

Justice and Public Safety Cabinet Policy

Discrimination Complaint Procedures

PURPOSE

The Justice and Public Safety Cabinet (Cabinet) hereby establishes written procedures for individuals to follow in filing a complaint alleging discrimination in employment or in the delivery of services by the Cabinet or a Cabinet subrecipient receiving federal funding from the U.S. Department of Justice (DOJ). These procedures also set forth the procedures for Cabinet employees to follow upon receipt of a complaint alleging discrimination from staff, recipients, consumers, and/or beneficiaries of programs administered by the Cabinet or subrecipients of its federal DOJ funding.

POLICY

All individuals have the right to participate in programs and activities operated by the Cabinet and its DOJ-funded subrecipients regardless of race, color, national origin, sex, sexual orientation, gender identity, religion, disability, and age. Harassment on any of the above-stated grounds is a form of prohibited discrimination. Individuals also have the right to be free from retaliation for raising a complaint of discrimination. This policy applies to all employees of the Cabinet and its DOJ-funded subrecipients.

The Cabinet and agency subrecipients receiving funds from the DOJ have the obligation to comply with the following federal civil rights laws:

1. 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), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;
2. 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)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
3. 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 (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;
4. Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54;
5. The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I;
6. The Victims of Crime Act (VOCA) of 1984, as amended, 34 U.S.C. § 20110(e) and the regulation implementing the Victim of Crime Act Victim Assistance Program, 28 C.F.R. § 94.114 (prohibiting discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, sex, religion, and disability);
7. The Violence Against Women Act (VAWA) of 1994, as amended, 34 U.S.C. § 12291(b)(13)

(prohibiting 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);

8. The Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP), as amended, 34 U.S.C. § 11182(b) (prohibiting discrimination in programs funded under the statute, both in employment and in the delivery of services or benefits, based on race, color, national origin, religion, and sex); and
9. The DOJ regulations on Partnerships with Faith-Based and Other Neighborhood Organizations, which prohibit discrimination in federally-assisted social service programs on the basis of religion in the delivery of services or benefits and prohibit organizations from using DOJ funding on explicitly religious activities (28 C.F.R. pt. 38).

DEFINITIONS

“Complainant” refers to the person or persons who initiate a complaint.

“Gender identity” means actual or perceived gender-related characteristics.

“Harassment” is a form of behavior that is characterized by conduct: (1) based on race, color, national origin, sex, sexual orientation, gender identity, religion, disability, or age; AND (2) if sufficiently severe, persistent, or pervasive could reasonably be expected to create an intimidating, hostile, or offensive environment.

“Retaliation” refers to adverse actions by an agency because an individual engaged in protected activity, such as opposing a discriminatory practice or participating in a discrimination complaint procedure.

PROCEDURE

The Special Investigative Agent Manager of the Internal Investigations Branch, Justice and Public Safety Cabinet (or designee) is responsible for coordinating receipt, referral, and/or investigations of complaints received pursuant to this policy.

An individual who believes that he/she has been discriminated against by the Cabinet or by a DOJ-funded subrecipient because of actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity, or has been retaliated against for engaging in protected activity, may initially file a complaint with any Cabinet employee, who will then notify the Internal Investigations Branch and Grants Management Branch via telephone, email, webpage, or in other written format (see Section C). The complaint should contain relevant contact information and details of the allegedly discriminatory action(s). Individuals alleging discrimination by a DOJ-funded subrecipient also have the option of filing a complaint directly with the subrecipient.

Any Cabinet employee receiving a discrimination complaint pursuant to this policy must notify

the Special Investigative Agent Manager of the Internal Investigations Branch, within three (3) business days. DOJ-funded subrecipients who receive a complaint directly from a complainant must notify the Cabinet's Grants Branch Manager, within three (3) business days, who will then forward the information to the Executive Director, Office of Investigations.

Upon receipt of a discrimination complaint, the Special Investigative Agent Manager of the Internal Investigations Branch, will:

1. notify and request approval to proceed with investigation of the matter from the Cabinet Secretary;
2. provide written notification to the complainant acknowledging receipt of the complaint. If the complaint alleges a violation of a federal civil rights law that is enforced by the Office for Civil Rights (OCR), Office of Justice Programs, DOJ, this notification should inform the complainant that he/she may 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;
3. perform an initial review of the information received to determine the most appropriate venue for further investigation (e.g., in-house inquiry, referral to external entities such as Kentucky Commission on Human Rights, the U.S. Equal Employment Opportunity Commission, or the OCR);
4. make appropriate referrals and/or complete an internal inquiry; and notify the complainant of any referrals or internal investigation;
5. notify the complainant of the outcome of any internal investigation; and
6. promptly notify the OCR in writing of any complaint against the Cabinet, along with the actions taken and outcome.

All investigations, referrals, and related actions will be performed in compliance with relevant Kentucky Personnel and Justice and Safety Cabinet policies, Kentucky Revised Statutes, Kentucky Administrative Regulations, and other applicable protocols.

Cabinet employees will be specifically notified of this policy in employee orientation, via the Cabinet Policy and Procedure Manual, and through other appropriate means. Prospective and current program participants/beneficiaries will be specifically notified of this policy through the grant application process. Subrecipients of DOJ funds will be notified of this policy through applicable grant award condition(s) and through participation in on-line training as part of the annual subgrant application process; will be required to advise beneficiaries and employees of the complaint procedures through appropriate means (e.g., program orientation, posters); and be subject to program monitoring of compliance with this condition(s) of award. In addition, this policy will be posted on the Cabinet's webpage for public access.

All subgrants issued awarded by the Justice and Public Safety Cabinet must include requirements designed to ensure that the subrecipient will have appropriate procedures in place for responding to complaints of impermissible discrimination (including procedures with respect to coordination, submission/receipt, training, notification, and investigation).

Retaliation for reporting discrimination under this policy is expressly prohibited, and may result in penalties as prescribed by statute or regulation.