



DCJS

Virginia Department of Criminal Justice Services

RESPONDING TO EMPLOYMENT DISCRIMINATION COMPLAINTS

Policy Type: Grant

Responsible Office: Division of Programs and Services

Revision History: February 19, 2018

Effective Date: March 13, 2019

PURPOSE

The Virginia Department of Criminal Justice Services (DCJS) receives federal financial assistance and serves as the State Adminstrating Agency (SAA) for federal programs including the Victims of Crime Act (VOCA) funds and the Violence Against Women Act (VAWA). As a recipient of federal financial assistance awarded directly from the Office of Justice Programs (OJP), DCJS must comply with the federal statutes and regulations that prohibit discrimination in federally assisted programs or activities.

The purpose of this policy is to establish written procedures for DCJS employees to follow when they receive a complaint alleging employment discrimination or retaliation from an employee of a DCJS sub-recipient implementing funding from the U.S. Department of Justice.

Complaints alleging employment discrimination, by DCJS, are not addressed by this policy. Such complaints are covered by Virginia Department of Criminal Justice Services Equal Employment Opportunity Policy implemented by the agency Human Resource Office.

AUTHORITY

The Director of the Department of Criminal Justice Services has the authority in the Code of Virginia to implement policies needed for the operation of the agency. Office of Justice Programs (OJP) awards are made under OJP legal authorities set out in either Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (the "1968 Act") or the Juvenile Justice and Delinquency Prevention Act of 1974 (the "JJDP"). A nondiscrimination provision that prohibits discrimination on the basis of race, color, religion, national origin, or sex applies to each OJP award made under either Title I of the 1968 Act or the JJDP.

The award document for each FY 2017 OJP award indicates (in Box 13) the "statutory authority" under which OJP is making the award. Title I of the 1968 Act is codified at 42 U.S.C. 3711 through 3797ff-5. The JJDP is codified at 42 U.S.C. 5601 through 5792a. The nondiscrimination provision that applies to both Title I of the 1968 Act and to the JJDP is set out at 42 U.S.C. 3789d(c). Associated regulations appear in subpart D of 28 C.F.R. Part 42.

The "civil rights laws" that apply to *all* federal financial assistance -- and to *all* recipients and sub-recipients of DOJ awards made in FY 2017 (and in FY 2018), can be found at:

<https://ojp.gov/about/ocr/statutes.htm>

BACKGROUND

As a recipient of an Office of Justice Programs (OJP) award, DCJS must certify prior to acceptance of an award (typically, through OJP's "Standard Assurances") that it will comply (and it will require any sub-recipient at any tier to comply) with applicable civil rights laws and nondiscrimination provisions. In addition, FY 2017 and newer OJP awards will include multiple conditions related to civil rights and nondiscrimination, including in the "General Conditions."

A State agency that applies for an OJP award DCJS should expect that an award will also include a condition concerning implementation of "Methods of Administration" to help ensure recipient and sub-recipient compliance with civil rights laws. Pertinent "methods of administration" include matters such as policies and procedures for reviewing complaints of impermissible discrimination, and for monitoring compliance with civil rights laws.

When a prospective recipient executes the standard "assurances," and when a prospective recipient accepts an FY 2017 OJP award, the prospective recipient agrees to comply with these award requirements.

DEFINITIONS

For the purposes of this policy, the terms cited in this policy are defined as follows.

Complainant: An employee of a DCJS sub-recipient allegedly subjected to unlawful employment discrimination or retaliation by a DCJS sub-recipient based on or because of a federally protected class status or protected activity, who submits a complaint to DCJS pursuant to this policy.

Complaint Coordinator: The person designated by the Virginia Department of Criminal Justice Services to oversee this policy, listed in Appendix B of this policy.

Discrimination: 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, age, religion, national origin, or disability.

Retaliation: Any adverse employment action toward a person(s) engaged in an activity protected under federal law, such as making a charge, testifying, assisting or participating in any charge of unlawful discrimination.

Sub-recipient: An entity that expends federal grant funds received from the Virginia Department of Criminal Justice Services as the state SAA to perform all or a portion of the scope of work or objectives of the federal award received by the SAA.

POLICY:

All employees of a DCJS sub-recipient shall be treated equally regardless of race, color, national origin, sex, religion, or disability. Sub-recipients must comply with all applicable federal laws regarding employment discrimination, including laws that prohibit retaliation.

