

PROCEDURES FOR RESPONDING TO DISCRIMINATION COMPLAINTS RECEIVED AT THE UTAH OFFICE FOR VICTIMS OF CRIME

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Purpose:

The following document establishes written procedures for the Utah Office for Victims of Crime (hereinafter "UOVC") to follow when receiving a complaint alleging employment discrimination from an employee of a grant subrecipients implementing funding from the U.S. Department of Justice (hereinafter "DOJ").

The established written procedures will also be followed by UOVC when receiving a complaint alleging discrimination in the delivery of services from clients, customers, program participants, or consumers of a subrecipients implementing funding from the DOJ.

Policy:

All employees and applicants of the UOVC's subrecipients, and clients, customers, program participants, or consumers of subrecipients shall be treated equally regardless of race, color, sex, pregnancy or pregnancy-related conditions, age, religion, national origin, or disability. All individuals have the right to participate in programs and activities operated by UOVC and its subrecipients. The UOVC requires all subrecipients to be in compliance with the Legal Sources identified at the end of this document.

In addition to these, any agency that receives grants under the Violence Against Women Act (VAWA) of 1994, as amended, is prohibited from discriminating on the basis of gender identity and sexual orientation.

Definitions/Terms:

Discrimination: It is a discriminatory or prohibited employment practice to refuse to hire, promote, discharge, demote, terminate, or to retaliate against or to discriminate in matters of compensation or in terms, privileges, and conditions of employment against any persons otherwise qualified, because of race, color, sex, sexual orientation, gender identity, pregnancy or pregnancy-related conditions, age, religion, national origin, or disability.

Employment Discrimination Protection

Employees are protected from employment discrimination under the following laws, in addition to the applicable U.S. Department of Justice program statutes listed in the Legal Sources section of these procedures.

- ❖ The Age Discrimination in Employment Act of 1967, [29 USC 621](#), as implemented by [29 CFR 1625\(1999\)](#). This act prohibits discrimination on the basis of age for individuals forty years and over.
- ❖ The Vocational Rehabilitation Act of 1973, [29 USC 701](#), as implemented by [34 CFR 361\(1999\)](#). This act prohibits discrimination on the basis of disability status under any program or activity that receives federal financial assistance. Employers with federal contracts or subcontracts greater than \$10,000.00 must have an affirmative action plan to accommodate qualified individuals with disabilities for employment and advancement. All of an employer's operations and facilities must comply with Section 503 as long as any of the operations or facilities are included in federal contract work. Section 504 incorporates the employment provisions of Title I of the Americans with Disabilities Act of 1990.
- ❖ The Equal Pay Act of 1963, [29 USC 206\(d\)](#), as implemented by [29 CFR 1620\(1999\)](#). This act prohibits discrimination on the basis of sex.
- ❖ Title VII of the Civil Rights Act of 1964 as amended, [42 USC 2000e](#). This act prohibits discrimination on the basis of sex, race, color, national origin, religion, or disability.
- ❖ The Americans with Disabilities Act of 1990, [42 USC 12201](#). This act prohibits discrimination against qualified individuals with disabilities in recruitment, selection, benefits and all other aspects of employment.
- ❖ Uniformed Services Employment and Reemployment Act of 1994, [38 USC 4301](#) (USERRA). This act requires a state to reemploy eligible veterans who left state employment for military service and return to work within specified time periods defined by USERRA.

In regard to the delivery of services, it is discrimination for a DOJ funding recipient to fail to provide services, or to provide services that are different in kind, based on a protected class. Recipients are prohibited from discriminating in the delivery of services under the statutes and regulations listed in the Legal Sources section of these procedures.

Retaliation: It is illegal for an employer to retaliate against an employee because he or she has opposed any type of discriminatory treatment or because he or she has filed charges, testified, assisted or participated in any proceeding, investigation or hearing alleging discriminatory treatment protected by the law.

This protection applies not only to the complaining employee, but also to all other employees who might participate in the investigatory process. This protection applies regardless of the validity of the complaining employee's charge.

It is also illegal for a DOJ funding recipient to retaliate against a client, customer, or program participant because he or she has filed charges, or participated in any proceeding, alleging discriminatory treatment protected by law.

Project Director: The person identified in the grant submission (application) as the responsible party to manage the grant project.

Complaint Coordinator: The UOVC Complaint Coordinator is identified above, Hildegard Koenig.

