

Subject: Guam Office of the Attorney General (OAG) Procedures for Addressing Complaints from beneficiaries alleging services discrimination based on race, color, national origin, sex, religion, disability and age, and employment and services discrimination complaints it receives from sub-recipient employees and beneficiaries. Sub-recipients Implementing Funding from U.S. Department of Justice (DOJ) Grant Programs Administered by the Office of the Attorney General.

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I. Purpose

The purpose of this document is to establish written procedures for employees of the Office of the Attorney General (OAG) to follow when they receive a complaint that alleges the following:

1. Services discrimination against clients, customers, program participants, or consumers of the OAG or of a sub recipient implementing funding from DOJ or;
2. Employment discrimination from an employee or applicant of a sub recipient implementing funding from DOJ.

II. Policy

Recipients of financial assistance from the Office of Justice Programs (OJP), Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) must comply with the federal statutes and regulations that prohibit discrimination in federally assisted programs or activities. All individuals have the right to receive services or benefits through programs and activities operated by the OAG and sub recipients regardless of race, color, national origin, sex, religion, disability, and age. All employees and applicants of the OAG's sub recipients shall be treated equally regardless of race, color, national origin, sex, religion, disability and age.¹

OAG will ensure that its sub recipients comply with all applicable federal laws regarding nondiscrimination and are aware of 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 programs or activities funded by OJP, the Office on Violence Against Women (OVW), or the Office of Community Oriented Policing Services (COPS) (42 U.S.C. § 2000d), and the DOJ implementing regulations of 28 C.F.R. part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act of 1968, as amended, which prohibits discrimination on the basis of ***race, color, national origin, religion, or sex in the delivery of services and employment practices*** in programs or activities funded by OJP, OVW, or

¹ OAG is subject to the Personnel Rules and Regulations of the Guam Department of Administration, which contains an employment nondiscrimination policy and procedures for resolving discrimination complaints in employment. The OAG is also subject to the Guam Office of the Governor's Executive Order No. 2006-16, which reestablished Guam's Equal Employment Opportunity Program.

COPS (42 U.S.C. § 3789(c) (1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;

- Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of *disability in delivery of services and employment practices* in programs or activities funded by OJP, OVW, or COPS (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* in programs or activities funded by OJP, OVW, or COPS (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 prohibits discrimination on the basis of *sex in education programs* funded by OJP, OVW, or COPS (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54);
- The Age Discrimination Act of 1975, which prohibits discrimination on the basis of *age in the delivery of services* in programs or activities funded by OJP, OVW, or COPS (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. part 42, Subpart I; and
- 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 for inherently religious activities* (28 C.F.R. Part 38; *see also* Executive Order 13279 and Executive Order 13559).

These laws and regulations prohibit OAG and sub recipients from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.

III. Definitions

- a. ‘Complaint Coordinator’ means the person who is responsible for coordinating the series of actions found in the complaint procedures.
- b. ‘Complainant’ means the person who files a complaint.
- c. ‘Discrimination’ means to act on the basis of (i) race, color, national origin, sex, religion, disability, or age in programs and/or activities or (ii) race, color, national origin, sex, religion, or disability in employment.
- d. ‘OCR’ means the Office for Civil Rights, Office of Justice Programs, DOJ.
- e. ‘EEOC’ means the U.S. Equal Employment Opportunity Commission.
- f. ‘Sub recipient’ means any organization or agency to which OAG administers DOJ funds.

IV. Complaint Procedures

Services Discrimination

The following procedures should be used when responding to a complaint of services discrimination from a client, customer, program participant, or customer of OAG or of a sub recipient:

1. Any employee of OAG who receives a complaint of services discrimination subject to this

policy should send the complaint to the OAG complaint coordinator, Carlina Charfauros, within 15 working days of receiving the complaint; and

2. Within 15 working days of receiving a services discrimination complaint subject to this policy, OAG complaint coordinator will seek to resolve a services discrimination complaint filed against OAG before referring it to OCR, if the services discrimination cannot be resolved through mediation then the complaint coordinator will refer that complaint to OCR.

