

NEW YORK STATE
OFFICE OF VICTIM SERVICES (OVS)

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

EMPLOYMENT DISCRIMINATION COMPLAINT POLICIES AND PROCEDURES

**Policy for Responding to Discrimination Complaints from
Employees of OVS Sub-recipient Organizations under the
VOCA Victim of Crime Assistance Grant Program**

I. PURPOSE

The purpose of this policy and procedure is to prohibit employment discrimination and establish a documented process for OVS employees to follow when they receive a complaint from the employees of VOCA Victim Assistance sub-recipients, who receive U.S. Department of Justice federal grant funds.

For discrimination complaints from OVS employees and OVS job applicants, existing OVS and NYS procedures will be followed. These procedures adhere to all applicable federal and state requirements. OVS employees should refer to the requirements to report any discrimination or potential discrimination as specified in the Equal Employment Opportunity Handbook for Employees of New York State Agencies.

II. POLICY

OVS wholeheartedly endorses the prohibiting of employment discrimination based on religion, race, color, national origin, age, sex, height, weight, marital status, disability, or genetic information. All employees have the right to work in an environment free of discrimination based on religion, race, color, national origin, age, sex, height, weight, marital status, disability, or genetic information.

Sub-recipients are required to comply with all applicable federal laws regarding discrimination as a condition of implementing funding from DOJ and certify compliance with the following statutes and regulations upon acceptance of the grant award:

- Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C, which prohibit discrimination on the basis of race, color or national origin in the delivery of services.

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- The Omnibus Crime Control and Safe Streets Act of 1968, as amended 34 U.S.C. § 10228(c), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D, which prohibit discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices.
- Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G, which prohibits discrimination on the basis of disability in the delivery of services and employment practices.
- Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132, and the DOJ implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in the delivery of services and employment practices.
- The Victims of Crime Act (VOCA) of 1984, as amended, 34 U.S.C. § 20110(e), which prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability in VOCA funded programs or activities.
- Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681, and the DOJ implementing regulations at 28 C.F.R. Part 54, which prohibit discrimination on the basis of sex in educational programs in employment and the delivery of services.
- The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I, which prohibit discrimination on the basis of age in the delivery of services.
- The DOJ regulations on Partnerships with Faith-Based and Other Neighborhood Organizations at 28 C.F.R. Part 38, which prohibit discrimination on the basis of religion in the delivery of services and prohibits organizations from using DOJ funding on explicitly religious activities.

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

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.

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

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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: An individual 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 applicant for an employment position or employee 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 EEO Officer.

The following complaint policies and procedures will be adhered to:

- A. An employee of a sub-recipient can file a discrimination/discriminatory harassment complaint with the sub-recipient or with the grantee (OVS). Sub-recipients must have written policies and procedures in place for the submission of discrimination complaints by their employees. The employee shall use their employer's complaint form or prepare a written statement containing the name, address, and telephone number of the individual or authorized representative filing the complaint; a thorough and specific description of the situation, incident, or condition; indicate discriminatory factors such as race, sex, disability, genetic information etc.; identity of witnesses, if any; the resolution the individual is seeking; and the signature of the individual filing the complaint properly dated by the complainant. A complaint

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must be submitted as soon as possible, but no later than 180 days or one year after the alleged act of discrimination, depending on the relevant statute.

- B. OVS employees must promptly refer any complaints of impermissible discrimination, or potential issues of impermissible discrimination, to the OVS EEO Officer. OVS employees will be trained on this requirement as it relates to VOCA Victim Assistance subrecipients annually by their supervisor when completing the review of civil rights compliance attestations submitted by grantees as part of the annual contract renewal process. Information on the complaint process for OVS employees will also be included in the Employee Handbook that is provided to new OVS employees at the beginning of employment and must be acknowledged annually by existing OVS employees.
- C. The OVS EEO Officer will provide a complainant, including OVS employees if applicable, with written acknowledgement of the complaint within three (3) business days of receiving the complaint. This acknowledgement will also inform the complainant that they may file a complaint with OCR, if they chose so, at:

Office of Justice Programs
Office for Civil Rights
999 North Capitol St. NE
Washington, DC 20531

<http://ojp.gov/about/ocr/complaint.htm>

- D. The OVS EEO Officer 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 OVS EEO Officer will facilitate arrangement of the resolution and make a record of this agreement. If no informal resolution is possible, the OVS EEO Officer will forward the complaint to the appropriate federal or state enforcement agency such as the U.S. Equal Employment Opportunity Commission (EEOC) or the New York State Division of Civil Rights (NYSDCR). This process will occur within 30 days of receiving the complaint.
- E. Civil Rights Compliance Coordinator will notify employees of the sub-recipient and the sub-recipient in writing if the complaint is forwarded to EEOC or NYSDCR.
- F. Civil Rights Compliance Coordinator will also inform the employee of the sub-recipient to follow-up with EEOC or OCR regarding their complaint.

G. Civil Rights Compliance Coordinator will document complaint information in a database and/or file.

H. Record Keeping:

- a. Civil Rights Compliance Coordinator is to maintain records of all complaints received including complaints 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 OVS EEO Officer.
- 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 Act (FOIA).

Send FOIA requests to:
NYS Office of Victim Services
General Counsel
A.E. Smith State Office Building
80 South Swan Street, 2nd Fl
Albany, NY 12210

V. Contact:

If you have any questions regarding this policy, you may contact the OVS Civil Rights Coordinator:

Kathleen Joslin
Grants Unit Chief

New York State Office of Victim Services
Alfred E. Smith State Office Building
80 South Swan Street, 2nd Floor
Albany, New York 12210-8002

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