



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

VIA CERTIFIED RETURN RECEIPT REQUESTED

February 24, 2010

T. Neil Moore
Executive Director
Indiana Criminal Justice Institute
101 W. Washington St., #1170, East Tower
Indianapolis, Indiana 46204

Re: Indiana Criminal Justice Institute Compliance Review (08-OCR-0288)

Dear Mr. Moore:

On May 9, 2008, the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) initiated a compliance review of the Indiana Criminal Justice Institute (ICJI) in accordance with federal regulation 28 C.F.R. § 42.206. The focus of the review was not only on the ICJI's compliance with applicable federal civil right laws but also on the ICJI's monitoring of subrecipients' compliance with these laws. Of particular interest to the OCR was the ICJI's monitoring and implementation of the DOJ's regulations, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38 [hereinafter Equal Treatment Regulations].

On July 24-25, 2008, the OCR conducted an onsite visit to the ICJI's office in Indianapolis, Indiana, to meet with ICJI's administrative and program staff and to conduct a training program on federal civil rights laws that the OCR enforces. The OCR also conducted onsite visits to three faith-based subrecipients of the ICJI: (1) the Church Federation of Greater Indianapolis, (2) the Indianapolis Ten Point Coalition, and (3) Sheltering Wings for Women, Inc. The OCR would like to thank ICJI staff, especially Mary L. Murdock, ICJI Chief Operations Officer, for assisting OCR attorneys Daphne Felten-Green and [REDACTED] during their onsite visit.

Based on ICJI's responses to our Data Request and the information we gathered onsite, the OCR concludes, regarding the limited scope of our review, that the ICJI appears to be in substantial compliance with the federal civil rights laws that the OCR enforces. Nonetheless, we are concerned (1) whether the ICJI provides sufficient training to its subrecipients on their civil rights obligations and (2) whether the ICJI has procedures to

respond to discrimination complaints from its employees or beneficiaries and employees of ICJI subrecipients.¹ The following Compliance Review Report includes recommendations for addressing these concerns. The Report also includes suggested revisions to ICJI grant documents.

Compliance Review Report: Overview and Recommendations

I. Overview

The Compliance Review Report first examines the ICJI'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 ICJI's implementation of DOJ's Equal Treatment Regulations.

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

Recipients of federal financial assistance from the OJP are responsible for certifying that contractors and subrecipients comply with applicable federal civil rights laws. In reviewing the ICJI's general efforts to ensure subrecipients' compliance with their civil rights obligations, the OCR examined how the ICJI 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 ICJI uses two documents that contain standard assurances in its subaward process: (1) the Certified Assurances and Special Provisions (Certified Assurances), and (2) the Grant Agreement.

The ICJI requires applicants for DOJ funding to submit to its program offices,² along with other materials in the application packet, a copy of the Certified Assurances. Paragraph C of the Certified Assurances, with the title "Federal Laws and Regulations Applicable to Federal Assistance Programs," despite all of the applicable federal civil rights laws, cites only one federal regulation, "Part 42 Nondiscrimination Equal Employment Opportunity Policies and Procedures." The ICJI does not require a

¹ The ICJI does not have a program it operates directly with DOJ funding. Therefore, it does not have program beneficiaries.

² The ICJI's program offices are (1) the Victim Services Division, administering DOJ funding under the Victim of Crime Act (VOCA) and Services Training Officers Prosecution (STOP) program, and (2) the Youth Division, administering DOJ funding under the Juvenile Justice and Delinquency Prevention Act (JJDPA).

signature or any other form of certification from the applicant to acknowledge the civil rights obligations that are a condition for receiving federal assistance.

After the ICJI selects applicants for a subaward, it requires subrecipients to sign a Grant Agreement before the ICJI releases the DOJ funds. Each of the ICJI's program offices uses the same Grant Agreement. The nondiscrimination provision in the Grant Agreement, paragraph fourteen, prohibits discrimination in funded programs based on federal civil rights laws:

Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, Grantee and its Sub-Grantees shall not discriminate against any employee or applicant for employment in the performance of this Grant Agreement. The Grantee shall not discriminate with respect to the hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of contract. Acceptance of this Grant Agreement also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran. . . .

. . . . Grantee further agrees that it will comply with any applicable statutorily-imposed 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 American 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); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).