Complaint Procedures

If you believe that you have been the target of discrimination by UOVC or a subgrantee of UOVC has discriminated against an employee, a client, a customer or a program participant, or anyone else, and/or if any employee or subgrantee received a complaint of alleged discrimination, such person/employee/subgrantee should notify UOVC's complaint coordinator, Hildegard Koenig by email, letter, telephone, or fax with the following:

Hildegard Koenig, Program Specialist
Utah Office for Victims of Crime
350 E. 500 S. #200
Salt Lake City, UT 84114
hkoenig@utah.gov
Office: 801.297.2636
Fax: 801.533.4127

- a. Complaint must include the following:
 - i. Date of alleged discrimination;
 - ii. Protected class claimed;
 - iii. Summary of the alleged discrimination with supporting documents;
 - iv. A signature attesting to the facts alleged
- b. UOVC's complaint coordinator will provide written acknowledgment of receiving the complaint; will coordinate the complaint process and will notify the charging party that any discrimination complaint can be filed with Office for Civil Rights; and/or with the following:
 - i. UOVC's Director and Victim Assistance Coordinator; and/or
 - ii. For criminal justice system discrimination claims the District Victims' Rights Committee; and/or

- iii. For employment discrimination claims the Utah Antidiscrimination & Labor Division.
- c. UOVC's complaint coordinator will advise the charging party that a complaint must be filed within either 180 days or one year from the date of the alleged violation, depending on the relevant statute, in order to protect the charging party's rights.
- d. No later than five (5) business days after receiving a complaint in the form described above, UOVC's complainant coordinator will refer the complaint in writing onto to the specific recipient(s).
- e. For complaints, alleging discrimination by a subgrantee in the delivery of services will be forward for review and investigation to UOVC's Director and Victim Assistance Coordinator.
- f. For complaints, alleging discrimination by the Criminal Justice System (i.e. law enforcement, prosecution, courts, Corrections, Board of Pardons) will be forward for review and investigation to the District Victims' Rights Committee Chair. If the District Victims' Rights Committee is unable to resolve the complaint within the prescribed time, a designated subcommittee from the Utah Council on Victims of Crime will review the complaint.
- g. For complaints, alleging employment discrimination claims will be forward for review and investigation to the Utah Antidiscrimination & Labor Division (hereinafter "UALD"). The complainant may wish to file a complaint directly with the UALD before providing the contact information directly by phone or in person to obtain the intake questionnaire.

Utah Antidiscrimination & Labor Division
160 East 300 South, 3rd floor,
PO Box 146630
Salt Lake City, Utah 84114-6630
Telephone: 801-530-6800
Fax: 801-530-7609

The questionnaire can also be located on UALD's web page at
https://laborcommission.utah.gov/divisions/AntidiscriminationAndLabor/employment_discrimination.html

- h. The complaint coordinator will also notify the U.S. Department of Justice, Office of Justice Programs, and Office for Civil Rights, depending on the nature of the complaint.

Office of Justice Programs
Office for Civil Rights
U.S. Department of Justice
810 Seventh Street, NW
Washington, DC 20531
Telephone: 202-616-9865
Fax: 202-616-9865

- i. The complaint coordinator shall maintain a confidential file of copies of all complaints received and forwarded and any correspondence relating to the complainant.
- j. The complaint coordinator, along with the submission of the complaint will submit a request to be notified of the findings of the relevant agency/agencies.
- k. UOVC will only conduct an investigation of the complaint filed by a client (i.e., victim, survivor, etc.) alleging discrimination of a subgrantee the delivery of services. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint.
- l. UOVC will not conduct an independent investigation on complaints alleged directly by UOVC, but will assist the relevant investigative agency/agencies in the investigation.
- m. The Utah Office for Victims of Crime follows the State of Utah Department of Human Resource Management Rules on how UOVC receives and investigates complaints alleging discrimination by UOVC itself ([R477-2-3. Fair Employment Practice and Discrimination](#)).

Public Notification

The Utah Office for Victims of Crime shall make available this Non-Discrimination Policy to all UOVC staff, program beneficiaries, and subgrantees. This policy will be posted on UOVC's website.

