

**Commonwealth of Puerto Rico
Office of the Commissioner of Municipal Affairs**



Policy Addressing Civil Rights Discrimination Complaints

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Policy Addressing Civil Rights Discrimination Complaints

I- Title

This document is titled "*Policy Addressing Civil Rights Discrimination Complaints*".

II- Legal Grounds

This "*Policy Addressing Civil Rights Discrimination Complaints*" is adopted by virtue of: Law Number 81-1991, as amended, known as "*Autonomous Municipalities Act*", Law Number 170-1988, as amended, known as the "*Uniform Administrative Procedure Act*", and the Juvenile Justice and Delinquency Prevention Act of 2002, 42 U.S.C. § 5672(b).

III- Purpose

The Office of the Commissioner of Municipal Affairs (OCMA) is a recipient and administrator of federal funds granted by the U.S. Department of Justice (DOJ) through the following programs: *Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Title V Community Prevention Grants (Title V)* and *OJJDP's Title II Formula Grants (Title II)*. As a recipient of these funds, the OCMA has the obligation not to discriminate against protected classes of people either in employment or in the delivery of services, or to retaliate against an individual for taking action or participating in action to secure rights protected by applicable federal laws.

The internal procedures and guidelines adopted in this Policy seek to ensure compliance with the following applicable federal civil rights laws and regulations, which collectively prevent discrimination based on race, color, national origin, sex, religion, disability, or age:

- 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;
- 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 (42 U.S.C. § 3789d(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;
- The Juvenile Justice and Delinquency Prevention Act of 2002, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 5672(b)), and the DOJ implementing regulations at 28 C.F.R. Part 31, Subpart A.
- 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 IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities (20 U.S.C. § 1681), and the DOJ implementing regulation 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 services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I; and
- The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ federal financial assistance for inherently religious activities (28 C.F.R. Part 38)

IV- Application

This Policy is applicable to OCMA's employees, contractors, and subrecipients that receive federal financial assistance through the OCMA from the DOJ, including from the DOJ's OJJDP.

V- Procedure for Handling Complaints

Any employee, client, customer, program participant, applicant, or consumer of the OCMA or of a subgrantee may file a complaint with the OCMA if they believe that they have been subjected

to discrimination based on their race, color, national origin, sex, religion, disability, or age.

General matters about complaints:

All complaints filed under this procedure will be evaluated by a coordinator designated by the Commissioner, who will be responsible for overseeing the complaint process. If an employee of the OCMA other than the coordinator receives a complaint covered by this Policy, the employee shall promptly, and in any event no later than ten days after receipt of the complaint, report the complaint to the coordinator. Depending on the facts presented by the complaint, the coordinator will either investigate it and resolve it internally or refer it to one of the following agencies or entities:

- Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice
- U.S. Equal Employment Opportunity Commission (EEOC)
- Puerto Rico Department of Labor
- Puerto Rico Citizen's Advocate Office
- Puerto Rico Civil Rights Commission
- Any other local or federal agency with jurisdiction over the complaint

Procedure for filing complaints

1. All complaints must be presented in writing and may be filed in person, by electronic mail or by fax. Absent good cause, under applicable federal law, (1) a complaint of disability or age discrimination must be filed no later than 180 days of the alleged discriminatory act and (2) a complaint of race, color, national origin, sex, or religion discrimination must be filed no later than one year of the alleged discriminatory act. The complaint must include the following information:
 - name, address and telephone number of the complainant;
 - name, address and telephone number of the institution against which the complaint is filed;
 - narration of the facts that led to the complaint;
 - name of witnesses and their contact information; and
 - certification signed by the complainant that the information included in the complaint is true.

Any complaint that does not satisfy the above requirements will be returned to the complainant and the OCMA will advise him or her to file another complaint that complies with those requirements. Upon receipt of a complete complaint, the coordinator will provide a written notice to the complainant acknowledging receipt of the complaint and explaining that OCMA will endeavor to resolve the complaint within 45 calendar days of receiving the complaint, unless the coordinator refers the matter to another agency.

2. After the coordinator conducts an initial assessment of the complaint, he or she will determine if the OCMA has jurisdiction and expertise to resolve the complaint or if the

OCMA should refer the complaint to any federal or local entity with jurisdiction to address the matter. If the OCMA elects to investigate a complaint that involves a federal civil rights law over which the OCR has jurisdiction, the OCR retains the authority (1) to conduct a supplementary or *de novo* investigation of the complaint; (2) to approve, modify or reject recommended findings; (3) to approve, modify or reject any proposed voluntary resolution; and (4) to initiate formal enforcement action.

3. If the coordinator refers the complaint to an external agency, the coordinator will provide a written notice to the complainant advising the complainant that the complaint was referred to an external agency and providing the external agency's contact information.
4. If a discrimination complaint involves a federal civil rights law that is enforced by the OCR, the coordinator will notify the complainant that he or she may also file their complaint with the OCR and provide the following contact information to the complainant:

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
Phone: 202.207.0690
TTY: 202.307.2027
<http://www.ojp.usdoj.gov/about/ocr/complaint.htm>

5. If the coordinator conducts an investigation of the alleged discrimination, he or she may interview the complainant or any other person(s) who may have information related to the complainant's complaint. If the complainant does not appear for a scheduled interview, after having received written notice of the interview from the OCMA, the OCMA will send a second notice, which will reschedule the interview and advise the complainant that a second failure to appear will result in the OCMA closing the complaint based on the complainant's failure to cooperate with its investigation. If warranted based on the facts of a complaint, the coordinator has the discretion to reopen a closed matter.
6. After completing any investigation, OCMA will notify the complainant of its final findings and any recommended remedies to resolve the complaint.
7. The OCMA may dismiss a complaint based on one or more of the following reasons:
 - It is a matter beyond the jurisdiction of the OCMA;
 - The complaint lacks merit or there are insufficient facts to establish a civil rights violation or discrimination;
 - The matter was referred to another agency or entity;
 - The complainant has not cooperated with the OCMA's investigation of the complaint; or

- Any other reason that supports the conclusion that the OCMA should not handle the complaint.

VI- Requirements for Subrecipients

Every subrecipient of the OCMA who receives federal financial assistance from the OCMA through the DOJ, including from the OJJDP's Title V or Title II Programs, must comply with the following requirements:

- Designate a contact person who is responsible for meeting all civil rights requirements, assurances and conditions, and who serves as a liaison in all civil rights matters with the OJJDP and the OCR.
- Submit to the OCR an Equal Employment Opportunity Plan (EEOP), if the subrecipient is a state government, a local government, or a for-profit entity that has 50 or more employees and receives a single award for \$500,000 or more; otherwise, submit to the OCR a certification that it has a current EEOP on file or that it is fully exempt from the EEOP requirement.
- Inform the OCR of any finding of discrimination issued against the subrecipient by a federal or state court or a federal or state administrative agency on the grounds of disability, age, race, color, religion, national origin or sex.
- Inform the OCMA of their Policy for ensuring compliance with the federal civil rights laws that are a condition for their receipt of federal financial assistance, and their procedures for handling any discrimination complaints they receive from employees, clients, customers, program participants, applicants or consumers.

Faith-Based Regulations

The OCMA, in compliance with the DOJ's Equal Treatment Regulations, ensures that faith-based organizations are eligible on the same basis as any other organization to participate in any program of federal funds administered by the OCMA. In making funding decisions, the OCMA does not discriminate either for or against an organization on the basis of the organization's religious character, affiliation or belief. Any faith-based organization that believes that it has been discriminated against because of its status as a religious organization may file a complaint about that alleged discrimination with the OCR.

VII- Subrecipient Monitoring

The OCMA will rely on subgrantee agreements and acceptance documents to notify them of (1) prohibited discrimination in their programs and activities, and (2) the requirement that subrecipients have procedures in place to respond to complaints of discrimination involving services or employment practices. The OCMA will use a checklist and any additional information it gathers onsite from the grant subrecipients to review compliance with these

requirements and to ensure that subrecipients notify employees, clients, customers, program participants and applicants of prohibited discrimination and applicable complaint procedures.

VIII- Training

1. Employees of the OCMA will be informed annually of this Policy and of the prohibited discrimination within OCMA programs. OCMA will disseminate this Policy to agency employees by posting the Policy on the agency's website, providing a copy of the Policy via electronic mail, and distributing the Policy to all new employees during orientation. OCMA will instruct agency employees on prohibited discrimination and its complaint procedures, including an employee's responsibility to promptly refer to the coordinator pertinent discrimination complaints involving OCMA employees or subrecipients as soon as the alleged discrimination comes to their attention.
2. OCMA will provide periodic training to subrecipients regarding their responsibilities to refer discrimination complaints to the OCMA coordinator for processing as soon as the alleged discrimination is brought to the attention of the staff.
3. OCMA will ensure through OCMA's subrecipient monitoring process that subrecipients receive a copy of this policy.

In San Juan, Puerto Rico, this 24th day of April, 2013.

(Signed)

Carlos M. Santini Rodríguez, Esq.
Commissioner