The reference in the Grant Agreement to IC 22-9-1-10 is Title 22, Article 9, Section 10 of the Indiana Code, which prohibits discrimination in employment. The law requires that every contract to which the State is a party must contain a nondiscrimination provision related to employment:

Every contract to which the state or any political or civil subdivision is a party . . . shall contain a provision requiring the contractor and his subcontractors not to discriminate against any employee or applicant for employment to be employed in the performance of such contract, with respect to his hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of his race, religion, color, sex, disability, national origin,

ancestry. Breach of this covenant may be regarded as a material breach of the contract.

Indiana Code § 22-9-1-10 (2005).

Although the Grant Agreement refers to Executive Order 13279, neither the Certified Assurances nor the Grant Agreement cite DOJ's Equal Treatment Regulations, 28 C.F.R. pt. 38. The Certified Assurances and the Grant Agreement also do not notify subrecipients of their obligation under Title VI of the Civil Rights Act of 1964 and DOJ program statutes to take reasonable steps to provide meaningful access to their programs or activities to limited English proficient (LEP) individuals.

2. Onsite Visits and Other Monitoring Methods

The ICJI has developed thorough methods for monitoring subrecipients, which do focus on some of the subrecipients' federal civil rights obligations. In its Data Request Response, the ICJI sent to the OCR the Indiana Criminal Justice Institute Monitoring Guide (Monitoring Guide), which contains the ICJI's policies and procedures for monitoring subrecipients. The ICJI also has a form that staff members use for onsite visits (Monitoring Form). In FY 2007, ICJI staff members monitored 698 subrecipients. Of that total, 115 were onsite visits and 583 were desk audits. In FY 2008, the ICJI staff members monitored 1,132 subrecipients. Of that total, 318 were onsite visits and 814 were desk audits.

The Monitoring Guide provides procedures for desk and onsite reviews. The Monitoring Guide reiterates the nondiscrimination provision of the Grant Agreement. See supra Part I.A.1. The Monitoring Guide also contains an express reference to the Equal Treatment Regulations and its relation to subrecipients:

Pursuant to 28 C.F.R. Part 38, Equal Treatment for Faith-Based Organizations, ICJI ensures that religious organizations are eligible, on the same basis as any other organization, to participate in any grant for which they are otherwise eligible. Neither the ICJI nor any local government receiving funds under any ICJI grant program, shall, in the selection of service providers, discriminate for or against an organization on the basis of the organizations' religious character or affiliation.

Organizations that receive direct financial assistance from ICJI under any ICJI program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from ICJI.

Monitoring Guide at 1.

The ICJI's Monitoring Form has a few questions related to federal civil rights obligations:

Does the program take into consideration accessibility of services and work to accommodate clients with special needs?

Does your program take into consideration accessibility of services and work to accommodate clients with special needs?

Is this a faith-based organization? If so, is any funding received from ICJI used to engage in inherently religious purposes?

The ICJI staff members with whom the OCR spoke stated that the ICJI has a goal of conducting onsite reviews of subrecipients at least once a year.

None of the ICJI monitoring documents requires subrecipients to complete the OCR's Equal Employment Opportunity Plan (EEO) Certification Form, available at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>, and to send the form to the OCR, if required to do so.

3. Training and Technical Assistance

The ICJI does not have yearly mandatory training for subrecipients on their federal civil rights obligations. In response to the OCR's Data Request, the ICJI reported that it holds annual subrecipient training for each grant program office. The ICJI provided the OCR with copies of Power Point slides used at training programs for subrecipients. One slide addresses the Equal Treatment Regulations, but the presentation contains no information on the other federal civil rights laws or the EEO reporting requirements. During OCR's onsite visit, the ICJI staff confirmed that there is no discussion at ICJI-sponsored training programs for subrecipients on the applicable federal civil rights laws, the development of a language assistance plan, or the EEO requirements.

To stay current on civil right issues affecting faith-based organizations, the ICJI reported that several ICJI staff members attended the DOJ's Financial Management Training Seminar, which included a briefing on the Equal Treatment Regulations.

