

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES (MDHHS)
DIVISION OF VICTIM SERVICES (DVS)**

PROGRAM DISCRIMINATION COMPLAINT POLICIES AND PROCEDURES

**Policy for Responding to Discrimination Complaints from Program Beneficiaries
and Participants of DVS Funded Organizations**

I. PURPOSE

The purpose of this policy and procedure is to outline the process that program beneficiaries, clients, customers, or consumers of services provided by Division of Victim Services (DVS) subrecipients should follow who have reason to believe that they have been unlawfully discriminated against or experienced discriminatory harassment.

The policy further establishes a written process for the Michigan Department of Health and Human Services (MDHHS) and Division of Victim Services (DVS) to follow when they receive a complaint from program beneficiaries, clients, customers, or consumers of services provided by DVS subrecipients.

This policy and procedure is applicable to DVS subrecipient organizations who receive grant funds from DVS including Victims of Crime Act (VOCA) and Violence Against Women Act (VAWA) grant funds from the U.S. Department of Justice and Family Violence Prevention and Services Act (FVPSA) grant funds from the U.S. Department of Health and Human Services.

II. POLICY

It is the Department policy that all individuals including clients, customers, program participants, or consumers of DVS subrecipients have the right to participate in programs and activities operated by the DVS subrecipients regardless of race, sex, religion, age, national origin, color, height, weight, marital status, gender identification or expression, sexual orientation, partisan considerations, history of alcohol or drug use, arrest record, or a disability or genetic information.

Subrecipients are required to comply with MDHHS contract provisions and applicable federal laws regarding discrimination including but not limited to:

- 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 and D.
- 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. § 11182(b)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D.

- VOCA Subrecipients: Section 1407(e) of the Victims of Crime Act (VOCA) of 1984, which prohibits discrimination on the basis of race, color, national origin, handicap or sex in VOCA funded programs or activities (34 U.S.C. § 20110(e)) and DOJ implementing regulations at 28 C.F.R. Part 94.
- VAWA Subrecipients: Section 40002(b)(13) of the Violence Against Women Act (VAWA) of 1994, which prohibits discrimination on the basis of actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity in programs or activities, both in employment and in the delivery of services, including a limited exception for sex-specific programming (34 U.S.C. § 12291(b)(13)).
- FVPSA Subrecipients: The Fair Housing Act which prohibits discrimination in housing because of race, color, national origin, religion, sex, familial status, and disability (42 U.S.C. §§ 3601-3619); Section 109 of Title I of the Housing and Community Development Act of 1974 which prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development Block Grant Program (42 U.S.C. § 5309); or any other applicable nondiscrimination law, including the FVPSA provisions enunciated in 42 U.S.C. § 10406.
- 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), and the 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 (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35.
- Title I of the Americans with Disabilities Act of 1990 prohibits private employers, State and local governments, employment agencies and labor unions from discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The ADA covers employers with 15 or more employees, including State and local governments.
- 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.
- Section 303 of 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.

- 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 on explicitly religious activities (28 C.F.R. Part 38).
- Michigan Elliott-Larsen Civil Rights Act (MCL 37.2101-37.2804) and which prohibits discrimination in program areas based on religion, race, color, national origin, age, sex, height, weight, familial status, marital status, or arrest record.
- Michigan Persons with Disabilities Civil Rights Act (MCL 37.1101-37.1607) prohibits discrimination based on Disability and Genetic Information.
- The Drug Abuse Prevention, Treatment, and Rehabilitation Act of 1972 (P.L. 92255), as amended, relating to nondiscrimination on the basis of drug abuse.
- The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

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

III. DEFINITIONS

Subrecipient. A non-Federal entity that receives a VOCA grant sub-award Agreement from DVS to carry out part of a Federal program. Subrecipient does not include an individual that is a beneficiary of such a program.

MDHHS Equal Employment Opportunity (EEO) Officer. The MDHHS Equal Employment Opportunity Officer will serve as the Civil Rights Complaint Coordinator and is designated by the Department to handle the discrimination complaint process and maintain the files.

Complainant. An individual who alleges they are the subject of discrimination.

Accused. An agency or individual who has allegedly committed discriminatory act(s).
Discrimination. Refers to the treatment or consideration of, or making a distinction in favor of or against, a person based on the group, class, or category to which that person belongs rather than on individual merit.

Retaliation. An individual being treated differently, in a negative manner, as a result of being involved in a discrimination complaint process such as filing a complaint or being a witness to the complaint.

IV. COMPLAINT PROCEDURES

If an individual believes that they have been excluded from participation in, denied the benefits of, or subjected to discrimination on the basis race, sex, religion, age, national origin, color, height, weight, marital status, gender identification or expression, sexual orientation, partisan considerations, history of alcohol or drug use, arrest record, or a disability or genetic information by DVS subrecipients, the individual may file a discrimination complaint.

V. Complaint Filing

- A. Any person who believes that he or she has been discriminated against may file a written complaint of discrimination within 180 days or one year, depending on the relevant statute. Complaints may be filed as follows:

- 1) Directly with the subrecipient organization
- 2) With the Michigan Department of Health and Human Services

Complaints filed with MDHHS should be sent to the MDHHS EEO Office as well as DVS. The contact information for these offices is as follows:

Michigan Department of Health and Human Services
Lance Bettison-EEO Officer
235 South Grand Avenue, Suite 708
P.O. Box 30037
Lansing, MI 48909
Phone: (269) 337-3744
www.michigan.gov/mdhhs-eeo

Division of Victim Services
Debi Cain-Director
Grand Tower, Suite 1108
PO Box 30037
Lansing, MI 48909
Phone: (517) 335-6388
www.michigan.gov/crimevictims

- 3) With the Michigan Department of Civil Rights

Michigan Department of Civil Rights
Phone: (313) 456-3700

Fax: (313) 456-3701
Toll-Free: (800) 482-3604
TTY: (877) 878-8464
Email: MDCRServiceCenter@michigan.gov
Or file online here: <http://www.michigan.gov/mdcr>

- 4) With the Office for Civil Rights, Office of Justice Programs, US Department of Justice (OCR) will also receive complaints. Please note that OCR will only adjudicate complaints based on federal law against subrecipients receiving VOCA or VAWA funding. OCR will not adjudicate complaints based on state law or relating to sub-recipients only receiving FVPSA funding.

Office for Civil Rights,
Office of Justice Programs, US Department of Justice
810 7th Street, N.W. Washington, DC 20531
Phone: (202) 307-0690
TTY: (202) 307-2027
Fax: (202) 354-4380
<http://www.ojp.usdoj.gov/about/ocr/complaint.htm>

B. The complaint must be in writing and include:

- 1) The basis for the complaint, e.g., discrimination on the of basis race, sex, religion, age, national origin, color, height, weight, marital status, gender identification or expression, sexual orientation, partisan considerations, history of alcohol or drug use, arrest record, or a disability or genetic information.
- 2) The name, address and phone number of the person (complainant) filing the charge.
- 3) The name and address of the provider/subrecipient (respondent) being filed against.
- 4) The description and dates of the alleged discriminatory act(s).
- 5) Be affirmed or signed by complainant.

C. Complaints filed with federal agencies are subject to the federal laws governing such complaints. Final determination of the validity of the complaint will be made by that agency.

Complaint/Investigation Process when filed with MDHHS

1. Program discrimination complaints should promptly be sent to the MDHHS EEO Officer.

2. Within 10 business days of the MDHHS EEO Officer receiving the complaint form, contact will be made to the complainant to clarify information and/or obtain additional information, if needed.
3. MDHHS EEO Officer will promptly conduct a review of the issues involved in the complaint to ascertain whether or not an informal resolution of the complaint can be achieved. If an informal resolution is possible and mutually agreeable by the parties involved, the MDHHS EEO Officer will facilitate arrangement of the resolution and make a record of this agreement.
4. The MDHHS EEO Officer will determine if the complaint meets the criteria to warrant an investigation.
5. The MDHHS EEO Officer will determine for each complaint if they will investigate the allegations or have the subrecipients conduct the investigation.
6. The MDHHS EEO Officer will notify the complainant in writing, if the complaint is being investigated or was rejected.
7. The MDHHS EEO Officer will notify DVS, as determined, that a complaint has been filed and the disposition of the complaint.
8. If determined that the subrecipients should conduct an internal investigation, the complaint will be forwarded to the subrecipient. The subrecipient has 45 (45) business days to complete the investigation.
 - a. The subrecipient may request a time extension prior to the due date by contacting the MDHHS EEO Officer by email or letter. The request must include the reason for the delay and the anticipated completion date.
 - b. The subrecipient will forward the investigative report to the EEO Officer for review.
 - c. The EEO Officer will make a determination if the results are accepted and what actions, if any, steps need to be taken as a result of the investigation within 10 business days of receiving the report.
 - d. The EEO Officer will notify the complainant of the outcome of the investigation.
9. If the EEO Officer is conducting the investigation, the subrecipient will be notified in writing within 10 business days of receiving the complaint that a discrimination complaint has been filled and if it will be investigated.
 - a. The EEO Officer will complete the investigation within 45 business days.

10. Within 90 days of receipt of the complaint, the EEO Officer will notify the complainant in writing of the final disposition reached, including the proposed disposition of the matter. The notification will include additional complaint filing options with other federal agencies if they are unsatisfied with the decision rendered by the state.
11. In the event of a substantiated complaint (violation), the U.S. Department of Justice will be notified of the findings.
12. Investigation files are confidential and will be maintained by the EEO Officer. Files will be retained in accordance with MDHHS's records and retention schedule.
13. The investigative report will include, but not be limited to, the following:
 - a) The complaint, any additional information that the complainant wishes to submit, pertinent law statutes, and a brief statement of the jurisdictional basis.
 - b) Sworn affidavit(s) and/or statement(s) by any witness testifying on behalf of the complainant, if applicable.
 - c) Sworn affidavit(s) and/or statement(s) by the alleged discriminating official in response to each allegation with any supporting documentation, if applicable.
 - d) Sworn affidavit(s) and/or statement(s) by any witnesses testifying on behalf of the alleged discriminating official(s).
 - e) Statement of position by the respondent service provider, along with any documents in support of that position.
 - f) Records and documents gathered in evidence.
 - g) Investigator's summary and recommendation of findings of "reasonable cause" or "no violation" to substantiate discrimination or retaliation allegations.

V. RETALIATION

No person shall be retaliated against, harassed, intimidated, threatened, coerced or discriminated against for making a charge, testifying, assisting or participating in any manner in an investigation, proceeding or hearing, or for opposing alleged unlawful discriminatory practices prohibited by this policy or related State and Federal laws, rules and regulations.