Legal Sources

- The Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, which prohibits discrimination in the delivery of services and employment practices on

the basis of race, color, national origin, religion, or sex. ([34 U.S.C. § 10228\(c\) & § 102221\(a\)](#), and [28 C.F.R. §42.201 et seq.](#))

- 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 in Office of Justice Programs (OJP), Office of Community Oriented Policing Services (COPS), and Office on Violence Against Women (OVW) funded programs or activities. ([42 U.S.C. § 2000d](#) and [28 C.F.R. §42.101 et seq.](#))
- Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of disability in the delivery of services and employment practices in Office of Justice Programs (OJP), Office of Community Oriented Policing Services (COPS), and Office on Violence Against Women (OVW) funded programs or activities. ([29 U.S.C. § 794](#) and [28 C.F.R. § 42.501 et seq.](#))
- Title II of the Americans with Disabilities Act of 1990, as it relates to discrimination on the basis of disability in the delivery of services and employment practices by public entities. ([42 U.S.C. § 12132](#) and [28 C.F.R. Pt. 35](#)).
- American with Disabilities Act Amendment Act of 2008, an act to “restore the intent and protections of the ADA of 1990.” ([42 U.S.C. § 12101](#))
- Title IX of the Education Amendments of 1972, as it relates to discrimination on the basis of sex in Office of Justice Programs (OJP), Office of Community Oriented Policing Services (COPS), and Office on Violence Against Women (OVW) funded training or educational programs. ([20 U.S.C. § 1681](#) and [28 C.F.R. pt 54](#)).
- The Age Discrimination Act of 1975 as it relates to services discrimination on the basis of age in the delivery of services in Office of Justice Programs (OJP), Office of Community Oriented Policing Services (COPS), and Office on Violence Against Women (OVW) funded programs or activities. ([42 U.S.C. § 6102](#) and [28 C.F.R. § 42.700 et seq.](#))
- Executive Order 13,559, amending Executive Order 13,279, and the DOJ implementing regulation, partnerships with Faith- Based and Other Neighborhood Organizations, [28 C.F.R § 38](#) (prohibiting discrimination in federally assisted social service programs based on religion in the delivery of services or benefits).
- Victims of Crime Act (VOCA), [34 U.S.C. § 20110 \(e\)](#) which states, “no person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.”

- Violence Against Women Act Reauthorization Act of 2013 (for VAWA grants issued on or after October 1, 2013) which prohibits discrimination on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph [249\(c\) \(4\)](#) of title 18, United States Code), sexual orientation or disability. ([34 U.S.C. § 12291\(b\) \(13\)](#)), which contains the specific nondiscrimination language. (<https://www.gpo.gov/fdsys/pkg/PLAW-113publ4/pdf/PLAW-113publ4.pdf>) The Office for Civil Rights has posted FAQs on the VAWA nondiscrimination provision at <http://ojp.gov/about/ocr/pdfs/vawafaqs.pdf>.
- The Utah Antidiscrimination Act of 1965, which prohibits employment discrimination on the basis of race, color, national origin, gender, religion, age, and disability. Utah's law also prohibits employment discrimination on the basis of pregnancy, childbirth, or pregnancy-related conditions. ([Utah Code Annotated, Title 34A Chapter 5](#))

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

Subgrantee Training:

Each subrecipient of DOJ funding through UOVC is required upon notification of receipt of award to review the online Civil Rights Compliance training. Two PowerPoint presentations can be found on the UOVC web page, www.crimevictim.utah.gov. One is a PowerPoint provided by UOVC, the other goes into greater detail about Civil Rights requirements and was provided by OCR at a VOCA National Training Conference on August 10th, 2016.

Additionally, UOVC regularly provides in-person training to subgrantees regarding civil rights requirements.

Monitoring of Compliance

Each project director receiving DOJ funding through UOVC will be required to produce its Certificate of Completion when monitoring of grant funds occurs. If a project director fails to provide a Certificate of Completion when requested, reimbursements of future grant payments will be held until compliance has been completed as stated in this policy.

During site visits and at other times UOVC employees follow-up with subgrantees to ensure compliance with applicable civil rights requirements.

Policy Requirement for Subrecipients

Each subrecipient of DOJ funding through UOVC is required to adopt a written statement listing classes that are to be protected from discrimination, similar to the following:

All employees and program participants shall be treated equally regardless of race, color, sex, pregnancy or pregnancy-related conditions, age, religion, national origin, or disability.

Subrecipients of funds under VAWA must include sexual orientation and gender identity as additional protected classes in their discrimination policy.

Subrecipients must have procedures in place for accepting and processing discrimination complaints that employee, applicants, clients, and customers file directly with the subrecipient, which may involve investigating the complaint itself or forwarding the complaint to an external agency such as the UOVC for processing. If the subrecipient investigates complaints internally or refers the complaint to an external agency other than the UOVC, such as the OCR or the EEOC, it should be requires to notify UOVC of any discrimination complaints that it receives.