4. Complaint Procedures

The ICJI does not have its own procedures for accepting and investigating discrimination complaints from its employees or beneficiaries and employees of ICJI subrecipients. In response to the OCR's Data Request, the ICJI states that it would direct its employees or beneficiaries and employees of a subrecipient with any discrimination complaints to file a report with the Indiana Civil Rights Commission.

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 organizations, to participate in any [Justice] Department program for which they are otherwise eligible.” 28 C.F.R. § 38.1(a). In evaluating the ICJI’s treatment of faith-based organization, the Compliance Review focuses on two issues: (1) the review process for making awards to applicant faith-based organizations, and (2) the procedures for ensuring that funded faith-based organizations comply with applicable federal civil rights laws.

1. The Process for Making Awards to Applicant Faith-Based Organizations

The Equal Treatment Regulations caution grantmaking agencies to avoid discriminating either in favor of or against an organization based on its religious character or affiliation. 28 C.F.R. § 38.1(e). The ICJI staff with whom the OCR spoke stated that the ICJI does not disfavor funding faith-based organizations; the ICJI staff explained that it reviews faith-based organization grant applications the same way it reviews all other applications. The ICJI explained that a grant review team scores each grant application. Based on the scored rankings, the grant review team makes funding recommendations to the Board of Trustees for approval or denial.

In response to the OCR’s Data Request, the ICJI discussed funding sixteen faith-based organizations in FY 2006, with awards ranging from \$8,000 to \$67,000. In FY 2006, the ICJI denied funding to one faith-based organization. In FY 2007, the ICJI funded nineteen faith-based organizations, with awards ranging from \$8,000 to \$70,000. In FY 2007, the ICJI denied funding to three faith-based organizations.

According to the ICJI’s Data Response, it does not require nonprofit applicants to obtain federal tax exempt status pursuant to 26 U.S.C. § 501(c)(3).

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

The ICJI does not have separate procedures for monitoring subrecipient compliance with the Equal Treatment Regulations. As noted previously (see supra Part I.A.2), the ICJI has general procedures for monitoring subrecipients compliance with federal obligations that include a few questions concerning federal civil rights compliance. Specifically, two question in the ICJI’s Monitoring Form pertains to the activities of faith-based organizations “[i]s this a faith-based organization? [i]f so, is any funding received from the ICJI used to engage in inherently religious activities?”

While onsite, the OCR visited three of the ICJI's faith-based subrecipients: (1) the Church Federation of Greater Indianapolis, (2) the Indianapolis Ten Point Coalition, and (3) Sheltering Wings for Women, Inc.

a. The Church Federation of Greater Indianapolis

According to its promotional materials, the Church Federation of Greater Indianapolis (Church Federation) is a nonprofit coalition of churches and faith-based organizations that provide a range of social services. Funding from the ICJI supports the work of the Ecumenical Project for Reconciliation and Healing (EPRH), a separate, tax-exempt, nonprofit organization within the Church Federation. The EPRH states that it provides grief support to "at-risk" families who have experienced the trauma of having a family member become a homicide victim. The EPRH uses professionally trained volunteer mentors to provide direct services to these families.

The EPRH staff with whom the OCR spoke explained that the EPRH does not require any particular religious affiliation as a condition for either serving as a mentor or receiving grief-counseling services.

b. Indianapolis Ten Point Coalition

The Indianapolis Ten Point Coalition (Coalition), is a tax-exempt, nonprofit organization, comprised of a number of faith communities in Indianapolis. According to the Coalition's grant application, the Coalition receives funding from the ICJI to operate the Saving Kids of Incarcerated Parents (SKIP) program, which focuses on at-risk youth who are children of incarcerated parents. The grant application states that mentors in the SKIP program work to gain the trust and respect of juvenile participants who may be on the verge of adopting the same lifestyle as their parents; the program provides constructive alternatives.

During the OCR's onsite visit, SKIP staff explained that it does not screen program beneficiaries or employees for religious affiliation as a prerequisite for participating or working in its program.

c. Sheltering Wings Center for Women

Sheltering Wings Center for Women (Sheltering Wings), a tax exempt, nonprofit organization, provides emergency housing for women and children suffering from any form of domestic abuse. According to its marketing materials, Sheltering Wings is the only provider of crisis intervention services to victims of domestic violence in Hendricks County, Indiana, as well as several surrounding counties. Sheltering Wings materials state that "[t]he program was formed in the name of and for the sake of Jesus Christ. The Center extends the love and compassion of Christ to women and their children in the desperate circumstances of domestic violence." According to Sheltering Wings, the

program assists domestic violence victims of any background in the name of Christ. Sheltering Wings provides a variety of classes, such as parenting, relationships, and job training.

