

PURPOSE

The North Dakota Office of the Attorney General (“OAG”) and organizations or agencies receiving United States Department of Justice (“USDOJ”) sub-grants through the OAG may not engage in discriminatory practices based on race, color, national origin, sex, religion, disability, or age. The purpose of this document is to assist organizations receiving sub-grants through the OAG and to provide procedures for them and the OAG to comply with anti-discrimination provisions required under federal law and by the USDOJ.

POLICY

As a condition of accepting USDOJ funding, organizations or agencies are required to comply with applicable federal laws against discrimination and discriminatory practices. Individuals have the right to participate in programs and activities of the OAG and of USDOJ grant sub-recipients without regard to race, color, national origin, sex, religion, disability, or age, as provided under federal law. Organizations and agencies are prohibited from retaliating against an individual for taking action or participating in action to secure rights protected by those laws.

DEFINITIONS

1. “An individual with a disability” means any individual who: (1) has a physical or mental impairment that substantially limits one or more of the individual’s major life activities; (2) has a record of a physical or mental impairment; (3) is regarded as having a physical or mental impairment; or (4) is otherwise deemed disabled under applicable federal law.
2. “Complainant” means the individual or individuals who initiate a complaint under this policy.
3. “Complaint Coordinator” means the Human Resources Director of the OAG.
4. “Discrimination” means an adverse action or unequal treatment based on race, color, national origin, sex, religion, disability, or age.
5. “Harassment” means behavior characterized by conduct: (1) based on race, color, national origin, sex, religion, disability, or age; and (2) if sufficiently severe, persistent, or pervasive could reasonably be expected to create an intimidating, hostile, or offensive working or learning environment.
6. “Respondent” means an individual, organization, or agency against whom a complaint has been initiated.
7. “Retaliation” means adverse action by an individual, organization, or agency against an individual or individuals engaged in a protected activity, including opposition to a discriminatory practice or participation in an investigation of discrimination.

COMPLAINT PROCEDURES

The OAG and its sub-recipients shall comply with the following procedures if they receive a complaint of

(1) discrimination in employment or services because of race, color, national origin, sex, religion, or disability, or discrimination in services because of age, or (2) retaliation for engaging in a protected activity. Complainants may seek resolution through informal resolution or formal complaint procedures. While informal resolution is encouraged, it is not required as a prerequisite condition for the formal complaint procedure.

INFORMAL RESOLUTION

Complainants are encouraged to resolve discrimination complaints in employment or services informally with the respondent. Informal resolution may include meetings and discussion with the OAG's Complaint Coordinator and OAG supervisory staff if the complaint is against the OAG, or with the sub-recipient's Human Resources Officer or supervisory staff if the complaint involves a sub-recipient.

COMPLAINTS AGAINST THE OAG

1. The OAG will follow its internal grievance procedures for discrimination complaints made by OAG employees.
2. A client, customer, program participant, applicant, or consumer who alleges discrimination by the OAG may file a complaint by completing the OAG's complaint form. The complaint form is available at the OAG's website at www.ag.nd.gov and identifies prohibited discrimination.
3. A client, customer, program participant, applicant, or consumer who alleges discrimination by the OAG may also send a letter to the OAG about that perceived mistreatment. The address for the OAG is:

Office of the North Dakota Attorney General
State Capitol
600 East Boulevard Ave., Dept. 125
Bismarck, ND 58505-0040

4. The complaint must include the following information:
 - a. Name, address, and telephone number of the complainant.
 - b. The subject of the alleged discrimination, if it is somebody other than the complainant.
 - c. The basis for the complaint, e.g., the complaint alleges (1) discrimination in employment or services based on race, color, national origin, sex, religion, or disability, or discrimination in services based on age, or (2) retaliation for engaging in a protected activity, with as much detail as possible.
 - d. The date of the alleged discriminatory conduct.
 - e. The name and title of the person against whom the complaint is made.
 - f. The complaint must be in writing, dated, and signed by the complainant.
5. A complainant may contact the OAG Complaint Coordinator prior to filing a complaint for policy clarification.
6. Absent good cause, under applicable federal law, a complaint of disability or age discrimination must be filed no later than one-hundred and eighty (180) days of the alleged discriminatory

conduct. Absent good cause, under applicable federal law, a complaint of race, color, national origin, sex, or religion discrimination must be filed no later than one year of the alleged discriminatory conduct.

