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Governor

STATE OF MAINE
Department of Public Safety
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Michael J. Sauschuck
Commissioner

Subject: Procedures for Responding to Discrimination Complaints from Employees and Applicants of the Maine Department of Public Safety's Sub-Recipients		Number: DPS 23
Effective Date: December 5, 2011	Rescinds: New	
Reference: Title 5, Chapter 337: HUMAN RIGHTS ACT		
Review Date: Annually		

I. Purpose

The Maine Department of Public Safety (DPS, department) receives federal financial assistance and serves as the State Administering Agency (SAA) for many federal grant programs. The purpose of this policy is to establish written procedures for individuals to follow when a complaint alleging employment discrimination is made by an employee or applicant of a DPS sub-recipient implementing federal funding.

II. Policy

All employees and applicants of DPS's sub-recipients shall be treated equally regardless of race, color, sex, sexual orientation, gender identity, age, physical or mental disability, genetic information, religion, ancestry or national origin, familial status, marital status, and prohibits discrimination because of filing a claim or asserting a right against a prior employer under the Workers' Compensation Act or retaliation under the Whistleblowers' Protection Act race, color, sex, sexual orientation, gender identity, age, physical or mental disability, genetic information, religion, ancestry or national origin, familial status, marital status, and prohibits discrimination because of filing a claim or asserting a right against a prior employer under the Workers' Compensation Act or retaliation under the Whistleblowers' Protection Act or receipt of an order of protection under (Title 19-A, section 4007). Sub-recipients are required to comply with all applicable federal laws regarding employment discrimination, including laws that prohibit retaliation, as a condition of implementing federal funding.

By virtue of receiving federal grant funding, DPS's sub-recipients must comply with the following federal civil rights laws:

- **Title VI of the Civil Rights Act (Title VI) of 1964**, as amended, 42 U.S.C. § 2000d, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpts. C & D (prohibiting discrimination in

federally assisted programs based on race, color, and national origin in the delivery of services or benefits);

- **Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968**, as amended, 34 U.S.C. §§ 10228(c) & 10221(a), and the DOJ implementing regulations, 28 C.F.R. pt. 42, subpts. D (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, and religion) & E (requiring certain DOJ-funded programs subject to the administrative provisions of the statute to prepare, maintain, and submit an Equal Employment Opportunity Plan (EEO));
- **Section 504 of the Rehabilitation Act (Section 504) of 1973**, as amended, 29 U.S.C. § 794, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpt. G (prohibiting discrimination in federally assisted programs based on disability both in employment and in the delivery of services or benefits);
- **Title IX of the Education Amendments (Title IX) of 1972**, as amended, 20 U.S.C. § 1681, and the DOJ implementing regulations, 28 C.F.R. pt. 42, subpt. D & pt. 54 (prohibiting discrimination in federally assisted education programs based on sex both in employment and in the delivery of services or benefits);
- **Title II of the Americans with Disabilities Act of 1990**, as amended, 42 U.S.C. § 12132, and the implementing regulation at 28 C.F.R. § 35.171(a)(1)(i), (3)(i) (prohibiting discrimination based on disability both in employment and in the delivery of services or benefits);
- **Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974**, as amended, 34 U.S.C. § 11182(b), and the DOJ implementing regulations, 28 C.F.R. §§ 31.202, .403 & pt.42, subpt. D (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, and religion);
- **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);
- **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); and
- **Executive Order 13,559, amending Executive Order 13,279**, and the DOJ implementing regulation, Partnerships with Faith-Based and Other Neighborhood Organizations, 28 C.F.R. pt. 38 (prohibiting discrimination in federally assisted social service programs based on religion in the delivery of services or benefits).
- **Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)**, which prohibits genetic information discrimination in employment, took effect on November 21, 2009.
- **Maine Human Rights Act, Title V, Chapter 337, §4572**, Unlawful employment discrimination.

Additionally, if a sub-recipient is receiving funding from the Department of Justice (DOJ), the agency must comply with the DOJ regulations implementing the above-referenced statutes at 28 C.F.R. Part 42, Subparts C, G, and I; 28 C.F.R. Part 35; and 28 C.F.R. Part 54. Recipients of DOJ funding must also comply with the DOJ regulations on the Equal Treatment for Faith-Based Organizations, 28 C.F.R. Part 38, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ funding on explicitly religious activities. Recipients of DOJ funding who receive a grant authorized under the Omnibus Crime Control and Safe Streets Act of 1968 must also comply with the nondiscrimination provisions contained at 42 U.S.C. § 3789d(c)(1) and 28 C.F.R. Part 42, Subpart D, which prohibit discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices.

Sub-recipients must have procedures in place to respond to discrimination complaints that employees or applicants file directly with the sub-recipient, which may include investigating the complaint internally or forwarding the complaint to the DPS EEO Coordinator or the U.S. Equal Employment Opportunity Commission. Sub-recipients must notify DPS grant program managers of the receipt of any such complaints. Grant program managers will inquire about complaint procedures in their compliance checklist for site visits.

III. Definitions

For the purposes of this policy, the terms included in this section are defined as follows, unless otherwise indicated in the policy.

1. Complainant. "Complainant" means a person who initiates a complaint alleging discrimination or retaliation.
2. DPS - EEO Coordinator. References the Department of Administration & Financial Services Equal Employment Opportunity Coordinator. Contact information for the DPS - EEO Coordinator is listed in Appendix A of this policy.
3. "Retaliation" refers to adverse actions towards an individual engaged in a protected activity, such as opposing a discriminatory practice or participating in a discrimination complaint process.
4. Sub-recipient. "Sub-recipient" means an agency that receives federal grant funding through the department as the State of Maine SSA.

IV. Complaint Procedures

A. Filing a Complaint

Any employee or applicant of a DPS sub-recipient who thinks he or she has been discriminated against by the sub-recipient on the basis of race, color, sex, sexual orientation, gender identity, age, physical or mental disability, genetic information, religion, ancestry or national origin, familial status, marital status, and prohibits discrimination because of filing a claim or asserting a right against a prior employer under the Workers' Compensation Act or retaliation under the Whistleblowers'

Protection Act or receipt of an order of protection under (Title 19-A, section 4007), is encouraged to file a complaint alleging such with the DPS - EEO Coordinator.

B. When to Report

A person who thinks he or she has been subject to employment discrimination should file a complaint alleging such *as soon as possible* after the first date an alleged act of discrimination has occurred and within one hundred eighty (180) calendar days or one year of the alleged discrimination, depending on the relevant statute.

C. How to Report

Complaints alleging employment discrimination by a sub-recipient must be submitted to the DPS- EEO Coordinator in writing, using the *DPS Employment Discrimination Complaint form*, which is attached as Appendix A. An exception to this requirement, however, may be made on a case-by-case basis by the DPS - EEO Coordinator. In making a complaint, the complainant must disclose the identity of the person or persons alleged to have engaged in discriminatory or retaliatory conduct, and the location, date, and a description of each act of alleged discrimination or retaliation.

D. Response

1. An employee or contractor of DPS other than the DPS- EEO Coordinator who receives a complaint (in person, over the telephone, or via an e-mail, a letter, or the DPS Employment Discrimination Complaint form) that an employee or contractor of a sub- recipient has allegedly engaged in discriminatory or retaliatory conduct shall, as soon as practicable, notify the DPS - EEO Coordinator, who shall ascertain the details of the complaint for evaluation and assignment. The DPS-EEO Coordinator will ensure that the complainant completes a DPS Employment Discrimination Complaint form if he/she has not already done so.
2. Upon receipt of a complaint, the DPS - EEO Coordinator shall determine whether the complaint should be investigated, and, if so, by whom. The DPS - EEO Coordinator may investigate the complaint internally or may refer the complaint to the U.S. Equal Employment Opportunity Commission or the appropriate state or human rights commission for investigation.
3. The DPS - EEO Coordinator shall promptly provide the complainant with a written notice acknowledging receipt of the complaint and explaining whether the Coordinator has referred the complaint to another agency for investigation as well as other filing options. If the complaint is against a sub-recipient implementing funding from the U.S. Department of Justice, the DPS - EEO Coordinator shall inform the complainant that he/she may also file a complaint with the U.S. DOJ, Office of Justice Programs, Office for Civil Rights, at 810 7th Street N. W., Washington, DC 20531.
4. The DPS - EEO Coordinator shall inform a complainant that it may be impossible to keep the complainant's identity confidential.
5. Investigations of complaints are to be completed within a reasonable time.
6. In the event a written report of an investigation is warranted, all information relevant to the complaint that is obtained by an investigator shall be included in the report.

7. All investigations shall comply with the provisions of the applicable collective bargaining agreement, as well as with any and all applicable provisions of the State of Maine Civil Service Laws

V. TRAINING

The department shall provide periodic training on the procedures set forth in this policy to department employees. This training shall include instruction about the responsibility of employees to refer discrimination complaints to the DPS EEO Coordinator. The department shall require the sub-recipient to conduct and document periodic training on the procedures set forth in this policy to sub-recipient employees.

VI. POLICY DISSEMINATION

A *copy* of this policy shall be made available to all department and sub-recipient employees. A copy of the policy also will be included with orientation materials that are provided to new employees of the department and will be posted on the department's main website.

Information on the policy will be provided during pre-application conferences and during the sub-recipient orientations and as part of their welcome letter. By signing the contract, the sub-recipient agrees to comply with all applicable federal civil rights laws prohibiting discrimination in employment.

Adopted By: 
Michael Sauschuck, Commissioner

11-16-21
Date

WARNING

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 sanctions.

Appendix A: DPS Discrimination Complaint Form

Maine Department of Public Safety Discrimination Complaint Information Form

1. Complainant Information:

Name	
Address	
City	
State	
Zip	
Home Phone Number	
Work Phone Number	

2. Respondent Information:

Provide name and address of agency involved:

Name	
Address	
City	
State	
Zip	
Telephone Number	

3. What is the most convenient time and place for us to contact you about this complaint?

4. To your best recollection on what date(s) did the discrimination take place?

Date of first occurrence: _____

Date of most recent occurrence: _____

5. Have you ever attempted to resolve this complaint yes no

6. Explain as briefly and clearly as possible what happened and how you were discriminated against. Provide as many specific details as possible. Also attach any written material pertaining to your case. (Attach additional sheets if needed)

7. Basis of Complaint: Which of the following best describes why you believe you were discriminated against: (Check)

- Race: Specify _____
- Color: Specify _____
- Religion: Specify _____
- National Origin: Specify _____
- Sex: Specify Male Female
- Age: Specify Date of Birth: _____
- Disability: Specify _____
- Political Affiliation: Specify _____
- Citizenship: Specify _____
- Sexual Orientation: Specify _____
- Gender Identity: Specify _____
- Reprisal/Retaliation: Specify _____
- Other: Specify _____

8. What other information do you think is relevant to this situation?

9. If this complaint is resolved to your satisfaction, what remedies do you seek?

10. Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint:

Name	Address	Telephone Number
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11. Do you have an attorney? Yes No

If yes, please provide name, address, and phone:

Attorney Name	Address	Telephone Number
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12. Have you filed a case or complaint with any of the following?

- Office for Civil Rights, Office of Justice Programs, U.S. Dept of Justice
- U.S. Equal Employment Opportunity Commission
- Federal or State Court
- Your State of local Human Relations/Rights Commission

13. For each item checked in #12 above, please provide the following information:

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

14. Sign (Complaint NOT VALID unless signed)

Name

Date

DPS - EEO COORDINATOR CONTACT INFORMATION

The current DPS - EEO Coordinator is Lori A. Page of the Department of Administrative & Financial Services, Security & Employment Service Center.

- **Mailing address:**
Department of Administrative & Financial Services, Security & Employment Service Center
Attn: Ms. Lori A. Page, Equal Employment Opportunity Coordinator
45 Commerce Dr., Suite 4
Augusta, ME 04333-0108

- **Office telephone number:** 207-530-0120
- **E-mail address:** Lori.a.page@maine.gov