During OCR's onsite visit, OCR interviewed one beneficiary of the program. The beneficiary stated that during her tenure with Sheltering Wings, she never felt pressured to engage in any religious activities. She stated that she had the choice not to attend religious activities offered by Sheltering Wings.

Based on the information collected during the onsite visits to three of the ICJI's faith-based subrecipients, the OCR found no evidence that these faith-based programs used federal resources for inherently religious purposes. 28 C.F.R. § 38.1(b)10.

II. Recommendations

The OCR offers the ICJI the following six recommendations to incorporate into its administration of the DOJ grants to ensure compliance with federal civil rights laws: (1) develop comprehensive complaint procedures, especially in the delivery of services; (2) provide comprehensive training to subrecipients on federal civil rights laws; (3) require subrecipients to complete the OCR's EEOC Certification Form; (4) add a citation referring to DOJ's Equal Treatment Regulations in all of its Certified Assurances for subrecipients; (5) modify the nondiscrimination provisions in all of its Certified Assurances and Grant Agreements; and (6) increase attention on civil rights compliance during onsite monitoring visits.

conduct onsite monitoring visits of all subrecipients and consider using a federal civil rights laws compliance checklist.

A. Develop Comprehensive Complaint Procedures

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

- a. Designating a coordinator who is responsible for overseeing a complaint process and reviewing initial complaints;³
- b. Notifying its employees and subrecipient employees or beneficiaries of prohibited discrimination in the programs or activities of subrecipients receiving federal funds;
- c. Establishing procedures for handling complaints alleging discrimination in DOJ-funded programs or activities from not

³ 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).

- only ICJI employees and beneficiaries but also for employees and beneficiaries of the ICJI's subrecipients;
- d. Referring each complainant to the appropriate agency for investigation and resolution, such as the U.S. Equal Employment Opportunity Commission or the Indiana Civil Rights Commission, or referring the complaint to the OCR to review the complaint and work with the ICJI to resolve it;
 - e. Notifying the OCR in writing when the ICJI refers a discrimination complaint to the EEOC or state agency responsible for handling employment or services complaints; and
 - f. Training ICJI program staff members on their responsibility to refer discrimination complaints, or potential discrimination issues, to the ICJI's complaint coordinator for processing as soon as alleged discrimination comes to their attention.

The OCR has enclosed a model complaint policy. The OCR's website, 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 ICJI.

B. Provide Comprehensive Training on Federal Civil Rights Laws

The ICJI should provide mandatory civil rights training for every DOJ subrecipient at least once during a grant cycle, whether the ICJI staff provides training in person, by teleconference, or through other means. The ICJI 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. Developing a mandatory training program for addressing discrimination complaints should be a top priority for the ICJI. The OCR can provide technical assistance to the CCJJ with support in developing training programs.

C. Use the EEOP Certification Form

The ICJI should require subrecipients that are obliged to do so to complete the OCR's EEOP Certification Form available at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>, and send the form to the OCR. The EEOP Certification Form allows subrecipients to certify either that they are exempt from preparing an EEOP or required to prepare an EEOP but exempt from submitting it to the OCR.

D. Ensure that a Reference to the Equal Treatment Regulations is in the ICJI Grant Agreement and Certified Assurances

Although the ICJI Grant Agreements and Certified Assurances refer to Executive Order to the Equal Treatment Regulations, the ICJI should insure a specific reference to 28 C.F.R. pt. 38.

E. Modify and Correct the Nondiscrimination Provisions in all of ICJI Certified Assurances

The OCR commends the ICJI for having a nondiscrimination provision in its Grant Agreements and Certified Assurances. The ICJI may consider adding a sentence to its Grant Agreements and 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. The ICJI may wish to add an additional sentence 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).

