

CIVIL RIGHTS GUIDELINES

Congratulations on your recent subgrant! In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial aid from OJP comply with applicable Federal civil rights statutes and regulations. The South Carolina Department of Public Safety (SCDPS) is available to help you and your organization meet the civil rights requirements that come with DOJ funding.

Recipients must comply (and will require any subgrantees or contractors to comply) with any Federal nondiscrimination requirements, which may include:

- Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968 (42 U.S.C. § 3789d);
- The Victims of Crime Act (42 U.S.C. § 10604 (e));
- The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672 (b));
- The Civil Rights Act of 1964 (42 U.S.C. § 2000d);
- The Rehabilitation Act of 1973 (29 U.S.C. § 794);
- The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34);
- The Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86);
- The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07);
- 28 C.F.R. pt. 35 (DOJ Regulations – Nondiscrimination on the Basis of Disability in State and Local Government Services);
- 28 C.F.R. pt. 42 (DOJ Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures);
- Ex. Order 13279 (equal protection of the laws for faith-based and community organizations); and
- 28 C.F.R. pt. 38 (DOJ Regulations – Equal Treatment for Faith-Based Organizations).

Ensuring Access to Federally Assisted Programs

As you know, federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

Providing Services to Limited English Proficiency Individuals

As clarified by Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Safe Streets Act and Title VI of the Civil Rights Act of 1964, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for LEP persons. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipient is encouraged to consider the need for language services for LEP persons served or encountered both in developing your budgets and in conducting your activities. For more information on the civil rights responsibilities that recipients

have in providing language services to LEP individuals, please see the website at <http://www.lep.gov>.

Ensuring Equal Treatment for Faith-Based Organizations

DOJ has published a regulation specifically pertaining to the funding of faith based organizations. In general, the regulation, *Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants*, and known as the Equal Treatment Regulation, 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors. The regulation also prohibits faith based organizations from using financial assistance from DOJ to fund inherently religious activities. While faith based organizations can engage in non funded inherently religious activities, they must be held separately from the DOJ funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion.

State Administering Agencies and faith based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, DOJ has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit faith based organizations applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering religion in employment decisions by grantees.

Equal Employment Opportunity Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act or other Federal grant program requirements must meet two additional requirements:(1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301 .308, and (2) submitting to SCDPS Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

(1) Meeting the EEOP Requirement

Recipients will certify through their grant Terms and Conditions that it has a current EEOP on file, if required to maintain one.

2) Submitting Findings of Discrimination

In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing, on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to SCDPS.

Retaliation

Recipients shall not retaliate against individuals for taking action or participating in action to secure rights protected by applicable laws.

Discrimination Complaint Procedures

Employees and beneficiaries of programs should follow the complaint procedures of the recipient organization; unless circumstances exist that make reporting to the recipient organization inappropriate. If reporting to the recipient organization is inappropriate, the reporting party should direct the complaint to the South Carolina Human Affairs Commission, as necessary.

Ensuring the Compliance of Subrecipients

The Office of Justice Programs in SCDPS is responsible for monitoring subrecipients for compliance with applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEOP, reporting Findings of Discrimination, and providing language services to LEP persons.