

West Virginia Justice & Community Services Civil Rights Policy and Procedures for Receiving Complaints Against Grantees

Purpose

As a matter of principle, state, and federal law, the West Virginia Justice and Community Services (WVJCS) is committed to prohibiting discrimination in the workplace and in the delivery of Department of Justice-funded program services. As a grantee of the Agency, there is a legal and contractual obligation to provide employment and services in a discrimination-free manner. Accordingly, this document establishes the written policy and procedure for grantee employees to follow when filing a discrimination complaint with the Agency. It also establishes the discrimination complaint policy and procedure for grantees' clients, customers, and program participants who believe they were subject to discrimination in the services that they have received.

Policy

West Virginia Code

§5-11-2. Declaration of policy.

It is the public policy of the State of West Virginia to provide all of its citizens equal opportunity for employment, equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property. Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness or disability. Equal opportunity in housing accommodations or real property is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, blindness, disability or familial status.

The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age, blindness, disability or familial status is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

Subrecipients of grants under the Violence Against Women Act (VAWA) of 1994, as amended, are prohibited from discriminating on the basis of sexual orientation or gender identity in addition to the above listed classes.

Grantees have the legal and contractual obligation (within the Nondiscrimination Section of all Interagency Agreements) to comply with the following laws, as applicable:

- 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;

- U.S. Department of Justice (DOJ) implementing regulations can be found at 28 C.F.R. Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets 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. 34 U.S.C. §§ 10228(c) and 10221(a)
 - DOJ implementing regulations can be found 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;
 - DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;
- 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. 34 U.S.C. §§ 10228(c) and 10221(a);
 - DOJ implementing regulations can be found at 28 C.F.R. Part 35;
- Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education and training programs. 20 U.S.C. § 1681;
 - DOJ implementing regulations can be found 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 service. 42 U.S.C. § 6102;
 - DOJ implementing regulations can be found at 28 C.F.R. Part 42, Subpart I;
- The DOJ regulations on Partnerships with Faith-Based and Other Neighborhood Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibits organizations from using DOJ funding for inherently religious activities. 28 C.F.R. Part 38;
- The Victims of Crime Act of 1984, which prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability in the delivery of services and employment practices. 34 U.S.C. § 20110(e);
- The Juvenile Justice and Delinquency Prevention Act of 1974, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices. 34 U.S.C. § 11182(b);
 - DOJ implementing regulations can be found at 28 C.F.R. Part 31;
- The Violence Against Women Act (VAWA) of 1994, as amended, which prohibits discrimination in programs either funded under the statute or administered by the Office on Violence Against Women, both in employment and in the delivery of services or benefits, based on actual or perceived race, color, national origin, sex, religion, disability,

sexual orientation, and gender identity) (referring to the Safe Streets Act for enforcement) 34 U.S.C. § 12291(b)(13).

- The West Virginia Human Rights Commission. § 5-11-2 It is the public policy of the State of West Virginia to provide all of its citizens equal opportunity for employment, equal access to places of public accommodations, and equal opportunity in the sale, purchase, lease, rental and financing of housing accommodations or real property. Equal opportunity in the areas of employment and public accommodations is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, age, blindness or disability. Equal opportunity in housing accommodations or real property is hereby declared to be a human right or civil right of all persons without regard to race, religion, color, national origin, ancestry, sex, blindness, disability or familial status.

The denial of these rights to properly qualified persons by reason of race, religion, color, national origin, ancestry, sex, age, blindness, disability or familial status is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society

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

Definitions

Agency: The West Virginia Justice and Community Services is the state administrating agency for grants from the Department of Justice.

Federal Civil Rights Compliance Checklist: Requires grantee to give the details on how they are compliant with various federal civil rights laws, ensuring that services are made available to people with limited English proficiency, and ensuring that services are not dependent on taking part in religious activities. This checklist must be completed on an annual basis by all grantees. The checklist answers will be verified during site visits.

Complainant: Person or persons who initiate a complaint.

Grant monitor: WVJCS employee that oversees the implementation of grants and is the point of contact between the grantee and the Agency.

Grantee employee: Employee of any Agency grantee.

West Virginia Human Rights Commission: Responsible for ensuring that employers comply with the West Virginia Human Rights Act.

West Virginia Human Rights Act: Prohibits discrimination based on race, color, religion, sex, national origin, ancestry, citizenship status (with regard to employment), age (40 and over), marital status, familial status (with regard to housing), arrest record, physical and mental disability, military status, sexual orientation and unfavorable discharge from military service.

Office for Civil Rights (OCR): The U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights is responsible for ensuring that all direct recipients and subrecipients of federal funds from the Department of Justice comply with all applicable federal civil rights law.

