

**NEW YORK STATE  
OFFICE OF VICTIM SERVICES (OVS)**

**Victims of Crime Act (VOCA)  
Crime Victim Assistance Grant Program**

**Policy for Responding to Discrimination Complaints from Clients, Customers, Program Participants or Consumers (Beneficiaries) of OVS and OVS Sub-Recipient Organizations under the VOCA Crime Victim Assistance Grant Program**

**I. PURPOSE**

The purpose of this policy and procedure is to establish a written process for OVS employees to follow when they receive a complaint alleging discrimination or retaliation from the clients, customers, program participants or consumers of OVS and OVS VOCA Crime Victim Assistance sub-recipients, who receive U.S. Department of Justice federal grant funds from OVS.

Complaints of employment discrimination from OVS employees and OVS job applicants will follow OVS and NYS procedures already in place. Complaints alleging discrimination by an OVS sub-recipient are covered by the *Policy for Responding to Discrimination Complaints from Employees of OVS Sub-Recipient Organizations under the VOCA Crime Victim Assistance Grant Program*.

**II. POLICY**

In using and administering federal grant funds, neither OVS nor sub-recipients may discriminate in the delivery of services or benefits based on religion, race, color, national origin, age, sex, height, weight, marital status, disability, or genetic information. OVS, including its employees and sub-recipients are required to comply with the following federal civil rights 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 of 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.

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- 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.
- Section 1407 of the Victims of Crime Act (VOCA) of 1984, which prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability in VOCA funded programs or activities (42 U.S.C. § 10604).
- 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.
- 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 prohibits organizations from using DOJ funding on inherently religious activities (28 C.F.R. Part 38).

These laws prohibit any agency from retaliating against an individual for taking action or participating in action to secure rights protected by these laws.

Sub-recipients must have procedures in place to respond to discrimination or retaliation complaints that clients, customers, program participants or consumers of VOCA Crime Victim Assistance report to sub-recipients. At minimum, these procedures should include:

- Forwarding the complaint to OVS, The U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR) or the NYS Human Rights Commission.
- Notifying OVS of any discrimination or retaliation complaint that the sub-recipient does not refer to OVS.
- Notifying the complainant that he or she may file a discrimination or retaliation complaint directly with OVS or OCR.

OVS will review complaint procedures during sub-recipient site visits utilizing the civil rights compliance checklist included in the Site Visit Monitoring Protocol.

### III. DEFINITIONS

Recipient: A non-federal entity that receives federal funding directly from a Federal awarding agency to carry out an activity under a Federal program.

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Sub-recipient: A non-Federal entity that received a sub-award Agreement from the recipient to carry out part of a Federal program. Sub-recipient does not include an individual that is a beneficiary of such a program.

OVS Equal Employment Opportunity Officer (EEO Officer): The New York State Office of Victim Services (OVS) designated the Equal Employment Opportunity Officer (EEO Officer) as the designated Civil Rights Compliance Coordinator to handle the discrimination complaint process and maintain the files.

Complainant: A client, customer (beneficiaries), program participant or consumer of OVS or VOCA Crime Victim Assistance sub-recipients, who receive U.S. Department of Justice federal grant funds from OVS who alleges they are the subject of discrimination.

Accused: An employee or individual who allegedly committed the discriminatory behavior.

Discrimination: Refers to the treatment or consideration of, or making a distinction in favor of or against, a person based on the group, class, or category to which that person belongs rather than on individual merit.

Retaliation: An individual being treated differently, in a negative manner, as a result of being involved in a discrimination complaint process such as filing a complaint or being a witness to the complaint.

## IV. COMPLAINT PROCEDURES

Any person who has reason to believe that they have been unlawfully discriminated against or experienced discriminatory harassment based on religion, race, color, national origin, age, sex, height, weight, marital status, disability, or genetic information by the sub-recipients of federal funds may contact the OVS Civil Rights Compliance Coordinator.

### A. Reporting a Complaint

1. A person who thinks he or she has been discriminated or retaliated against by an employee of OVS or a sub-recipient of OVS in the delivery of services or benefits may file a written complaint with the Civil Rights Compliance Coordinator listed in Appendix B.
  - Written complaints must be submitted on the OVS Allegation of Discrimination form which is attached as Appendix A and is available on the OVS website.
  - A complainant may file a complaint orally by contacting the Civil Rights

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Compliance Coordinator if a disability impairs the complainant's ability to file a written complaint.

2. The complaint should contain the following:
  - The name, address, phone number and signature of the complainant, and authorized representative, as appropriate, filing the report;
  - The names of all parties involved, including witnesses;
  - A specific and detailed description of the conduct or action that the complainant believes is discriminatory or retaliatory;
  - The location and date or time period in which the alleged conduct occurred; and
  - 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 after the alleged act of discrimination or retaliation; however, the complainant is solely responsible for any expiration of the statute of limitations for filing the complaint.
4. An employee of OVS, other than the Civil Rights Compliance Coordinator, who receives a complaint that an employee of OVS or a sub-recipient has allegedly engaged in discriminatory or retaliatory conduct covered by this policy shall direct the complaint to the Civil Rights Compliance Coordinator within seven (7) calendar days of receiving the complaint.

