



U.S. Department of Justice

Office of Justice Programs

*Office for Civil Rights*

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Washington, D.C. 20531

**Via Certified Mail**

August 23, 2010

Juliene Maska  
Criminal Justice Coordinating Council  
300 SW 10<sup>th</sup> Avenue  
Room 212 South  
Topeka, KS 66612

RE: Kansas Criminal Justice Coordinating Council Compliance Review  
(09-OCR-0279)

Dear Ms. Maska:

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 Kansas Criminal Justice Coordinating Council (KCJCC), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the KCJCC's compliance with applicable federal civil rights laws along with the KCJCC's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the KCJCC's implementation and monitoring of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

On June 16 and 17, 2009, the OCR conducted an onsite visit to the KCJCC offices in Topeka, Kansas to interview KCJCC administrators and to conduct a training program for KCJCC administrators and program staff on the federal civil rights laws that the OCR enforces. The OCR would like to thank you for assisting attorney Debra Murphy during the onsite visit.

The OCR sent the KCJCC a draft Compliance Review Report on June 17, 2010, and provided you with 30 days within which to provide the OCR additional information or factual corrections to the draft report. On July 13, 2010, you informed the OCR that you had reviewed the draft Compliance Review Report, and had no additional information or factual corrections to offer. Therefore, this serves as the OCR's final Compliance Review Report.

Based on the KCJCC's responses to our data request and the information that the OCR gathered during our onsite visit, the OCR concludes, in regard to the limited scope of our review, that the KCJCC has taken steps to comply substantially with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about whether the KCJCC has adequate complaint procedures in place to respond to discrimination complaints from KCJCC beneficiaries and from beneficiaries and employees of subrecipients, and whether it is sufficiently training its

subrecipients on applicable federal civil rights laws. The following Compliance Review Report includes recommendations for improving the KCJCC's methods for monitoring the civil rights compliance of subrecipients.

## I. Overview

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

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

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

#### 1. Standard Assurances

The OCR records and the information provided by the KCJCC indicate that the KCJCC currently administers numerous subgrant awards funded by the OJP's Bureau of Justice Assistance (BJA), National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS), and Office for Victims for Crime (OVC), along with grants from DOJ's Office on Violence Against Women (OVW). Specifically, the KCJCC administers Victims of Crime Act (VOCA) grants, Violence Against Women Act (VOWA) grants, the Edward Byrne Memorial Justice Assistance Grants (Byrne/JAG), Residential Substance Abuse Treatment (RSAT) grants, National Crime History Improvement Program (NCHIP) grants, Coverdell Forensic Science Improvement grants (the Coverdell Program) and Bulletproof Vests Partnership Program grants. Before the KCJCC releases DOJ funds, subrecipients must sign a document containing grant assurances; the exact content and format of the grant assurance document may vary slightly depending on the particular grant program. However, the grant assurance document contains several civil rights provisions.

First, the grant assurances contain a provision that the subrecipient will designate a "civil rights person" who will be responsible for insuring that all civil rights obligations are met, and will notify the KCJCC of the designee. This person will "act as a liaison for civil rights issues with the U.S. Justice Department, Office of Justice Programs, Office of Civil Rights. [sic]" This person would also be responsible for preparing and submitting an equal employment opportunity

plan, if required, although the assurances do not describe which subrecipients are required to complete or submit an EEOP.

Second, the grant assurances contain a section entitled “Civil Rights and Nondiscrimination,” which specifies that subrecipients will comply “with all applicable nondiscrimination requirements”, including several statutes and regulations that are specifically enumerated.<sup>1</sup> Additionally, subrecipients assure the KCJCC that they will forward to the KCJCC and the OCR any findings of discrimination on the basis of race, color, religion, national origin, sex, age or disability that are made against them by a state or federal court or state or federal administrative agency.