7. If an employee of the OAG other than the OAG Complaint Coordinator receives a complaint in which a client, customer, program participant, applicant, or consumer alleges discrimination, the employee shall promptly, and in any event no later than ten days after receipt of the complaint, report the complaint to the OAG Complaint Coordinator.
8. The OAG Complaint Coordinator shall note when the complaint was received, provide written notice to the complainant of the receipt of the complaint, and explain to the complainant that efforts will be made to resolve the complaint within forty-five calendar days of the complaint, unless the coordinator refers the matter to another agency.
9. If the complainant alleges discrimination by the OAG in its services practices, the OAG may choose to investigate the complaint, refer the complaint to the North Dakota Department of Labor's Human Rights Division, or refer the complaint to the USDOJ Office for Civil Rights for review and disposition.
10. If the complainant alleges discrimination by the OAG in its employment practices, the OAG may choose to investigate the complaint, refer the complaint to the North Dakota Department of Labor's Human Rights Division, or refer the complaint to the United States Equal Employment Opportunity Commission ("EEOC") for review and disposition.
11. The OAG Complaint Coordinator shall provide a written notice to the complainant and advise whether the complaint has been investigated or referred to an external agency, and if referred to an external agency, advise the complainant of the external agency's contact information.

COMPLAINTS AGAINST OAG SUB-RECIPIENTS

1. An employee, client, customer, program participant, applicant, or consumer who alleges discrimination by an OAG sub-recipient may file a complaint with the sub-recipient or by completing the OAG's complaint form. The complaint form is available at the OAG's website at www.ag.nd.gov and identifies prohibited discrimination.
2. An employee, client, customer, program participant, applicant, or consumer who alleges discrimination by an OAG sub-recipient may also send a letter to the OAG about that perceived mistreatment.
3. The complaint must include the following information:
 - a. Name, address, and telephone number of the complainant.
 - b. The subject of the alleged discrimination, if it is somebody other than the complainant.
 - c. The basis for the complaint, e.g., the complaint alleges (1) discrimination in employment or services based on race, color, national origin, sex, religion, or disability, or discrimination in services based on age, or (2) retaliation for engaging in a protected activity, with as much detail as possible.
 - d. The date of the alleged discriminatory conduct.