Within 15 working days of a complaint referral, the complaint coordinator will provide written notice to a complainant that OAG received the complaint and forwarded it to OCR. Through its sub recipient monitoring process, OAG will ensure that sub recipients have procedures in place for responding to discrimination complaints that clients, customers, program participants, or consumers file directly with them. If a sub recipient receives a complaint alleging services discrimination, the sub recipient may investigate the complaint and respond directly to the complaining party in writing or refer the complaint to OCR and notify the complainant and OAG of the referral. Through its sub recipient monitoring process, OAG will also ensure that sub recipients notify their clients, customers, program participants, and consumers of prohibited discrimination and the procedures for filing a services discrimination complaint. OAG will also notify its clients, customers, program participants, and consumers of prohibited discrimination and its procedures for filing a services discrimination complaint by posting the policy on the Office of the Attorney General website.

Examples of discrimination in the delivery of services

An example of discrimination in the delivery of services based on disability would be the failure of a funded correctional facility to provide interpreter services to hearing-impaired inmates. An example of discrimination in the delivery of services based on race would be a funded police department's practice of stopping and interrogating, without cause, all Hispanic males driving on a particular highway.

Employment Discrimination

The following procedures should be used when responding to a complaint of employment discrimination from an employee or applicant of a sub recipient:

- 1) Any employee of OAG who receives a complaint of employment discrimination subject to this policy should send the complaint to the OAG complaint coordinator, Terry Ascura, within 15 working days of receiving the complaint; and
- 2) Within 20 working days of receiving an employment discrimination complaint subject to this policy, the OAG complaint coordinator will refer that complaint to the EEOC and the Government of Guam Department of Administration (DOA) Human Resource Division (HRD) to conduct an external investigation of the complaint. Within 20 working days of a complaint referral, the OAG complaint coordinator will provide written notice to the complainant that OAG received the complaint and forwarded it to EEOC and to the Government of Guam DOA HRD.

Through its sub recipient monitoring process, OAG will ensure that sub recipients have procedures in place for responding to discrimination complaints that employees or applicants file directly with the sub recipient. If a sub recipient receives a complaint alleging employment discrimination, the sub recipient may investigate the complaint and respond directly to the complaining party in writing or refer the complaint to EEOC and notify the complainant and OAG of the referral. Through its sub recipient monitoring process, OAG will also ensure that sub recipients notify their employees of prohibited discrimination and the procedures for filing an employment discrimination complaint.

Example of discrimination in employment practices

An example of discrimination on the basis of sex in the employment practices of a funded law enforcement agency is having a policy preferring males over females in recruiting entry-level patrol officers.

V. Filing a Complaint with EEOC

A complainant may file a complaint of employment discrimination directly with EEOC at the EEOC Los Angeles District Office. The location, contact number, fax number, and TTY are as follows:

Location: Royal Federal Building
255 East Temple St., 4th Floor
Los Angeles, CA 90012
Phone: 1-800-669-4000
Fax: 213-894-1118
TTY: 1-800-669-6820

The procedures for filing a complaint with the EEOC's Los Angeles District Office are available at <http://www.eeoc.gov/field/losangeles/charge.cfm>.

VI. Filing a Complaint with OCR

A complainant may file a complaint of discrimination against OAG or a sub recipient of DOJ funding directly with OCR. The procedures for filing a discrimination complaint with OCR are available at its Web site at <http://www.ojp.usdoj.gov/about/ocr/complaint.htm>. To file a civil rights complaint, complete a Complaint Verification Form and an Identity Release Statement, which are available at <http://www.ojp.usdoj.gov/about/ocr/complaint.htm>, and return both forms to OCR at the following address:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, N.W.
Washington, D.C. 20531

If you believe that you have been the target of discrimination, you should file a complaint with OCR as soon as possible. In most circumstances, you may have no longer than one year from the date of the discriminatory incident to file a complaint. Additional tips for filing a complaint are available at <http://www.ojp.usdoj.gov/about/ocr/complaint.htm>.

VII. Training on Discrimination Complaint Procedures

OAG will provide periodic training for agency employees on prohibited discrimination and its complaint procedures, including an employee's responsibility to promptly refer to the complaint coordinator pertinent discrimination complaints from or potential discrimination issues involving OAG or a sub recipient. OAG will disseminate these procedures to agency employees by posting the procedures on the agency website at www.guamag.org, providing a copy of the procedures to employees during the training sessions, and distributing the procedures to all new employees during orientation.