Complaint procedures

The West Virginia Justice and Community Services shall serve as the coordinator of complaints alleging discrimination and civil rights violations. While the Agency shall serve as the coordinator for all complaints regarding civil rights violations, the Agency does not have the authority to investigate any alleged discrimination or civil rights violations; but rather, will refer the complaint to the appropriate body for investigation. The Agency's Civil Rights Officer is Mr. Bradley R. Bailey. Mr. Bailey may be reached at (304) 558-8814, extension 20217. If you prefer to mail a complaint to Mr. Bailey please utilize the following address: 1124 Smith Street, Suite 3100, Charleston, WV 25301. Complaint forms can be found at <https://das.wv.gov/JCS/grant-programs/Pages/Civil-Rights.aspx> or requested via mail.

Discrimination complaints from grantee employees

Grantee employees who believe that they have encountered discrimination in any terms or conditions of employment, including but not limited to hiring, selection, promotion, transfer, pay, tenure, discharge, and discipline may file a complaint with the Agency, who will then forward the complaint to the WV Human Rights Commission for investigation. Complaints of discrimination generally must be made to the Agency within 180 days of the alleged discrimination. The Violence Against Women Act and the Omnibus Crime Control and Safe Streets Act of 1968 provide one year from the time of the alleged discrimination to file the complaint.

If a grantee employee believes that he or she has been discriminated against by the grantee, the employee may file a complaint with the Agency's Civil Rights Officer. Complaint forms may be obtained from the Agency. Complaints may be submitted in written form or by e-mail to the attention of the Agency's Civil Rights Officer, Bradley R. Bailey, 1124 Smith Street, Suite 3100, Charleston, WV 25301.

If a grantee employee contacts an Agency employee other than the Civil Rights Officer regarding allegations of discrimination, whether in person, in writing, or over the telephone, the employee shall assist the individual in completing the Agency's Civil Rights Complaint Form. The employee shall forward the completed complaint form to the Agency's Civil Rights Officer within two days and notify the complainant once the complaint has been forwarded to the Agency's Civil Rights Officer.

The Agency's Civil Rights Officer shall then forward the employment discrimination complaint to the WV Human Rights Commission for investigation within five business days of receiving the complaint. The Civil Rights Officer shall send the complainant a letter acknowledging receipt of the complaint and explaining that the Agency forwarded the complaint to WV Human Rights Commission for investigation. The acknowledgement letter will notify the complainant that he or she may also file a complaint directly with the OCR at the following address:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 Seventh Street N.W.
Washington, DC 20531

Service discrimination complaints

If an individual receiving services from a grantee believes that he or she has been discriminated against or that his or her civil rights have been violated, the individual may file a complaint with the Agency's Civil Rights Officer. Complaint forms may be obtained from the Agency by contacting the Agency's Civil Rights Officer at (304) 558-8814. Complaints may be filed by mail or e-mail.

Complaints of discrimination generally must be made to the Agency within 180 days of the alleged discrimination. The Violence Against Women Act and the Omnibus Crime Control and Safe Streets Act of 1968 provide one year from the time of the alleged discrimination to file the complaint.

If an individual receiving services from a grantee contacts an Agency employee other than the Civil Rights Officer regarding allegations of discrimination in services, whether in person, in writing, or over the telephone, the employee shall assist the individual in completing the Agency's Civil Rights Complaint Form. The employee shall forward the completed complaint to the Agency's Civil Rights Officer within two days and notify the complainant once the complaint is forwarded to Agency's Civil Rights Officer.

The Agency's Civil Rights Officer shall forward all allegations of discrimination, other than employment discrimination, to OCR within five business days of receiving the complaint. The Agency's Civil Rights Officer shall notify the complainant in writing when the complaint has been submitted to OCR.

Training

The Agency will provide annual on-line trainings to all grantees regarding recent changes in civil rights law. The Agency will provide updates for handling issues of discrimination and civil rights violations.

In these trainings, the Agency will inform grantees that when a grantee's employee, client, customer, or program participant files a discrimination complaint directly with the grantee, the grantee shall have procedures in place to either investigate the complaint or forward the complaint to the Agency for processing. The Agency instructs grantees that they must notify the Agency of any complaint that is being investigated by the grantee or forward the complaint to the Agency for processing within five business days of receiving the complaint. The annual on-line training is provided by OCR at <https://ojp.gov/about/ocr/ocr-training-videos/video-ocr-training.htm>. All grantees are required to certify that they have received training. All grantees must also certify that they have or will notify all employees, clients, customers, and program participants that discrimination is prohibited and the procedures for filing a complaint of discrimination.

In addition, the Agency will incorporate updates on civil rights law and the proper procedure for handling complaints into the individual grant program's monitoring forms and Special Conditions and Assurances.

The Agency will maintain publicly online a copy, <https://das.wv.gov/JCS/grant-programs/Pages/Civil-Rights.aspx> of the policy and complaint form that may be completed

manually. Upon request, the Agency will provide grantees printed copies of the procedure for distribution and display at their facilities.

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