

Office of Attorney General - Grant Complaint Policy (Civil Rights)

POLICY

As a condition of accepting US Department of Justice (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 Office of Attorney General (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.

OAG and its subrecipients must comply with **Title VI of the Civil Rights Act (Title VI) of 1964**, as amended, 42 U.S.C. § 2000d, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpts. C & D; **Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968**, as amended, 34 U.S.C. §§ 10228(c) & 10221(a), and the DOJ implementing regulations, 28 C.F.R. pt. 42, subpts. D & E; **Section 504 of the Rehabilitation Act (Section 504) of 1973**, as amended, 29 U.S.C. § 794, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpt. G; **Title IX of the Education Amendments (Title IX) of 1972**, as amended, 20 U.S.C. § 1681, and the DOJ implementing regulations, 28 C.F.R. pt. 42, subpt. D & pt. 54; **Title II of the Americans with Disabilities Act of 1990**, as amended, 42 U.S.C. § 12132, and the implementing regulation at 28 C.F.R. § 35.171(a)(1)(i), (3)(i); **Age Discrimination Act (Age Act) of 1975**, as amended, 42 U.S.C. § 6102, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpt. I; **Executive Order 13,559** and the DOJ implementing regulation, Partnerships with Faith-Based and Other Neighborhood Organizations, 28 C.F.R. pt. 38.

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 Officer 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.

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 subrecipient's Human Resources or supervisory staff, if the complaint involves a sub-recipient. Informal resolution is not a prerequisite condition for the formal complaint procedure.

COMPLAINTS AGAINST THE OAG

A complainant may contact the OAG Complaint Coordinator prior to filing a written complaint.

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 written complaint with the OAG. The written complaint must be submitted by mail.

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The mailing address for the Office of Attorney General is 600 East Boulevard Ave. Dept. 125, Bismarck, ND 58505-0040. The complaint must be signed and dated by the complainant and include all the following:

- a. Name, address, and daytime telephone number of the complainant.
 - b. The subject of the alleged discrimination, if it is somebody other than the complainant, and if so, the subject's contact information.
 - 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.
3. 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 after the date of the alleged discriminatory conduct, and a complaint of race, color, national origin, sex, or religion discrimination must be filed no later than one year after the date of the alleged discriminatory conduct.
 4. 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 report the complaint to the OAG Complaint Coordinator within ten days of receipt of the complaint. The OAG Complaint Coordinator shall note when the complaint was received and shall provide a written acknowledgment of receipt to the complainant.
 5. Efforts will be made to resolve the complaint within forty-five calendar days of receipt of the complaint, unless the complaint is referred to another agency. The OAG Complaint Coordinator shall notify the complainant in writing whether the complaint has been investigated or referred to an external agency, and if referred, the external agency's contact information.
 6. If the complainant alleges discrimination by the OAG in its services practices, the OAG may choose to investigate the complaint, or refer the complaint to the North Dakota Department of Labor's Human Rights Division or the USDOJ Office for Civil Rights.
 7. If the complainant alleges discrimination by the OAG in its employment practices, the OAG may choose to investigate the complaint, or refer the complaint to the North Dakota Department of Labor's Human Rights Division or the US Equal Employment Opportunity Commission ("EEOC").
 8. 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. If the complainant complaint is referred to another agency, they may file their complaint with OCR at:

Office for Civil Rights
Office of Justice Programs
U. S. Department of justice
810 7th Street, NW
Washington, DC 20531
<https://ojp.gov/about/ocr/complaint.htm>

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 with the OAG. A complainant may contact the OAG Complaint Coordinator prior to filing a complaint against a sub-recipient.
2. A client, customer, program participant, applicant, or consumer who alleges discrimination by the OAG may file a complaint with the OAG.
3. The complaint must be in writing and must be signed and dated by the complainant and include all of the following information:
 - a. Name, address, and daytime telephone number of the complainant.
 - b. The subject of the alleged discrimination, if it is somebody other than the complainant, and if so, the subject's contact information.

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- 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.
4. 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 after the date of the alleged discriminatory conduct, and a complaint of race, color, national origin, sex, or religion discrimination must be filed no later than one year after the date of the alleged discriminatory conduct.
5. 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 report the complaint to the OAG Complaint Coordinator within ten days of receipt of the complaint. The OAG Complaint Coordinator shall note when the complaint was received and shall provide a written acknowledgment of receipt to the complainant.
6. 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 subrecipient, 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.
7. 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.
8. 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.
9. 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. If the complainant complaint is referred to another agency, they may file their complaint with OCR at:

Office for Civil Rights
Office of Justice Programs
U. S. Department of Justice
810 7th Street, NW
Washington, DC 20531
<https://ojp.gov/about/ocr/complaint.htm>

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 the ND Department of Labor Division of Human Rights online at <https://www.nd.gov/labor/>.

If a services or employment discrimination complaint involves a program receiving federal financial assistance from the USDOJ, the complainant may file a complaint with the Office of Justice Programs Office for Civil

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Rights at the address shown above, or online at
<https://ojp.gov/about/ocr/complaint.htm>.

If the complaint involves employment discrimination, the complainant may file a complaint with U.S. Equal Employment Opportunity Commission, online at
<https://www.eeoc.gov/employees/charge.cfm>

SUB-RECIPIENT MONITORING

The OAG grants management section may rely on sub-grant agreements and acceptance documents to notify USDOJ 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 may 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. **OAG Employees:** 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, OAG grant management staff will review 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 are aware of the grants complaint policy. OAG grant management staff may provide a link to a training module from the USDOJ OCR, and notify subrecipients through its grant solicitations of any requirement to complete training. The OAG may 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 on the OAG website.

Date: December 20, 2018