- e. The organization or agency against whom the complaint is made, and the name and title of the person who engaged in the alleged discriminatory conduct.
 - f. The complaint must be in writing, dated, and signed by the complainant.
4. A complainant may contact the OAG Complaint Coordinator prior to filing a complaint against a sub-recipient for policy clarification.
5. Absent good cause, under applicable federal law, a complaint of disability or age discrimination must be filed no later than one-hundred and eighty (180) days of the alleged discriminatory conduct. Absent good cause, under applicable federal law, a complaint of race, color, national origin, sex, or religion discrimination must be filed no later than one year of the alleged discriminatory conduct.
6. If an employee of the OAG other than the OAG Complaint Coordinator receives a complaint in which an employee, client, customer, program participant, applicant, or consumer alleges discrimination by a sub-recipient, the employee shall promptly, and in any event no later than ten days after receipt of the complaint, report the complaint to the OAG Complaint Coordinator.
7. If an OAG sub-recipient receives a complaint in which an employee, client, customer, program participant, applicant, or consumer alleges discrimination in employment or services by the sub-recipient, the sub-recipient shall address the complaint consistent with its procedures for handling such matters. The sub-recipient shall also promptly, and in any event no later than ten days after receipt of the complaint, report the complaint to the OAG Complaint Coordinator. Through the OAG's sub-grantee monitoring process, the OAG will monitor these complaints.
8. If the OAG Complaint Coordinator receives a complaint directly from a client, customer, program participant, applicant, or consumer alleging discrimination by a sub-recipient in its services practices, the OAG will not investigate or make a determination or disposition on the complaint. Instead, the OAG Complaint Coordinator shall refer the complaint to the North Dakota Department of Labor's Human Rights Division or to the USDOJ's Office for Civil Rights for investigation and disposition.
9. If the OAG Complaint Coordinator receives a complaint directly from an applicant or employee alleging discrimination in its employment practices, the OAG will not investigate or make a determination or disposition on the complaint. Instead, the OAG Complaint Coordinator shall refer the complaint to the North Dakota Department of Labor's Human Rights Division or to the EEOC for investigation and disposition.
10. The OAG Complaint Coordinator shall provide a written notice to the complainant and acknowledge receipt of the complaint, advise the complainant that the complaint was referred to an external agency, and advise the complainant of the external agency's contact information.

EXTERNAL AGENCIES

The OAG's policies and procedures are not intended to impair or limit the rights of any individual to seek a remedy available under state or federal law. As an alternative, or in addition to filing a complaint with the OAG, an individual may seek to file a complaint with an appropriate external state or federal agency for investigation.

An individual may submit employment or services discrimination complaints with:

North Dakota Department of Labor
Division of Human Rights
600 E Boulevard Ave Dept 406
Bismarck ND 58505-0340
Phone: 701-328-2660
Toll Free: 800-582-8032
TTY: 701-328-2660 or 800-582-8032
<http://www.nd.gov/labor/human-rights/index.html>

If a services or employment discrimination complaint involves a program receiving federal financial assistance from the USDOD, the complainant may file a complaint with:

U.S. Department of Justice
Office of Justice Programs
Office for Civil Rights
810 7th St NW
Washington DC 20531
Phone: 202-207-0690
TTY: 202-307-2027
<http://www.ojp.usdoj.gov/about/ocr/complaint.htm>

If the complaint involves employment discrimination, the complainant may file a complaint with:

U.S. Equal Employment Opportunity Commission
<http://www.eeoc.gov/employees/charge.cfm>

SUB-RECIPIENT MONITORING

The OAG grants management section will rely on sub-grant agreements and acceptance documents to notify USDOD grant sub-recipients of (1) prohibited discrimination in their programs and activities, and (2) the requirement that sub-recipients have procedures in place to respond to complaints of discrimination involving services or employment practices. The OAG grants management section will use a checklist and any additional information it gathers onsite from the grant sub-recipients to review compliance with these requirements and to ensure that sub-recipients notify employees, clients, customers, program participants, applicants, and consumers of their complaint procedures.

TRAINING

1. Employees of the OAG – OAG staff will be informed annually of this policy and of prohibited discrimination within OAG programs and activities.
2. OAG grant management staff – During periodic grant management training, the OAG will inform OAG grant management staff of their responsibilities to refer complaints or potential discrimination issues to the OAG Complaint Coordinator for processing as soon as the alleged

discrimination is brought to the attention of the staff. Annual grant management training will also include a review of the Equal Employment Opportunity Plan training module.

3. Sub-recipients – OAG grant management staff will ensure, through the OAG’s sub-grantee monitoring process, that sub-recipients receive a copy of this policy. OAG grant management staff will also provide a link to a training module from the USDOJ OCR, and will notify sub-recipients through its grant solicitations of the requirement to complete this training annually. The OAG will post the link to this training on its web site. OAG grant management staff will review compliance with this requirement during monitored site visits.
4. This policy will be posted at the Attorney General’s web site.

Date: September 28, 2012