Sub-recipients must have procedures in place to respond to discrimination or retaliation complaints that employees report directly to the sub-recipient. At a minimum, these procedures should include forwarding the complaint to DCJS, the U.S Equal Employment Opportunity Commission, the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), or the appropriate state or local fair employment practices agency; notifying the DCJS Complaint Coordinator of any discrimination or retaliation complaints that the sub-recipient does not refer to DCJS; and notifying the complainant that he or she may file a complaint of discrimination or retaliation directly with DCJS or OCR.

DCJS Grant Monitors will inquire about and review complaint procedures during sub-recipient site reviews utilizing the civil rights compliance checklist and/or the survey.

PROCEDURE:

I. Complaint Procedures

A. Reporting a Complaint

1. An employee of a DCJS sub-recipient who believes he or she has been subjected to employment discrimination or retaliation by a DCJS sub-recipient may file a written complaint alleging such discrimination or retaliation with the Complaint Coordinator listed in Appendix B.
 - a) Written complaints must be submitted on the DCJS *Allegation of Employment Discrimination* form which is attached as Appendix A.
 - b) A complainant may file a complaint orally by contacting the Complaint Coordinator, or designee, if a disability impairs the complainant's ability to file a written complaint.
2. The complaint should contain the following:
 - a) The name, address, phone number and signature of the complainant, and authorized representative, as appropriate, filing the report;
 - b) The names of all parties involved, including witnesses;
 - c) A specific and detailed description of the conduct or action that the complainant believes is discriminatory or retaliatory;
 - d) The location and date or time period in which the alleged conduct occurred; and
 - e) A description of the remedy the complainant desires.
3. A complaint must be submitted as soon as possible, but no later than 180 calendar days after the alleged act of discrimination or retaliation. DCJS will forward a complaint submitted more than 180 calendar days after the alleged act of discrimination or retaliation, however, the complainant is solely responsible for any expiration of the statute of limitations for filing the complaint.
4. An employee of DCJS, other than the Complaint Coordinator, who receives a complaint that a DCJS sub-recipient has allegedly engaged in discriminatory or retaliatory conduct against one or more of its employees shall direct the complaint to the Complaint Coordinator listed in Appendix B within seven (7) calendar days of receiving the complaint.

B. Processing a Complaint

1. The Complaint Coordinator shall promptly provide the complainant with a written notice acknowledging receipt of the complaint. In this acknowledgement letter, the Complaint Coordinator shall inform the complainant that he or she may also file a complaint directly with the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), at 810 7th Street, NW, Washington, DC 20531.
2. All complaints will be handled in a discreet and confidential manner, to the extent possible.
3. The Complaint Coordinator will promptly forward the complaint to the U.S. Equal Employment Opportunity Commission (EEOC), the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR), or the appropriate state or local agency for investigation. Once the referral is made, the complainant is solely responsible for complying with all procedures the agency may require for investigating and resolving the complaint.
4. Within thirty (30) calendar days of the receipt of the complaint, the Complaint Coordinator will provide written notification to the complainant of the referral date and the name and address of the investigative agency to whom the complaint was forwarded.

C. Other Reporting Options

Nothing in this policy prevents any employee of a DCJS sub-recipient from filing a complaint directly with the Equal Employment Opportunity Commission (EEOC), U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights, the Virginia Employment Commission (see: <http://www.vec.virginia.gov/equal-employment-opportunity>), or any local fair employment practices agency. The procedures discussed in this policy need not be utilized first, nor does this procedure need to be exhausted before another is used.

THIS POLICY IS FOR DEPARTMENT USE ONLY AND DOES NOT APPLY IN ANY CRIMINAL OR CIVIL PROCEEDING. THE DEPARTMENT POLICY SHOULD NOT BE CONSTRUED AS A CREATION OF HIGHER LEGAL STANDARD OF SAFETY OR CARE IN AN EVIDENTIARY SENSE WITH RESPECT TO THIRD-PARTY CLAIMS. VIOLATIONS OF THIS POLICY WILL ONLY FORM THE BASIS FOR DEPARTMENT ADMINISTRATIVE ACTION.

II. Training

DCJS shall provide periodic training on the procedures set forth in this policy to DCJS employees, including an employee's responsibility to refer discrimination and retaliation complaints to the Complaint Coordinator. DCJS shall require sub-recipients to conduct periodic training on the procedures set forth in this policy to sub-recipient employees.

II. Policy Notification

A copy of this policy will be provided to all DCJS employees involved in grant administration. A copy of the policy will be included with the orientation materials provided to new DCJS employees.

A copy of this policy will be provided to all DCJS sub-recipients. Information on the policy will be provided, as appropriate, during pre-application trainings and will be posted on the DCJS website. By signing and returning to DCJS the grant award agreement, the sub-recipient agrees to comply with all applicable federal civil rights laws prohibiting employment discrimination and retaliation.

INTERPRETATION

The Agency Grants Administration Manager will provide the understanding, explanation and/or analysis on the policy.

ATTACHMENT A: Employment Discrimination Complaint Form

ATTACHMENT B: DCJS Complaint Coordinator Contact Information



Shannon Dion

March 13, 2019
Effective Date

Employment Discrimination Complaint

ALLEGATION OF EMPLOYMENT DISCRIMINATION

IMPORTANT NOTICE – PLEASE READ BEFORE FILLING OUT THIS FORM:

Filing a complaint with the Virginia Department of Criminal Justice Services (DCJS) is voluntary. DCJS is not your attorney or advocate. DCJS may or may not forward this complaint to U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights (OCR) or other agencies for investigation. DCJS does not take responsibility for your notifying your employer of a discrimination or retaliation claim, nor for filing this complaint with the appropriate agency or court, within the appropriate time periods for doing so.

TO: Complaint Coordinator
Virginia Department of Criminal Justice Services
1100 Bank Street 12th Floor
Richmond VA 23219

FROM: _____(Complainant's Name) (Please
print or type)

DATE: _____

COMPLAINANT

(First Name) (Middle Initial) (Last Name)

Mailing Address

City/State/Zip

Home Phone ()

Other Phone ()

E-Mail Address

AGENCY AGAINST WHOM DISCRIMINATION CLAIM FILED

AGENCY NAME

Contact Person (First) (Middle Initial) (Last)

Mailing Address

City/State/Zip

Agency Phone () Other Phone ()

(1) Please indicate the type of discrimination you are alleging:

- | | |
|--|-------------------------------------|
| <input type="checkbox"/> Race/Color | <input type="checkbox"/> Disability |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Age |
| <input type="checkbox"/> Religion | <input type="checkbox"/> Sex |
| <input type="checkbox"/> Retaliation | |

(2) Date the most recent incident being alleged last took place: _____

(3) Where did the most recent incident being alleged take place? _____

(4) What happened? Please provide a detailed account of the alleged discrimination:

(5) If this complaint is resolved to your satisfaction, what remedy are you seeking?

(6) Have you filed a case or complaint regarding this incident with any of the following?

- Civil Rights Division, U.S. Department of Justice
- Office of Civil Rights, Office of Justice Programs, U.S. Department of Justice
- U.S. Equal Employment Opportunity Commission (EEOC)
- Federal or State Court
- VA Employment Commission
- Local human rights commission or fair employment practices agency

(7) For each item checked in 6 above, please provide the following information:

- Name of Agency:
- Date Filed:
- Case or Docket Number:
- Date of Trial of Hearing:
- Location of agency or court:
- Name of investigator:
- Status of Case:
- Comments:

(8) Do you have an attorney? Yes No

Complainant's Signature: _____ **Date:** _____
(Complaint NOT VALID unless signed)

If this form has been completed by someone other than the person filing this complaint, please indicate name and agency name of person completing this form below, and date completed:

Name: _____ **Agency:** _____

Date: _____

Complainant's acknowledgement that above information has been completed accurately:

Complainant's Signature: _____ **Date:** _____

**For DCJS Use
Only**

Received by Complaint Coordinator: _____ Date: _____
(signature)

Date Acknowledgement Sent to Complainant: _____

Date Complaint Referred: to EEOC: _____ OCR: _____

Notes:

Date Claimant Notified of Referral: _____

VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES,
COMPLAINT COORDINATOR CONTACT INFORMATION

The current Complaint Coordinator is Albert Stokes, Virginia Department of Criminal Justice Services

Mailing Address:

Virginia Department of Criminal Justice Services
Attn: Albert Stokes, Complaint Coordinator
1100 Bank St., 12th Floor
Richmond, VA 23219

Office Telephone Number: 804 786-4011

E-mail Address: albert.stokes@dcjs.virginia.gov