Additionally, are encourage to develop a written policy and training program for employees and program participants similar to the State of Utah's Employee Guide to Workplace Harassment and Discrimination Prevention Program and the State of Utah's Unlawful Harassment Prevention Training plan. A copy can be located:<https://dhrm.utah.gov/training/workplace-harassment-prevention>.

UOVC monitors subrecipients' compliance with civil rights law, including:

- Ensure that subrecipients complete an EEOP Certification Form and submit certification form and EEOP (if required)to the OCR;
- Ensure that subrecipients provide notification to employees and beneficiaries that the subrecipient does not discriminate and that employees and beneficiaries have a right to file a complaint with the SAA or the OCR;
- Ensure that a subrecipient has a Section 504 Coordinator if it meets the employee and funding threshold;
- Ensure that subrecipients provide meaningful access to their services to LEP individuals,
- Ensure that subrecipients comply with the regulations relating to FBOs ([28 C.F.R. pt. 38](#)).

To avoid discrimination against Limited English Persons (LEP), recipients must take reasonable steps to ensure meaningful access to the programs, services, and information the recipients provide, free of charge and establish and implement policies and procedures for language assistance services that provide LEP persons with meaningful access. Each subrecipient should have a written LEP Policy containing these five elements, "a process for identifying LEP persons who need language assistance, information about the available language assistance measures, training for staff, notice to LEP persons, monitoring and updating the LEP policy."

Other provisions apply to Faith Based Organizations. Please see DOJ regulations and guidance issues for FBO's and revised on April 4, 2016 and in [28 C.F.R. pt. 38](#).
(<https://www.gpo.gov/fdsys/pkg/FR-2016-04-04/pdf/2016-07339.pdf>)

Additionally, in the certified assurances and grant conditions for each subgrantee or contractor each must specifically certifies that it will comply (and will require any subgrantees or contractors to comply) with any applicable nondiscrimination provisions, which may include:

- The Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968 ([34 U.S.C. §§ 10228 \(c\) and 10221 \(a\)](#));
- The Victims of Crime Act (VOCA) of 1984, as amended ([34 U.S.C. § 20110\(e\)](#));
- The Juvenile Justice and Delinquency Prevention Act (JJDPA) of 1974, as amended: ([34 U.S.C. § 11182\(b\)](#));
- Violence Against Women Act (VAWA) of 1994, as amended: ([34 U.S.C. §12291b\)\(13\)](#));
- The Civil Rights Act of 1964 ([42 U.S.C. § 2000d](#));
- The Indian Civil Rights Act ([25 U.S.C. §§ 1301-1303](#));
- The Rehabilitation Act of 1973 ([29 U.S.C. § 794](#));
- The Americans with Disabilities Act of 1990 ([42 U.S.C. §§ 12131-34](#));
- The Education Amendments of 1972 ([20 U.S.C. §§ 161 1683, 1685-86](#)); and
- The Age Discrimination Act of 1975 ([42 U.S.C. §§ 6101-07](#)).

It will also comply with Ex. Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations; Executive Order 13559, Fundamental Principles and Policymaking Criteria for Partnerships with Faith-Based and Other Neighborhood Organizations; and the DOJ implementing regulations at 28 C.F.R. Part 38.

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the ground of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

[Date]

To Complainant
Address
City, State, Zip

RE: RECEIPT OF DISCRIMINATION COMPLAINT

Dear (Complainant):

I CERTIFY that _____ (name of complainant) notified me of an allegation of discrimination on _____ (date of complaint). The manner of notification was made through the following means _____ telephone, _____ email, _____ written correspondence, or other _____ (describe).
The complainant information is as follows:

NAME	
ADDRESS	
TELEPHONE	
CELL PHONE	
WORK PHONE	
DATE OF BIRTH	

In my capacity as Complaint Coordinator, I have taken the following actions in forwarding the discrimination complaint.

DATE	ACTION	RECIPIENT
	Forwarded to UALD	Utah Antidiscrimination & Labor Division 160 East 300 South, 3 rd floor, PO Box 146630 Salt Lake City, Utah 84114-6630
	Notification to the Office for Civil Rights	Office for Civil Rights Office of Justice Programs U.S. Department of Justice 810 Seventh Street NW Washington, DC -20531-
	Forwarded to UOVC's Director and Victim Assistance Coordinator	Utah Office for Victims of Crime 350 East 500 South , Suite 200 Salt Lake City, Utah -84111-
	Forwarded to the District Victims' Rights Committee Chair.	District Victims' Rights Committee Chair. District _____ Chair _____

Respectfully submitted,

Hildegard Koenig
Complaint Coordinator