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Governor

STATE OF MAINE
Department of Public Safety
104 State House Station
Augusta, Maine
04333-0104



Michael J. Sauschuck
Commissioner

Subject: Procedures for Responding to Discrimination Complaints from Clients, Customers, Program Participants, or Consumers of the Maine Department of Public Safety and the Maine Department of Public Safety’s Subrecipients		Number: DPS 24
Effective Date: September 1, 2011	Rescinds: New	
Reference: <u>Title 5, Chapter 337: HUMAN RIGHTS ACT</u>		
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. As such, the department must ensure that the civil rights of persons who receive services from the department, as well as from any recipient of federal grant funding received through the department (“sub-recipient”), are protected.

The purpose of this policy is to establish written procedures for individuals to follow when a complaint alleging discrimination or retaliation in the delivery of services is made against an employee or contractor of the department or a sub-recipient.

Complaints alleging discrimination in employment practices by the department are covered by the DPS Equal Employment/Affirmative Action Policy Statement. This policy also establishes the 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

In using and administering federal grant funds, neither DPS nor any sub-recipient may discriminate because 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)..this order of protection, makes it unlawful to discriminate against a victim of domestic abuse who sought and received an order of protection.

DPS forbids discrimination on the basis of genetic information when it comes to any aspect

of employment, including hiring, firing, pay, job assignments, promotions, layoffs, training, fringe benefits, or any other term or condition of employment. or retaliate against any person for having engaged in protected activity.

By virtue of receiving federal grant funding, DPS, including its employees and contractors, and 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 (EEOP));
- **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);
- **Age Discrimination Act (Age Act) of 1975**, as amended, 42 U.S.C. § 6102, and the DOJ implementing regulation, 28 C.F.R. pt. 42, subpt. I (prohibiting discrimination in federally assisted programs based on age in the delivery of services or benefits);
- **Juvenile Justice and Delinquency Prevention Act (JJDPA) 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 DPS or 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.

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. Means Department of Administrative & Financial Services Equal Employment Opportunity Coordinator. Contact information for the current 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 believes they have 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, familial status, marital status, religion, ancestry or national origin 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), or believes that they been retaliated against for having engaged in protected activity, is encouraged to file a complaint alleging such with the office of the DPS - EEO Coordinator.

B. When to Report

A person who believes that they have been subject to employment discrimination, or a person who believes that they have been subject to discriminatory or retaliatory conduct should file a complaint alleging such as soon as possible after the first date an alleged act of discrimination or retaliation occurred, and within one hundred eighty (180) calendar days or one year of the alleged discrimination or retaliatory conduct, depending on the relevant statute.

C. How to Report

Complaints alleging discrimination or retaliation must be submitted to the office of the DPS - EEO Coordinator in writing, using the *DPS Discrimination Complaint* form, which is attached as Appendix A; exceptions to this requirement, however, may be made on a case-by-case basis by the DPS - EEO Coordinator. In making a complaint, a 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 that an employee or contractor of the department or 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.
2. Upon receipt of a complaint, the DPS - EEO Coordinator shall determine whether the complaint should be investigated, and, if so, by whom.
3. The DPS - EEO Coordinator shall promptly provide the complainant with a written notice acknowledging receipt of the complaint and will notify the complainant of their other filing options, including filing a complaint directly with the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights.
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. EXTERNAL AGENCIES

DPS encourages individuals to file complaints of the kind discussed in this policy with the office of the DPS - EEO Coordinator; however, this policy is not intended to impair or limit the rights of anyone to seek a remedy available under state or federal law. The procedures discussed in this policy need not be utilized first or in any sequence, nor does such procedure need to be exhausted before another is used.

If a complaint is against the department or a sub-recipient implementing funding from the DOJ and alleges discrimination 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), or alleges retaliation against a person for having engaged in protected activity, an individual may also submit a complaint to the United States Department of Justice, Office of Justice Programs, Office for Civil Rights, 810 7th Street NW, Washington, DC 20531, tel: 202-307-0690, 202-307-2027 (TDD/TTY). The Office for Civil Rights complaint procedures can be found at <https://ojp.gov/about/ocr/complaint.htm>. Complaints must be filed within 180 days or one year from the date of the alleged discrimination, depending on the federal civil rights law that is involved.

Individuals may also submit a complaint to the Maine Human Rights Commission at Maine Human Rights Commission, #51 State House Station, Augusta, Maine 04330, Ph: 207.624.6060, Fax: 207.624.6063, TTY: 1.888.577.6690. Complaints must be filed within 300 days of the alleged discrimination.

VI. TRAINING

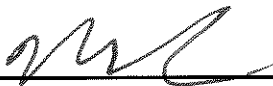
The department shall provide periodic training on the procedures set forth in this policy to department and sub-recipient employees. This training shall include instruction about the responsibility of employees to refer discrimination complaints to the DPS - EEO Coordinator.

VII. CONTRACTS

The department may neither enter into contracts nor continue existing contracts with any organization that discriminates against any person on the basis of race, color, national origin, sex, religion, physical or mental disability, or age, or that retaliates against any person for having engaged in protected activity.

VIII. DISTRIBUTION

A copy of this policy shall be made available to all department and sub-recipient employees and contractors. 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.

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