### B. Processing the Complaint

1. The Civil Rights Compliance Coordinator will provide the complainant written acknowledgement of the complaint within three (3) business days of receiving the complaint.
2. The Civil Rights Compliance Coordinator will promptly conduct a review of the issues involved in the complaint to ascertain whether or not an informal resolution of the complaint can be achieved. If an informal resolution is possible and mutually agreeable by the parties involved, the Civil Rights Compliance Coordinator will facilitate arrangement of the resolution and make a record of this agreement. If no informal resolution is possible, the Civil Rights Compliance Coordinator will forward the complaint to the appropriate federal or state enforcement agency such as the U.S. Equal Employment Opportunity Commission or the New York State Division of Civil Rights. This process will occur within 30 days of receiving the complaint.

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3. Civil Rights Compliance Coordinator will notify the complainant in writing, if the complaint is forwarded to EEOC or NYSDCR.
4. Civil Rights Compliance Coordinator will also inform the complainant to follow-up with EEOC or OCR regarding their complaint.
5. Civil Rights Compliance Coordinator will document complaint information in a database and/or file.
6. Record Keeping:
  - a. Civil Rights Compliance Coordinator is to maintain records of all complaints received including complaint forms, supporting documentation, acknowledgement of complaint receipt letters and resolution letters. All complaint records will be filed in a secured cabinet and access will be restricted to the Civil Rights Compliance Coordinator.
  - b. Civil Rights Compliance Coordinator shall preserve all records from all investigative steps for seven years (three years at the worksite and then four years in the archives) after the final decision is issued.
  - c. Any requests for documents from the investigation file must be requested under the Freedom of Information Law (FOIL).

Send FOIL requests to:

NYS Office of Victim Services  
General Counsel  
A.E. Smith State Office Building  
80 South Swan Street, 2<sup>nd</sup> Floor  
Albany, NY 12210

## V. Contact:

If you have any questions regarding this policy, you may contact:

Chet Fiske, Grants Director  
NYS Office of Victim Services  
A.E. Smith State Office  
80 South Swan Street, 2<sup>nd</sup> Floor  
Albany, NY 12210  
518.457.5001  
518.485.9294 (Fax)  
[www.ovs.ny.gov](http://www.ovs.ny.gov)

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### **VI. Training**

OVS will provide periodic training on the procedures set forth in this policy to OVS and sub-recipient employees, including an employee's responsibility to refer discrimination and retaliation complaints to the Civil Rights Compliance Coordinator. OVS shall require sub-recipients to conduct periodic training on the procedures set forth in this policy to sub-recipient employees.

A copy of this policy will be provided to all OVS employees and will be included with the training materials provided to new OVS employees.

A copy of this policy will be provided to all OVS sub-recipients. Information on the policy will be provided during all pre-bid conferences and will be posted on the OVS website. By signing the grant award agreement, the sub-recipient agrees to comply with all applicable federal civil rights laws prohibiting employment discrimination.

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**Appendix A**

**ALLEGATION OF DISCRIMINATION**

**IMPORTANT NOTICE – PLEASE READ BEFORE FILLING OUT THIS FORM:**

**Filing a complaint with the New York State Office of Victim Services is voluntary. OVS is not your attorney or advocate. OVS 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. OVS 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:**

ADA Coordinator/Human Resources Management  
Division of Criminal Justice Services  
Alfred E. Smith Building, 6<sup>th</sup> Floor  
80 South Swan Street  
Albany, New York, 12210

**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:

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**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:

Race/Color       Disability  
 National Origin       Age  
 Religion       Sex  
 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?

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(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 of 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:

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(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 Official Use Only**

Received by Civil Rights Compliance Coordinator: \_\_\_\_\_

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

(signature)

Date Acknowledgement Sent to Complainant:

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

Date Claimant Notified of Referral:

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**Appendix B**

NEW YORK STATE OFFICE OF VICTIM SERVICES  
CIVIL RIGHTS COMPLIANCE COORDINATOR CONTACT INFORMATION

The current Civil Rights Compliance Coordinator is the OVS Equal Employment Opportunity Officer (EEO Officer)

**Mailing Address:**

ADA Coordinator/Human Resources Management  
Division of Criminal Justice Services  
Alfred E. Smith Building, 6<sup>th</sup> Floor  
80 South Swan Street  
Albany, New York, 12210

**Office Telephone Number:** 518-485-1704

**E-mail Address:** [HRM@dcjs.ny.gov](mailto:HRM@dcjs.ny.gov)