F. Increase Attention on Civil Rights Compliance During Onsite Monitoring Visits

The OCR would like to commend the ICJI for its frequent onsite monitoring visits to its subrecipients in FY 2007 and FY 2008. The ICJI should consider amending its Monitoring Form by adding more questions pertaining to federal civil rights compliance. The OCR has enclosed a model checklist for assistance.

III. Conclusion

We find that the ICJI 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 ICJI in addressing the concerns raised in this Compliance Review Report. Upon receipt of this letter, we ask that a responsible ICJI official contact Attorney [REDACTED] to develop a timeline and goals for implementing the OCR's recommendations.

T. Neil Moore, Executive Director
Indiana Criminal Justice Institute
February 24, 2010
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Thank you for your cooperation and the assistance of your staff throughout the compliance review process. If you have any questions, please contact [REDACTED] at [REDACTED]
[REDACTED]

Sincerely,



Michael L. Alston
Director

Enclosures

Subject: Procedures for Responding to Discrimination Complaints from Clients, Customers, Program Participants, or Consumers of the [State Administering Agency] and the [State Administering Agency's] Subrecipients

Policy Number:

Effective Date:

I. Purpose

[The State Administering Agency (SAA) should explain the purpose of this document, i.e., to establish written procedures for SAA employees to follow when they receive a complaint alleging discrimination from clients, customers, program participants, or consumers of the SAA or of a SAA subrecipient implementing funding from the U.S. Department of Justice (DOJ).]

II. Policy

[The SAA should explain its policy regarding discrimination against clients, customers, program participants, or consumers of the SAA or the SAA's subrecipients, such as a statement that all individuals have the right to participate in programs and activities operated by the SAA and SAA subrecipients regardless of race, color, national origin, sex, religion, disability, and age. The SAA may wish to state that it will ensure that the SAA and its subrecipients are in compliance with the following statutes and regulations:

- Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin in the delivery of services (42 U.S.C. § 2000d), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789d(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;

- Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54; and
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I.
- The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ funding on inherently religious activities (28 C.F.R. Part 38).

The SAA may also wish to include a statement that these laws prohibit agencies from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.]

III. Definitions

[The SAA may wish to include definitions of relevant terms, such as “discrimination” and “complaint coordinator.”]

IV. Complaint Procedures

[The SAA should clearly explain its procedures for accepting and responding to discrimination complaints from clients, customers, program participants, or consumers of the SAA and SAA subrecipients. These procedures should include, at a minimum: 1) a designation of the SAA employee who is responsible for coordinating the series of actions described in these procedures; 2) an explanation of how a client, customer, program participant, or consumer may file a complaint of discrimination (i.e. on a specific complaint form, in a letter, in an email, in person, or over the phone); 3) an explanation of how a SAA employee receiving a complaint of discrimination should forward the complaint to the employee who is responsible for coordinating the series of actions described in these procedures; 4) an explanation of whether the SAA will provide the client, customer, program participant, or consumer with any written acknowledgement of the complaint, and how the SAA will correspond with the complainant throughout the investigation; and 5) an explanation of how the SAA will investigate and resolve the complaint, such as whether the SAA will conduct an internal investigation of the complaint, or whether it will refer the complaint to an appropriate external agency for investigation, such as a local or state human rights commission, or the Office for Civil Rights (OCR), Office of Justice Programs, DOJ.

If the SAA’s procedures involve referring the complaint to another agency or agencies for investigation and resolution, the SAA should clearly explain the necessary steps for making this referral. If the SAA’s procedures involve investigating the complaint internally or referring the complaint to an external agency other than the OCR, such as a

local or state human rights commission, the SAA should list the procedures for notifying the OCR in writing of the referral and for notifying the beneficiary that he or she may also file a complaint with the OCR. If the SAA chooses to investigate these complaints internally, the SAA should explain what office or division of the SAA will have responsibility for investigating the complaint and how the SAA will conduct the investigation.

In this section, the SAA should also explain how it will notify clients, customers, program participants, or consumers of the SAA and SAA subrecipients of prohibited discrimination, along with the procedures for filing a discrimination complaint with the SAA and the OCR. Notification may include placing posters in SAA facilities, including reference in program materials, or providing clients, customers, program participants, or consumers with a copy of these complaint procedures. The SAA should also explain how it will ensure that subrecipients have procedures in place for responding to discrimination complaints that clients, customers, program participants, or consumers of a subrecipient file directly with the subrecipient. At a minimum, these procedures should include forwarding the complaint to the SAA, the OCR, or another appropriate external agency, such as a local or state human rights commission; notifying the SAA of any discrimination complaints that the subrecipient does not refer to the SAA; and notifying the complainant that he or she may file a complaint of discrimination directly with the SAA or with the OCR.]