Third, the grant assurance contains a section entitled “Equal Treatment for Faith-Based Organizations,” which provides that “[t]he Subgrantee assures that all grant projects provided by the Subgrantee shall comply with the Equal Treatment Regulations . . . [and] shall not discriminate against prospective program beneficiaries on the basis of religion.”

Fourth, the grant assurance contains a section entitled “Limited English Proficiency,” which states that “procedures have been or will be developed to ensure meaningful access by persons with limited English proficiency that are eligible for assistance or services from any Subgrantee program assisted by [DOJ funds].”

During the OCR’s onsite visit, the KCJCC staff stated that the assurances are signed after an applicant is selected to receive a grant, but before any funds are dispersed.

## 2. Onsite Visits and Other Monitoring Methods

During the OCR’s onsite visit, the KCJCC staff stated that the KCJCC grant monitors conduct annual compliance reviews of all subrecipients, which includes an onsite review if possible; if the KCJCC is unable to arrange an on-site visit, then the compliance review is conducted remotely as a desk audit. The KCJCC provided the OCR with a monitoring form used during these annual reviews entitled “Grant Project Compliance Report” (Compliance Report). This form contains the following items about civil rights, with an option to check “yes” or “no:”

Is there an Equal Employment Opportunity Program plan in place?

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<sup>1</sup> The grant assurance contains the following provision: “The Subgrantee assures that all grant projects provided by the Subgrantee shall comply with all applicable nondiscrimination requirements including, but not limited to, the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. §3789(d); Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000(d) *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794; 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, 42 U.S.C. §6101 *et seq.*; Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C, D, E, and G; and Department of Justice Regulations on disability discrimination, 28 C.F.R. Part 35 and Part 39; and 28 C.F.R. Part 46 and all U.S. Justice Department, Office of Justice Program policies and procedures regarding the protection of human research subject.”

Has a federal or state court or federal or state administrative agency made a finding of discrimination after a due process hearing against the subgrantee?

If yes, a copy has been forwarded to the U.S. Office of Civil Rights Compliance (sic) and a copy is on file.

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What type of training has staff received in regard to services for persons with disabilities or cultural diversity?

When and how often?

The subgrantee provided information on its Limited English Proficiency policy.

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Is the subgrantee in compliance with all grant assurances?

During the OCR's onsite visit, the KCJCC explained that between two and three weeks prior to reviewing a subrecipient, the KCJCC notifies the subrecipient of the upcoming review and gives the subrecipient a copy of the Compliance Report so that the subrecipient is aware of the bases on which it will be evaluated. During the review, the KCJCC discusses each item of the Compliance Report with the subrecipient and requires that the subrecipient provide supporting documentation for each of its responses. Following the compliance review, the KCJCC mails the completed Compliance Report to the subrecipient, along with recommendations for curing any deficiencies. The KCJCC attaches deadlines to its recommendations, and tracks subrecipients' progress in meeting those deadlines through an internal database.

### 3. Training and Technical Assistance

In its Data Response and during the onsite visit, the KCJCC stated that it provides training for prospective grant applicants every two years. The focus of this training for prospective applicants is the purpose, scope, and requirements of the DOJ grants that the KCJCC administers, as well as the application and selection process. The KCJCC stated that this training includes a review of the grant assurances discussed in Section I.A.1. of this Compliance Review Report.

Once an applicant is selected as a subrecipient, the KCJCC does not provide formal training to subrecipients. However, during the OCR's onsite visit, the KCJCC reported that it provides frequent technical assistance on an as-needed basis. The focus of the KCJCC's technical assistance is generally on financial issues, reporting requirements or changes in the scope of permissible activities. In addition, the annual compliance reviews often include informal training, as issues of concern arise.

### 4. Complaint Procedures

In its Data Response and during the onsite visit, the KCJCC stated that it does not have procedures to address complaints from its beneficiaries or the beneficiaries or employees of subrecipients who allege discrimination. Further, the KCJCC stated that it has not received any complaints from beneficiaries, prospective beneficiaries, applicants, subrecipients, or employees

of subrecipients during the relevant time period. The Compliance Report that the KCJCC uses to monitor its subrecipients contains a section on personnel matters, but does not ask about civil rights.<sup>2</sup> The KCJCC confirmed during the OCR's onsite visit that it does not monitor subrecipients' employment policies for non-discrimination procedures.

The KCJCC directed the OCR to the State of Kansas, Department of Administration, Division of Personnel Services (Personnel Division), for policies and procedures on discrimination complaints from employees of the KCJCC. The Personnel Division website directs users to the Kansas Human Rights Commission (KHRC) for information about employment discrimination.<sup>3</sup> The KHRC is a statutorily created body whose members are appointed by the governor, and whose duties include receiving, initiating, investigating and adjudicating complaints of discrimination in employment, public accommodations and housing because of race, color, sex, religion, disability, national origin or ancestry, and complaints alleging discrimination in housing because of familial status. Accordingly, it appears that employees of KCJCC subrecipients may file discrimination complaints with the KHRC, as well as employees of the KCJCC itself. Additionally, beneficiaries of subrecipients may be able to file discrimination complaints with the KHRC if the program or activity of the subrecipient qualifies as housing.<sup>4</sup>

## B. Monitoring Compliance with Equal Treatment 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 funding recipients from discriminating either for or against an organization on the basis of the organization's religious character or affiliation. *Id.* In evaluating the KCJCC's equitable treatment of faith-based organizations, the Compliance Review focuses on two issues: (1) the review 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

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<sup>2</sup> The Compliance Report contains the following: “The subgrantee's personnel policies and procedures regarding fringe benefits, overtime, vacation, holidays, travel, staff evaluations, etc. were reviewed. Yes No”

<sup>3</sup> Information about the KHRC, employment discrimination policies, and complaint procedures are not obviously labeled as such on the Personnel Division website.

<sup>4</sup> The statute also prevents discrimination in public accommodations, which is defined as “...any person who caters or offers goods, services, facilities and accommodations to the public [including] lodging establishment or food service establishment...any bar, tavern, barbershop, beauty parlor, theater, skating rink, bowling alley, billiard parlor, amusement park, recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public.” Kan. Stat. Ann. § 44-1002(h) (2005). Therefore, it is unlikely that subrecipients of the KCJCC are ever considered public accommodations.

As discussed in Section I.A.1. of this Compliance Review Report, the KCJCC administers numerous subgrants funded by the BJA, the BJS, the NIJ, the OVC, and the OVW. During the OCR's onsite visit, the KCJCC staff explained it sends electronic mail announcements of competitive funding to lists of potential applicants, depending upon the grant. These include non-profits, law enforcement agencies, prosecutors, the Kansas Association of Counties, the League of Kansas Municipalities, current and past recipients, past applicants, and Indian Tribes. The KCJCC also posts funding notices on the Governor's website and in the Kansas Register. The KCJCC staff members conduct an initial review of applications for completeness. Applications are then reviewed by sub-committees whose members are drawn from the community and who have some expertise or experience in the subject area. Sub-committee members evaluate the applicants on several criteria, including (1) how the goals and activities match those of the funding program and KCJCC, (2) the soundness of the budget and (3) the overall strength of application. The sub-committees make funding recommendations to the KCJCC, which makes the final award determinations.

During the OCR's onsite visit, the KCJCC staff stated that the KCJCC treats eligible faith-based organizations the same as any other applicant, and that the KCJCC judges grant applications solely on the merits of the program. The KCJCC staff stated that the only way that they would know that an applicant organization is a faith-based organization is if it describes itself as such in the applicant description portion of the application, or if the funding program requires proof of non-profit status which somehow reveals the faith-based nature of the organization. But there is nothing in the application stage of the funding process that specifically inquires whether an applicant is a faith-based organization.

As part of the data request, the OCR asked for information on the faith-based organizations that applied for funding in FY 2007 and FY 2008 and faith-based organizations that were awarded funding in FY 2007 and FY 2008. In both fiscal years, Episcopal Social Services was the only faith-based organization to apply for funding, and it was awarded a grant each year.

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

As discussed in Section I.A.1. of this Compliance Review Report, the KCJCC requires all subrecipients to sign a document containing grant assurances that includes a reference to the Equal Treatment Regulations. In addition to citing the regulations, the assurance document includes the following statement: "The Subgrantee shall not discriminate against prospective program beneficiaries on the basis of religion." However, the KCJCC confirmed during the OCR's on-site review that it does not ask questions about compliance with the Equal Treatment Regulations during any subsequent monitoring of the subrecipient, such as during on-site visits or while providing technical assistance. Additionally, the KCJCC does not provide any training to its staff regarding the Equal Treatment Regulations beyond discussion of the standard assurances.

As mentioned in Section I.B.1. of this Compliance Review Report, the KCJCC funded Episcopal Social Services (ESS) in both FY 2007 and FY 2008, the only faith-based organization to apply for funding in those years. ESS applied for and received \$31,783 in FY 2007 and \$28,072 in FY 2008 of funding from the Edward Byrne Memorial Justice Assistance Grant. The funds were used to support the Teen Intervention Program of Butler County, which is a collaboration between ESS, Trinity Episcopal Church, and the Butler County Attorney's office. This program provides an 8-week intervention group for non-violent juvenile offenders between the ages of 10 and 18. Mentors work with the adolescents to educate them on the consequences of their illegal behavior and how it impacts their families and the community. The KCJCC does not fund any other faith-based programs.

## II. Recommendations

The KCJCC already has some procedures in place for monitoring the civil rights compliance of its subrecipients, such as referencing the laws that the OCR enforces, including the Equal Treatment Regulations, in its assurances. To strengthen the KCJCC's monitoring efforts, the OCR offers the following recommendations: (1) develop a comprehensive policy, including the establishment of written procedures, for addressing discrimination complaints; (2) monitor for compliance with civil rights requirements during onsite monitoring visits; (3) provide training for DOJ subrecipients on the civil rights laws that the OCR enforces; and (4) ensure that subrecipients submit an EEOP Certification to the OCR.

### A. Develop Comprehensive Complaint Procedures

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

- designating a coordinator who is responsible for overseeing the complaint process;
- notifying employees, beneficiaries and subrecipients of prohibited discrimination in funded programs and activities and the KCJCC's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from the KCJCC's beneficiaries and from subrecipient employees and beneficiaries;
- referring each complaint to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission or the Kansas Human Rights Commission, or referring the complaint to the OCR, which will review the complaint and work with the KCJCC to resolve the complaint;
- notifying the OCR in writing when the KCJCC refers a discrimination complaint to another agency or when the KCJCC investigates the complaint internally; and

- training KCJCC program staff members on the responsibility to refer discrimination complaints, or potential discrimination issues, to the KCJCC's complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

Information about the applicable laws, complaint forms, and the investigative process is available at the OCR's website at [www.ojp.usdoj.gov/ocr/crc](http://www.ojp.usdoj.gov/ocr/crc). Additionally, the OCR has drafted the enclosed template complaint procedures that the KCJCC may find helpful as it develops procedures for addressing discrimination complaints from employees and beneficiaries of subrecipients. Developing a comprehensive policy for addressing discrimination complaints should be a top priority for the KCJCC.

#### B. Reference the DOJ LEP Guidance in the Grant Assurance Document

As mentioned in Section I.A.1. of this Compliance Review Report, the document containing grant assurances includes a provision that "procedures have or will be developed to ensure meaningful access by persons with limited English proficiency that are eligible for assistance or services from any Subgrantee program assisted by [DOJ funds]." In order to more clearly explain to subrecipients what their obligations are to LEP applicants and beneficiaries, the OCR recommends inserting a direct reference into the assurance document to DOJ's *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, which can be found at 67 Fed. Reg. 41455 (June 18, 2002) or at [www.lep.gov](http://www.lep.gov). This way, subrecipients will be directed to more complete information about how a program or activity might be made accessible to LEP individuals.

#### C. Monitor for Compliance with Federal Civil Rights Laws During Onsite Monitoring Visits

The KCJCC is taking steps to ensure that KCJCC subrecipients are complying with grant requirements by conducting periodic onsite monitoring visits. These onsite monitoring visits, however, do not currently address federal civil rights laws. Pursuant to the KCJCC's responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the KCJCC should add a civil rights component to its onsite monitoring visits. The KCJCC should be sure to evaluate a number of civil rights requirements that are binding on recipients of federal funding (e.g., whether the subrecipient has an EEOP on file or has sent one to the OCR for review, whether the subrecipient has findings of discrimination to report to the OCR, whether the subrecipient has posted nondiscrimination notices as required by section 504 of the Rehabilitation Act, whether the subrecipient has a grievance procedure and a designated coordinator as required by section 504 of the Rehabilitation Act and Title IX of the Education Amendments of 1972, or whether the subrecipient is taking steps to ensure meaningful access to its services to individuals with limited English proficiency). Additionally, the KCJCC should ask questions on whether the subrecipient is complying with DOJ's Equal Treatment

Regulations, including the prohibitions against using federal funds to engage in inherently religious activities and discriminating against program beneficiaries on the basis of religion. The OCR has developed the enclosed Federal Civil Rights Compliance Checklist that contains relevant questions regarding civil rights compliance; the KCJCC may wish to adapt the checklist in creating its own monitoring tools.

#### D. Provide Comprehensive Training on Federal Civil Rights Laws

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

#### E. Ensure that Subrecipients are complying with EEOP Preparation and Submission Requirements

According to the KCJCC assurances, subrecipients will designate a "civil rights person" who will be responsible for insuring that all civil rights obligations are met, including preparing and submitting an equal employment opportunity plan, if required. However, the KCJCC does not explain to subrecipients what the EEOP obligations are, nor does it monitor whether preparation and submission requirements were met. First, the OCR recommends that the KCJCC train its own monitoring staff and its subrecipients on the EEOP requirements.<sup>5</sup> Second, the OCR recommends that the KCJCC requires subrecipients to use the OCR's certification forms when certifying their exemption from the requirement to complete an EEOP or their exception from the requirement to submit an EEOP.<sup>6</sup> We further recommend that the KCJCC make clear that these certification forms are to be submitted to the OCR, although the KCJCC may wish to receive a copy for monitoring purposes.

### III. Conclusion

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<sup>5</sup> Recipients must prepare an EEOP if: (1) the recipient is a state or local government agency or any business; and (2) the recipient has 50 or more employees; and (3) the recipient receives a *single award* of \$25,000 or more. A recipient that must prepare an EEOP must submit it to the OCR if it receives a *single award* of \$500,000 or more. Recipients that are exempt from preparing an EEOP must certify the exemption to the OCR. Recipients that must prepare an EEOP but are exempt from submitting it must certify that exemption to the OCR.

<sup>6</sup> This form can be found at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

Juliene Maska  
Kansas Criminal Justice Coordinating Council  
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Except for the concerns we have raised in Section II of this Compliance Review Report, we find that the KCJCC has taken steps in substantially complying with the federal civil rights laws that the OCR enforces. The OCR is available to provide technical assistance to the KCJCC in addressing the concerns raised in this Compliance Review Report. **Immediately upon receipt of this letter, please have a responsible KCJCC official contact Attorney Advisor Debra Murphy to develop a timeline and goals for implementing the OCR's recommendations.**

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

Sincerely,



Michael L. Alston  
Director

Enclosures

<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.]

<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.]

### 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: