



U.S. Department of Justice

Office of Justice Programs

*Office for Civil Rights*

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Washington, D.C. 20531

June 18, 2010

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Ada E. Colón  
Director  
Development and Monitoring Division  
Women's Advocate Office  
P.O. Box 11382  
Fernández Juncos Station  
San Juan, PR 00910-1382

Re: Compliance Review of Puerto Rico Women's Advocate Office (09-OCR-0481)

Dear Ms. Colón:

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 Puerto Rico Women's Advocate Office (WAO or Office), in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was on the WAO's compliance with applicable federal civil rights laws along with the Office's monitoring procedures for ensuring the compliance of subrecipients with these laws. Of particular interest to the OCR was the WAO'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 September 9, 2009, the OCR provided a training program for WAO representatives about the federal civil rights laws that the OCR enforces. On September 10, the OCR conducted an onsite visit with the Office in San Juan, Puerto Rico, to interview management and program staff. The OCR would like to thank Ms. Dessy Bones Colón for assisting the DOJ during its onsite visit.

In regard to the limited scope of this compliance review, the OCR concludes that the WAO appears to be taking measures to comply with the federal civil rights laws that the OCR enforces. Nonetheless, we have reservations about the adequacy of the Office's (1) guidance to subrecipients about their legal obligations regarding applicable federal civil rights laws, (2) onsite monitoring of subrecipients, (3) training for subrecipients, and (4) complaint procedures for responding to certain discrimination allegations. The following Compliance Review Report includes recommendations for improving the WAO's methods for monitoring the civil rights compliance of subrecipients.

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

### I. Overview

This Compliance Review Report first examines the WAO'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 Office's implementation of the 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 the WAO's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the Office 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 employment and services discrimination.

##### 1. Standard Assurances

The WAO subawards DOJ funds to subrecipients through the Violence Against Women Act's Services • Training • Officers • Prosecutors Violence Against Women Formula Grant Program (VAWA STOP). The Office does not have a uniform method of providing information about applicable federal civil rights obligations to all of its subrecipients. Instead, it distinguishes between criminal justice subrecipients and nonprofit subrecipients, and follows a different protocol in notifying each group of their obligations. First, for criminal justice subrecipients such as law enforcement agencies, prosecutors, and courts, the Office details pertinent grant requirements in an award notification letter; it does not enter into a formal grant agreement with them. The award letter includes the following language about applicable federal civil rights laws:

1. Fill in the CIVIL RIGHTS MONITORING CHECKLIST form. Comply with the affirmative action principles stated in the "Guide to the Design and Development of Equal Opportunity Program," which are available at the Federal Funds Division of the Department of Justice. Similarly, you also commit to comply with the "Omnibus Crime Control and Safe Street Act of 1968", as amended, 42 USC 3789(d), or the "Victim of Crime Act"; title VI of the "Civil Rights of 1964", as amended; section 504 of the "Rehabilitation Act of 1973", as amended; subtitle A, title II of the "Americans with

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Disabilities Act (ADA) (1990), 42 U.S.C. 12131-1234"; title IX of the "Education Amendments of 1972"; the "Age Discrimination Act of 1975"; the "Department of Justice Non-Discrimination Regulations, 28 CFR part 42, subparts C, D, E and G" and the "Department of Justice regulations on disability discrimination, 28 CFR part 35 and part 39."

(WAO Award Letter to Puerto Rico Department of Justice at 3.)

Second, it requires nonprofit subrecipients to sign a grant agreement that includes the following language regarding civil rights obligations:

**TEN:** Comply with the affirmative action principles stated in the "Guide to the Design and Development of Equal Opportunity Program," which are available at the Federal Funds Division of the Department of Justice. Similarly, you also commit to comply with the "Omnibus Crime Control and Safe Street Act of 1968", as amended, 42 USC 3789(d), or the "Victim of Crime Act"; title VI of the "Civil Rights of 1964", as amended; section 504 of the "Rehabilitation Act of 1973", as amended; subtitle A, title II of the "American with Disabilities Act (ADA) (1990), 42 U.S.C. 12131-1234"; title IX of the "Education Amendments of 1972"; the "Age Discrimination Act of 1975"; the "Department of Justice Non-Discrimination Regulations, 28 CFR part 42, subparts C, D, E and G" and the "Department of Justice regulations on disability discrimination, 28 CFR part 35 and part 39."

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**TWELFTH: ANTI-DISCRIMINATION PUBLIC POLICY: THE SECOND PART** commits to avoid discrimination in the presentation of the services provided on the basis of politics, religion, race, age, social status, nationality or sex.

**THIRTEENTH: NO SEXUAL HARASSMENT PUBLIC POLICY: THE SECOND PART** commits to promote a work environment that is free of sexual harassment.

(WAO Funds Granting Contract, Contract Number 2009-000031, at 8.)

The OCR commends the WAO for seeking to ensure that all subrecipients are notified of their federal civil rights obligations. However, as discussed below in Recommendation A, the Office must obtain signed assurances from all DOJ-funded subrecipients regarding their obligations

under applicable federal civil rights laws. It is not sufficient to notify criminal justice subrecipients of these requirements through an award notification letter.

## 2. Onsite Visits and Other Monitoring Methods

The WAO conducts site visits and desk reviews of its subrecipients. During a three-year grant cycle, the Office endeavors to conduct one site visit and two desk reviews of each subrecipient. In practice, however, the WAO's monitoring schedule appears to be less comprehensive. Of its eleven subrecipients receiving fiscal year 2007 funds, the Office has monitored two subrecipients through one site visit and one desk review; the Office aims to monitor the remaining nine subrecipients in 2010. As a condition of receiving a VAWA STOP subaward, the WAO also requires each subrecipient to complete and submit a civil rights monitoring checklist, which includes questions about whether (1) there were recent findings of discrimination issued against the organization and (2) the subrecipient needs any civil rights training or technical assistance. During site visits, the Office verifies the information provided by subrecipients on the checklist. In addition, the WAO monitors subrecipients on an ongoing basis by reviewing monthly and quarterly status reports. If an organization provides a deficient status report, then the Office will conduct an additional site visit of that subrecipient.

## 3. Training and Technical Assistance

The WAO does not have a comprehensive training program that provides information to DOJ subrecipients about applicable federal civil rights requirements. After nonprofit subrecipients sign the grant agreement, the Office coordinates a training session for them that covers the governing terms and conditions of the subaward, although there is not a significant civil rights component to the training curriculum. There also does not appear to be a separate training session for criminal justice subrecipients. While the WAO does not have a robust civil rights training program, it provides ongoing technical assistance to all of its subrecipients about federal civil rights requirements. The Office trains its monitoring division staff about equal treatment policies, which allows them to provide technical assistance to subrecipients and beneficiaries of subrecipients regarding issues involving discrimination. In its response to the OCR's data request, the WAO also noted that it relies on an external consultant to provide ongoing technical assistance to subrecipients about their duties under applicable federal civil rights laws.

## 4. Complaint Procedures

In reviewing complaint procedures, the OCR evaluated the processes in place for individuals to pursue complaints of employment and services discrimination against the WAO and its subrecipients. The Office has several non-discrimination and anti-harassment policies and procedures that apply to employees wishing to pursue internal employment discrimination or harassment complaints against the Office. The Puerto Rico Department of Labor (DOL), Discrimination Unit, enforces the provisions of Puerto Rico law that prohibit discrimination in

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employment on the basis of race; color; sex; social or national origin; social condition; political affiliation; political or religious ideology; or being a victim or being perceived as a victim of domestic violence, sexual aggression, or stalking. P.R. Laws Ann. tit. 29, § 146 (2009). A WAO or subrecipient employee also can file a charge of discrimination with the Equal Employment Opportunity Commission (EEOC). The Office posts notices apprising its employees that they can file a discrimination complaint with the DOL or the EEOC.

The WAO also has a policy prohibiting discrimination in the delivery of its services. Under the policy, an employee who discriminates against an Office beneficiary will be terminated from employment. The Office relies on the Investigations and Complaints Division (Division), which is part of the WAO, to receive and handle all services discrimination complaints. The Division has the authority to investigate and resolve specific complaints, which may involve issuing administrative findings, or to refer the complaint to an appropriate external agency, such as the Puerto Rico Civil Rights Commission, for review and disposition. The WAO uses several mechanisms to disseminate information about the complaint process to its beneficiaries and other members of the public. It provides an overview of its complaint procedures to beneficiaries, which includes a statement that it does not discriminate against individuals in the delivery of services. The Office also posts information about its services anti-discrimination policy and complaint procedures on public bulletin boards. In addition, the WAO maintains a hotline that provides assistance to the public and refers callers with services discrimination complaints to the Division. Finally, the Office routinely solicits input from its beneficiaries about the level of services it provides; requests information about how various staff members interacted with beneficiaries; and determines whether it can improve the provision of services.

The WAO does not require subrecipients to have a policy or procedure that addresses receiving, investigating, and resolving employment and services discrimination complaints they receive.

#### 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 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 WAO’s equitable treatment of faith-based organizations, the Compliance Review Report 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

As mentioned above, the WAO administers the VAWA STOP program, which promotes a coordinated, multidisciplinary approach to improving the criminal justice system's response to violent crimes against women, such as domestic violence and sexual assault. The WAO does not require nonprofit applicants to obtain federal tax exempt status in order to participate in this program.

The Office relies on a request for proposal (RFP) process to select VAWA STOP subrecipients. The Office publishes a notice about the RFP in a newspaper that is distributed throughout the territory and sends an e-mail to current subrecipients, which includes grant application guidelines.<sup>1</sup> In connection with the application process, the WAO also makes a concerted effort to notify faith-based groups about the availability of the grant funds.<sup>2</sup> Once organizations submit their applications, the Office relies on an eight-member review committee to make funding recommendations. Typically, the committee is comprised of four WAO representatives and four individuals from outside the Office representing the academic and nonprofit communities. The WAO makes final funding decisions. One faith-based organization receives VAWA STOP funds.

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

The WAO subawards VAWA STOP funds to one faith-based subrecipient (Hogar Nueva Mujer Santa Maria de la Merced, Inc. (Hogar)). The Office performs the same monitoring of Hogar as it does of other, non-faith-based organizations. The OCR conducted an onsite visit to Hogar, which provides legal, shelter, and counseling services to victims of domestic violence. Hogar has no preferential employment policies based on religion and also has no policy favoring beneficiaries based on religion. Based on the information collected during its onsite visit, the OCR found no evidence that federal resources were being used for inherently religious purposes. 28 C.F.R. § 38.2(b)(1).

## II. Recommendations

The WAO already has in place a number of procedures for monitoring the civil rights compliance of its subrecipients. To strengthen the Office's monitoring efforts and its inclusion of faith-based organizations in the grant funding process, the OCR offers the following four

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<sup>1</sup> Most recently, the Office awarded fiscal year 2007 VAWA STOP program funds in September 2008 through an RFP process that covered a three-year period, subject to annual reauthorization.

<sup>2</sup> The Office obtains contact information for various faith-based organizations from a special assistant to the Governor whose responsibilities involve working with communities of faith.

recommendations: (1) modify the civil rights/nondiscrimination provisions in its standard grant agreement documents, (2) conduct onsite monitoring of all subrecipients and refine its federal civil rights laws compliance checklist, (3) provide training to all subrecipients regarding their obligations to comply with federal civil rights laws, and (4) develop a comprehensive policy for addressing discrimination complaints against subrecipients.

A. Modify the Civil Rights/Nondiscrimination Provisions in Standard Assurances and General Conditions

The WAO must ensure that all DOJ subrecipients sign assurances that are enforceable as a matter of contract and that accurately reflect their federal civil rights obligations. To that end, the Office must require all criminal justice subrecipients to sign formal grant assurances before releasing funds to them. In an effort to satisfy this requirement, the OCR recommends that the WAO require these subrecipients to agree to the same grant agreement language that applies to nonprofit subrecipients. The WAO also should revise its grant agreement document to include the following language or substantially similar language, which would apply to criminal justice and nonprofit applicants for and subrecipients of DOJ funding, regardless of the amount of federal financial assistance at issue:

Recipient will comply (and will require any subgrantees or contractors to comply) with any applicable federal nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); 28 C.F.R. pt. 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 Office for Civil Rights,

Office of Justice Programs and the Women's Advocate Office  
(WAO).

Finally, the Office 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. Conduct Onsite Monitoring of All Subrecipients and Refine Its Federal Civil Rights Laws Compliance Checklist

As part of its responsibility to monitor the compliance of subrecipients with applicable federal civil rights laws, the WAO should ensure that it conducts periodic onsite monitoring of all DOJ subrecipients. The Office also should continue to conduct desk reviews to evaluate compliance areas that may not require onsite visits. Going forward, the WAO should refine its federal civil rights laws compliance 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 posted nondiscrimination notices as required by section 504 of the Rehabilitation Act; and 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). Additionally, the checklist should include questions that evaluate whether the subrecipient is complying with the 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. In an effort to assist the WAO in revising its checklist, the OCR has prepared a sample Federal Civil Rights Compliance Checklist, which is enclosed for the Office's review.

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

The WAO appears to provide minimal training to its subrecipients about their federal civil rights obligations. To ensure that all subrecipients are aware of their obligations under applicable federal civil rights laws, such as to have procedures in place to receive and evaluate complaints alleging discrimination from employees and beneficiaries, the Office should provide periodic, mandatory training programs for subgrantees. The WAO should provide this training at least once during a grant cycle, whether it provides the training in person, during a teleconference, or through other means. The OCR is available to provide the Office with technical assistance in developing civil rights training programs. In addition, the Office should continue to provide ongoing technical assistance to subrecipients regarding their statutory and contractual obligations.

D. Develop Comprehensive Policy for Addressing Discrimination Complaints  
Against Subrecipients

As previously noted, the WAO has procedures in place to respond to discrimination complaints from its own employees and beneficiaries; and the DOL, the EEOC, and the Puerto Rico Civil Rights Commission are available to resolve certain discrimination complaints filed by subrecipient employees and beneficiaries. Nonetheless, the WAO has an obligation as a recipient of federal financial assistance to have in place a policy that comprehensively addresses how it responds to employment and services discrimination complaints that it receives from subrecipient employees and beneficiaries. Specifically, it 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;
- notifying appropriate Office and subrecipient employees of prohibited discrimination in funded programs and activities and the WAO's policy and procedures for handling discrimination complaints;
- establishing written procedures for receiving discrimination complaints from subrecipient employees and beneficiaries;
- referring each complaint to the appropriate agency for investigation and resolution, such as the DOL or the EEOC; or referring the complaint to the OCR, which will review the complaint and work with the WAO to resolve it; and
- training WAO program staff on their responsibility to refer discrimination complaints or potential discrimination issues involving subrecipients to the Office's complaint coordinator for processing as soon as the alleged discrimination comes to their attention.

In an effort to assist the WAO in developing a comprehensive complaint policy, the OCR has prepared sample procedures for responding to discrimination complaints, which are enclosed for the Office's review. While the WAO's adoption of these procedures would satisfy the instant recommendation, the OCR also recognizes that there may be other, equally effective complaint procedures that accomplish the same objectives. Additional information about the applicable laws, complaint forms, and the investigative process can be found at <http://www.ojp.usdoj.gov/ocr/crc>.

### III. Conclusion

We find that the WAO should implement the OCR's recommendations to ensure substantial compliance with the federal civil rights laws that the OCR enforces. On request, the OCR is

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available to provide technical assistance to the Office in addressing the concerns raised in this Report. **Immediately upon receipt of this letter, we ask that a responsible WAO official contact Attorney Advisor Christopher Zubowicz to develop a timeline and goals for implementing the 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. Zubowicz at [REDACTED]

Sincerely,



Michael L. Alston  
Director

Enclosures

**Federal Civil Rights Compliance Checklist**

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

Yes       No

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

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

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

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

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

Comments:

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

Comments:

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

Yes       No

If yes, an explanation of these policies and procedures:

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

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

Yes       No

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

Yes       No

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

Yes       No

Comments:

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

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

Yes       No

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

Yes       No

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

Yes       No

Comments:

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

Yes       No

Comments:

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

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

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

Yes       No

Comments:

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

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

Yes       No

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

Yes       No

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

Yes       No

Comments:

<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.]