V. Training

[The SAA should describe its procedures for providing periodic training for agency employees on these complaint procedures, including an employee's responsibility to refer discrimination complaints from clients, customers, program participants, or consumers to the employee responsible for coordinating the series of actions described in these procedures. The SAA shall also describe in this section how it will disseminate these procedures to agency employees, such as by posting the procedures on the agency intranet website, providing a copy of the procedures to employees during the training sessions, distributing the procedures to all new employees during orientation, etc.]

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

I. Purpose

[Note: Most often, a State Administering Agency (SAA) will already have procedures in place to address discrimination complaints from its own employees and applicants. Therefore, these template complaint procedures are limited to discrimination complaints from employees of the SAA's subrecipients. If the SAA does not already have procedures in place for addressing discrimination complaints from its own employees, it should ensure that these procedures cover complaints from SAA employees as well.

In this section, the SAA should explain the purpose of this document, such as to establish written procedures for SAA employees to follow when they receive a complaint alleging employment discrimination from an employee of a SAA subrecipient implementing funding from the U.S. Department of Justice (DOJ).]

II. Policy

[The SAA should explain its policy regarding employment discrimination by subrecipients, such as a statement that all employees and applicants of the SAA's subrecipients shall be treated equally regardless of race, color, national origin, sex, religion, and disability. The SAA may wish to state that it will ensure that subrecipients comply with all applicable federal laws regarding employment discrimination.]

III. Definitions

[The SAA may wish to include definitions of relevant terms, such as "discrimination," "complaint coordinator," and "retaliation."]

IV. Complaint Procedures

[The SAA should explain its procedures for responding to employment discrimination complaints against SAA subrecipients. These procedures should include, at a minimum: 1) a designation of the SAA employee who is responsible for coordinating the series of actions described in these procedures; 2) an explanation of how a SAA employee receiving a discrimination complaint from an employee or applicant of a SAA subrecipient should forward the complaint to the employee responsible for coordinating the series of actions described in these procedures; 3) an explanation that the employee responsible for coordinating the series of actions described in these procedures should

refer employment discrimination complaints against SAA subrecipients to the U.S. Equal Employment Opportunity Commission (EEOC) or the appropriate state or local fair employment practices agency or human rights commission; and 4) a requirement that the employee responsible for coordinating the series of actions described in these procedures notify the Office for Civil Rights (OCR), Office of Justice Programs, DOJ, in writing when the employee refers a complaint to the EEOC or a state or local fair employment practices agency or human rights commission. Other options for responding to employment discrimination complaints against SAA subrecipients include the SAA investigating these complaints and notifying the OCR of the investigation and outcome, or referring the complaints to the OCR.

In this section, the SAA should also explain how it will ensure that subrecipients have procedures in place for responding to discrimination complaints that employees or applicants file directly with the subrecipient. At a minimum, these procedures should include forwarding the complaint to the EEOC or a state or local fair employment practices agency or human rights commission and notifying the SAA of this referral.]

V. Training

[The SAA should describe its procedures for providing periodic training for agency employees on these complaint procedures, including an employee's responsibility to refer discrimination complaints from employees or applicants of SAA subrecipients to the employee responsible for coordinating the series of actions described in these procedures. The SAA shall also describe in this section how it will disseminate these procedures to agency employees, such as by posting the procedures on the agency intranet website, providing a copy of the procedures to employees during the training sessions, distributing the procedures to all new employees during orientation, etc.]

Federal Civil Rights Compliance Checklist

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

Yes No

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

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

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

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

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

Comments:

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

Comments:

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

Yes No

If yes, an explanation of these policies and procedures:

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

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

Yes No

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

Yes No

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

Yes No

Comments:

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

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

Yes No

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

Yes No

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

Yes No

Comments:

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

Yes No

Comments:

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

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

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

Yes No

Comments:

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

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

Yes No

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

Yes No

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

Yes No

Comments: