers a discrimination complaint to the EEOC or state agency responsible for handling employment or services complaints; and
6. Training CCJJ program staff members on their responsibility to refer discrimination complaints, or potential discrimination issues, to the CCJJ's complaint coordinator for processing as soon as alleged discrimination comes to their attention.

The OCR has enclosed a sample complaint template to assist the CCJJ in developing its complaint policy. The OCR's website, [www.ojp.usdoj.gov/ocr/crc](http://www.ojp.usdoj.gov/ocr/crc), has additional information about applicable laws, complaint forms, and the investigative process. Developing a comprehensive policy for addressing discrimination complaints should be a top priority for the CCJJ.

**B. Ensure that a Reference to the Equal Treatment Regulations is in the CCJJ Grant Agreement**

Although the Certified Assurances of the grants administered by the CCJJ's USAAV office contain a reference to the Equal Treatment Regulations, 28 C.F.R. pt. 38, the CCJJ should ensure that all Certified Assurances for each of its other program offices has a reference to the DOJ's Equal Treatment Regulations. The CCJJ staff may also wish to include a discussion of the Equal Treatment Regulations in its solicitation documents so that subrecipients are aware of the obligation to comply with these regulations.

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<sup>5</sup> See 28 C.F.R. § 31.202(a)(1) (instructing state administrative agencies receiving formula grants under the Juvenile Accountability Block Grants to designate a contact person responsible for meeting all civil rights requirements and serving as a liaison with the OCR).

**C. Modify and Correct the Nondiscrimination Provisions in all of its Certified Assurances**

In its Certified Assurances, the CCJJ staff should edit and correct some references to the federal civil rights laws. For review, we have enclosed a copy of the OJP's Standard Assurances that OJP recipients sign prior to receiving an award; paragraph 6 of the OJP Standard Assurances correctly cites the federal civil rights laws required for compliance by recipients and subrecipients. The CCJJ staff should also edit all its Certified Assurances to require subrecipients to send findings of discrimination not only to the CCJJ, but also to the OCR. The CCJJ staff may want to consider adding a sentence to its Certified Assurances 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. Finally, the CCJJ may wish to add an additional section on compliance with the Justice Department's guidance for providing services to LEP beneficiaries. *See* U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (2002).

**D. Using A Federal Civil Rights Laws Checklist for Monitoring**

The CCJJ should add a civil rights component to its monitoring procedures beyond the questions pertaining to whether the subrecipient has submitted an EEOP or any adverse findings of discrimination. The CCJJ may wish to develop a Federal Civil Rights Laws Compliance Checklist for this purpose. The OCR has enclosed a sample checklist.

**E. Provide Comprehensive Training on Federal Civil Rights Laws**

The CCJJ should provide mandatory civil rights training for every subrecipient at least once during a grant cycle, whether the CCJJ staff provides training in person, by teleconference, or through other means. The CCJJ should ensure that subrecipients are aware of their obligations under federal civil rights laws such as the obligations to comply with the DOJ's Equal Treatment Regulations; to provide services to LEP individuals; and to provide the OCR with adverse findings of discrimination issued by a federal or state court or federal or state administrative agency based on race, color, religion, national origin, or sex. The OCR is available to provide the CCJJ with technical assistance in developing training programs.

**F. Update the Civil Rights Requirement Form**

The CCJJ should update its Civil Rights Requirements form by deleting the following sentence: "If necessary, contact the CCJJ for a seven-step guide to the design and development of an EEOP" (*see supra* Part I.A.1.b, penultimate paragraph) and replace it

with a reference to <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>, the online tool that has superseded the Seven-Step Guide.


The CCJJ should also modify its Civil Rights Requirements form by adding a statement that grantees with fifty or more employees, that have three percent or more minorities in their service population, and receive a single award of \$500,000 or more, must submit an EEOP to the OCR.

### III. Conclusion

We find that the CCJJ has taken steps to substantially comply with the federal civil rights laws that the OCR enforces. On request, the OCR has resources available to provide technical assistance to the CCJJ in addressing the concerns raised in this Compliance Review Report. Immediately, upon receipt of this letter, we ask that a responsible CCJJ official contact Attorney Sharon Cole 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. Cole at [REDACTED]

Sincerely,



Michael L. Alston  
Director

Enclosures

<b>Subject:</b> 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
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<b>Policy Number:</b>
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<b>Effective Date:</b>
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## 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.]

<b>Subject:</b> Procedures for Responding to Discrimination Complaints from Employees of the [State Administering Agency's] Subrecipients under U.S. Department of Justice Grant Programs
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<b>Policy Number:</b>
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<b>Effective Date:</b>
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## **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: