

<b>Subject:</b> Procedures for Responding to Employment Discrimination Complaints from Employees of the Oregon Department of Justice, Crime Victim and Survivor Services Division's Sub-recipients under U.S. Department of Justice Grant Programs
<b>Policy Number:</b>
<b>Effective Date:</b> January 1, 2014

## I. Purpose

The Oregon Department of Justice, Crime Victim and Survivor Services Division (DOJ/CVSSD), receives federal financial assistance and serves as the State Adminstrating Agency (SAA) for the Victims of Crime Act (VOCA) funds and the Violence Against Women Act (VAWA) funds. As a recipient of federal financial assistance awarded directly from the Office of Justice Programs (OJP) and the Office on Violence Against Women, DOJ/CVSSD must comply with the federal statutes and regulations that prohibit discrimination in federally assisted programs or activities.

The purpose of this policy is to establish written procedures for DOJ/CVSSD employees to follow when they receive a complaint alleging employment discrimination or retaliation from an employee of a DOJ/CVSSD subrecipient implementing funding from the U.S. Department of Justice.

Complaints alleging employment discrimination by DOJ/CVSSD are not addressed by this policy. Such complaints are covered by Oregon Department of Justice Policy 3-21.

## II. Policy

All employees of a DOJ/CVSSD subrecipient shall be treated equally regardless of race, color, national origin, sex, religion, disability, or (if a recipient of funds under VAWA) gender identity or sexual orientation. Subrecipients must comply with the following federal laws regarding employment discrimination, including laws that prohibit retaliation

1. 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;
2. 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 (34 U.S.C. § 10228(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
3. 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;

4. 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;
5. 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
6. The U.S. Department Of Justice (U.S. DOJ) regulations on Partnerships with Faith-Based and Other Neighborhood Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using U.S. DOJ funding on explicitly religious activities (28 C.F.R. Part 38); and
7. Juvenile Justice and Delinquency Prevention Act (JJDP) of 1974, as amended, which prohibits discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, sex, and religion (34 U.S.C. § 11182(b)), and the DOJ implementing regulations at 28 C.F.R. §§ 31.202, .403 & pt.42, subpt. D; and
8. Victims of Crime Act (VOCA) of 1984, as amended, which prohibits discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, sex, religion, and disability (34 U.S.C. § 20110(e)) and the regulation implementing the Victim of Crime Act Victim Assistance Program, 28 C.F.R. § 94.114; and
9. Violence Against Women Act (VAWA) of 1994, as amended, which prohibits discrimination in programs either funded under the statute or administered by the Office on Violence Against Women, both in employment and in the delivery of services or benefits, based on actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity (34 U.S.C. § 12291(b)(13)) (referring to the Safe Streets Act for enforcement).

Subrecipients must have procedures in place to respond to discrimination or retaliation complaints that employees report directly to the subrecipient. At a minimum, these procedures should include forwarding the complaint to DOJ/CVSSD, the U.S Equal Employment Opportunity Commission, the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), or the appropriate state or local fair employment practices agency; notifying the DOJ/CVSSD Complaint Coordinator of any discrimination or retaliation complaints that the subrecipient does not refer to DOJ/CVSSD; and notifying the complainant that he or she may file a complaint of discrimination or retaliation directly with DOJ/CVSSD or OCR.

DOJ/CVSSD Fund Coordinators will inquire about and review complaint procedures during subrecipient site reviews utilizing the civil rights compliance checklist included in the Phone Review & Site Visit Monitoring Instrument.

### **III. Definitions**

For the purposes of this policy, the terms cited in this policy are defined as follows.

**Complainant:** An employee of a DOJ/CVSSD subrecipient allegedly subjected to unlawful employment discrimination or retaliation by a DOJ/CVSSD subrecipient based on or because of a federally protected class status or protected activity, who submits a complaint to DOJ/CVSSD pursuant to this policy.

**Complaint Coordinator:** The person designated by the Oregon Department of Justice, Crime Victim and Survivor Services Division to oversee this policy, listed in Appendix B of this policy.

**Discrimination:** a discriminatory or prohibited employment practice to refuse to hire, promote, discharge, demote, terminate, or to retaliate against or to discriminate in matters of compensation or in terms, privileges, and conditions of employment against any persons otherwise qualified, because of race, color, sex, age, gender identity, sexual orientation, religion, national origin, or disability.

**Retaliation:** Any adverse employment action toward a person(s) engaged in an activity protected under federal law, such as making a charge, testifying, assisting or participating in any charge of unlawful discrimination.

**Subrecipient:** An entity that expends federal grant funds received from the Oregon Department of Justice, Crime Victim and Survivor Services Division as the state SAA to perform all or a portion of the scope of work or objectives of the federal award received by the SAA.

### **IV. Complaint Procedures**

#### **A. Reporting a Complaint**

1. An employee of a DOJ/CVSSD sub-recipient who believes he or she has been subjected to employment discrimination or retaliation by a DOJ/CVSSD subrecipient may file a written complaint alleging such discrimination or retaliation with the Complaint Coordinator listed in Appendix B.
  - a. Written complaints must be submitted on the DOJ/CVSSD *Allegation of Employment Discrimination* form which is attached as Appendix A and is available on the DOJ/CVSSD website.
    - i. If a written complaint is not submitted on the *Allegation of Discrimination* form, DOJ/CVSSD will provide the complainant a copy of the form to complete.

- b. A complainant may file a complaint orally by contacting the Complaint Coordinator, or designee, if a disability impairs the complainant's ability to file a written complaint.
2. The complaint should contain the following:
  - a. The name, address, phone number and signature of the complainant, and authorized representative, as appropriate, filing the report;
  - b. The names of all parties involved, including witnesses;
  - c. A specific and detailed description of the conduct or action that the complainant believes is discriminatory or retaliatory;
  - d. The location and date or time period in which the alleged conduct occurred; and
  - e. A description of the remedy the complainant desires.
3. A complaint must be submitted as soon as possible, but no later than 180 calendar days or a full year, depending on the relevant statute, after the alleged act of discrimination or retaliation. DOJ/CVSSD will forward a complaint submitted later than the required time frame, however, the complainant is solely responsible for any expiration of the statute of limitations for filing the complaint.
4. An employee of DOJ/CVSSD, other than the Complaint Coordinator, who receives a complaint that a DOJ/CVSSD subrecipient has allegedly engaged in discriminatory or retaliatory conduct against one or more of its employees shall direct the complaint to the Complaint Coordinator listed in Appendix B within seven (7) calendar days of receiving the complaint.

#### **B. Processing a Complaint**

1. The Complaint Coordinator shall promptly provide the complainant with a written notice acknowledging receipt of the complaint. In this acknowledgement letter, the Complaint Coordinator shall inform the complainant that he or she may also file a complaint directly with the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), at 810 7<sup>th</sup> Street, NW, Washington, DC 20531.
2. All complaints will be taken seriously and will be handled in a discreet and confidential manner, to the extent possible.
3. The Complaint Coordinator will promptly forward the complaint to the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), or the appropriate state or local agency for investigation. Once the referral is made, the complainant is solely responsible for complying with all procedures the agency may require for investigating and resolving the complaint.

4. Within thirty (30) calendar days of the receipt of the complaint, the Complaint Coordinator will provide written notification to the complainant of the referral date and the name and address of the investigative agency to whom the complaint was forwarded.

### **C. Other Reporting Options**

Nothing in this policy prevents any employee of a DOJ/CVSSD subrecipient from filing a complaint directly with the Equal Employment Opportunity Commission (EEOC), U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights, the Oregon Bureau of Labor and Industries (BOLI), Civil Rights Division, or any local fair employment practices agency. The procedures discussed in this policy need not be utilized first, nor does this procedure need to be exhausted before another is used. **THIS POLICY IS FOR DEPARTMENT USE ONLY AND DOES NOT APPLY IN ANY CRIMINAL OR CIVIL PROCEEDING. THE DEPARTMENT POLICY SHOULD NOT BE CONSTRUED AS A CREATION OF HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS POLICY WILL ONLY FORM THE BASIS FOR DEPARTMENT ADMINISTRATIVE ACTION.**

### **V. Training**

DOJ/CVSSD shall provide periodic training on the procedures set forth in this policy to DOJ/CVSSD employees, including an employee's responsibility to refer discrimination and retaliation complaints to the Complaint Coordinator. DOJ/CVSSD shall require subrecipients to conduct periodic training on the procedures set forth in this policy to subrecipient employees.

### **VI. Policy Notification**

A copy of this policy will be provided to all DOJ/CVSSD employees. A copy of the policy will be included with the orientation materials provided to new DOJ/CVSSD employees.

A copy of this policy will be provided to all DOJ/CVSSD subrecipients. Information on the policy will be provided during all pre-application information teleconferences and will be posted on the DOJ/CVSSD website. By signing the grant award agreement, the sub-recipient agrees to comply with all applicable federal civil rights laws prohibiting employment discrimination and retaliation.

# Employment Discrimination Complaint

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State of Oregon  
Department of Justice

## ALLEGATION OF EMPLOYMENT DISCRIMINATION

***IMPORTANT NOTICE – PLEASE READ BEFORE FILLING OUT THIS FORM:*** Filing a complaint with the Crime Victim and Survivor Services Division of the Department of Justice (CVSSD/DOJ) is voluntary. CVSSD/DOJ is not your attorney or advocate. CVSSD/DOJ may or may not forward this complaint to U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR) or other agencies for investigation. CVSSD/DOJ does not take responsibility for your notifying your employer of a discrimination or retaliation claim, nor for filing this complaint with the appropriate agency or court, within the appropriate time periods for doing so.

**TO:** Complaint Coordinator  
Department of Justice  
Crime Victim and Survivor Services Division  
1162 Court St NE  
Salem, OR 97301

**FROM:** \_\_\_\_\_ (Complainant's Name)  
(Please print or type)

**DATE:** \_\_\_\_\_

### COMPLAINANT

(First Name) (Middle Initial) (Last Name)

Mailing Address

City/State/Zip

Home Phone ( )

Other Phone ( )

E-Mail Address

**AGENCY AGAINST WHOM DISCRIMINATION CLAIM FILED**

AGENCY NAME

Contact Person (First) (Middle Initial) (Last)

Mailing Address

City/State/Zip

Agency Phone ( ) Other Phone ( )

(1) Please indicate the type of discrimination you are alleging:

- |   |  |
|---|--|
| <input type="checkbox"/> Race/Color         | <input type="checkbox"/> Disability      |
| <input type="checkbox"/> National Origin    | <input type="checkbox"/> Age             |
| <input type="checkbox"/> Religion           | <input type="checkbox"/> Sex             |
| <input type="checkbox"/> Sexual Orientation | <input type="checkbox"/> Gender Identity |
| <input type="checkbox"/> Retaliation        |  |

(2) Date the most recent incident being alleged last took place: \_\_\_\_\_

(3) Where did the most recent incident being alleged take place? \_\_\_\_\_

(4) What happened? Please provide a detailed account of the alleged discrimination:

(5) If this complaint is resolved to your satisfaction, what remedy are you seeking?



(6) Have you filed a case or complaint regarding this incident with any of the following?

- Civil Rights Division, U.S. Department of Justice
- Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice
- U.S. Equal Employment Opportunity Commission (EEOC)
- Federal or State Court
- Bureau of Labor and Industries, Civil Rights Division
- Local human rights commission or fair employment practices agency

(7) For each item checked in 6 above, please provide the following information:

- Name of Agency:
- Date Filed:
- Case or Docket Number:
- Date of Trial or Hearing:
- Location of agency or court:
- Name of investigator:
- Status of Case:
- Comments:

(8) Do you have an attorney?  Yes  No

\*\*\*\*\*

**Complainant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
(Complaint NOT VALID unless signed)

\*\*\*\*\*

If this form has been completed by someone other than the person filing this complaint, please indicate name and agency name of person completing this form below, and date completed:

**Name:** \_\_\_\_\_ **Agency:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Complainant's acknowledgement that above information has been completed accurately:

**Complainant's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

\*\*\*\*\*

**For DOJ/CVSSD Use  
Only**

Received by Complaint Coordinator: \_\_\_\_\_ Date: \_\_\_\_\_  
(signature)

Date Acknowledgement Sent to Complainant: \_\_\_\_\_

Date Complaint Referred: to EEOC: \_\_\_\_\_ OCR: \_\_\_\_\_

Date Claimant Notified of Referral: \_\_\_\_\_

OREGON DEPARTMENT OF JUSTICE, CRIME VICTIM AND SURVIVOR SERVICES DIVISION  
COMPLAINT COORDINATOR CONTACT INFORMATION

The current Complaint Coordinator is Shannon Sivell, Department of Justice, Crime Victim and Survivor Services Division

**Mailing Address:**

Department of Justice, Crime Victim and Survivor Services Division  
Attn: Shannon Sivell, Complaint Coordinator  
1162 Court Street NE  
Salem, Oregon 97301

**Office Telephone Number:** 503-378-2200

**Office Facsimile Number:** 503-378-5738

**E-mail Address:** [shannon.l.sivell@doj.state.or.us](mailto:shannon.l.sivell@doj.state.or.us)