

OVW SAA Training

Civil Rights Monitoring



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Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice



Federal Civil Rights Statutes

- Title VI of the Civil Rights Act of 1964
- Program Statutes (eg: VAWA, VOCA, Safe Streets Act)
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975
- Title IX of the Education Amendments of 1972



VAWA 2013

No person in the United States shall, on the basis of actual or perceived race, color, religion, national origin, sex, gender identity (as defined in paragraph 249(c)(4) of title 18, United States Code), sexual orientation, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under [VAWA], and any other program or activity funded in whole or in part with funds appropriated for grants, cooperative agreements, and other assistance administered by the Office on Violence Against Women.



VAWA 2013

If sex segregation or sex-specific programming is necessary to the essential operation of a program, nothing in this paragraph shall prevent any such program or activity from consideration of an individual's sex. In such circumstances, grantees may meet the requirements of this paragraph by providing comparable services to individuals who cannot be provided with the sex-segregated or sex-specific programming.



VAWA Protected Classes

- Race
- Color
- Religion
- National Origin
- Sex
- Gender Identity
- Disability
- Sexual Orientation



Sex-Segregation and Sex-Specificity

- Sex-Segregated Programming
 - When males and females receive services in separate settings
- Sex-Specific Programming
 - When a recipient designs programming differently for males and females
- Beneficiaries choose the appropriate program based upon gender identity



Sex-Segregation and Sex-Specificity

- “Necessary for the Essential Operation of the Programming”
 - Fact-specific inquiry; consider:
 - Nature of the service
 - Consequences to beneficiaries of making sex-segregated or sex-specific
 - Literature on Efficacy
 - Impact on transgender clients
 - Reasons may not be trivial, based solely on convenience, or rooted in stereotypes



Comparable Services

- Comparable Services
- Consider the following:
 - Nature, quality, and duration of the of service
 - Relative benefits of different therapeutic modalities
 - Geographic location

Gender Identity

- What is Gender Identity?
 - “Actual or perceived gender-related characteristics” (from Matthew Shepard- James Bird Hate Crimes Prevention Act)
 - A person’s internal view of the individual’s gender
 - May or may not correspond to sex assigned at birth
 - Transgender, male, and female are examples of gender identities

Serving Trans Clients in Sex-Segregated Settings

■ Serving Transgender Clients

- Assign clients to service which corresponds to the gender with which the client identifies
- Ask the client
- Consider transgender victim's health and safety in making housing assignments
- Transgender client's own views regarding personal safety deserves serious consideration
- Do not isolate or segregate
- Do not make burdensome demands for identity documents
- Do not inquire into surgery or other medical interventions

Assurances Required

- Any State or State Agency applying for Federal financial assistance shall provide for such methods of administration to give reasonable assurance that the primary recipient and all other recipients of Federal financial assistance under such program will comply with these civil rights statutes.

- See 28 C.F.R. §§ 42.105(d)(2), 42.504(a), 42.725, and 54.115

Format

- Special Condition
- Within 90 Days of award
- In Writing
- Narrative Summary
- <https://ojp.gov/funding/Explore/StateMethodsAdmin-FY2017update.htm>

Elements

- Policy for Addressing Discrimination Complaints
- Notifying Subrecipients of Civil Rights Requirements
- Monitoring for Compliance with Civil Rights Requirements
- Training Subrecipients on Civil Rights Requirements

Policy for Addressing Complaints

- Designate a coordinator
- Notify employees/subrecipients of prohibited discrimination
- Establish written procedures for receiving
- Investigate or Refer
- Notify Complainant of OCR
- Train staff
- Notify all of complaint procedures
- Ensure subrecipient has procedures

Notifying Subrecipients of Civil Rights Requirements

- A narrative description of how the SAA is ensuring that its standard assurances, subgrant agreements, and other documents are notifying subrecipients of applicable civil rights laws and nondiscrimination provisions.
- Keep copies on file

Monitoring for Compliance

- A narrative explanation of the SAA's methods for monitoring whether subrecipients are complying with applicable civil rights laws and nondiscrimination provisions
- Keep copies of monitoring tools on file
- OCR's Monitoring Checklist

Training Subrecipients

- A narrative description of the SAA's methods for training subrecipients on the applicable civil rights laws and nondiscrimination provisions
- Keep training materials on file
- OCR online training modules at www.ojp.usdoj.gov/about/ocr/assistance

Submission

- CivilRightsMOA@usdoj.gov
- Within 90 days of grant
- Compliance letter from OCR
- Good for 3 years

Office for Civil Rights

202-307-0690

TTY 202-307-2027

www.ojp.usdoj.gov/ocr

Civil Rights Checklist

1. If the subrecipient is required to prepare an Equal Employment Opportunity Plan (EEOP) in accordance with 28 C.F.R. §§ 42.301-.308, does the subrecipient have an EEOP on file for review?

Yes No

If yes, on what date did the subrecipient prepare the EEOP?

2. If the subrecipient is required to submit an EEOP Utilization Report to the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) in accordance with 28 C.F.R. §§ 42.301-.308, has the subrecipient done so?

Yes No

If yes, on what date did the subrecipient submit the EEOP Utilization Report?

3. Has the subrecipient submitted a Certification Form to the OCR certifying compliance with the EEOP requirements?

Yes No

If yes, on what date did the subrecipient submit the Certification Form?

Checklist (cont.)

4. How does the subrecipient notify program participants and beneficiaries that it does not discriminate on the basis of race, color, national origin, religion, sex, disability, age, and, if a recipient of funding authorized by the Violence Against Women Act of 1994 (VAWA) or its subsequent enactments, sexual orientation and gender identity, in the delivery of services (e.g., posters, inclusion in brochures or other program materials)?

Comments:

5. How does the subrecipient notify employees that it does not discriminate on the basis of race, color, national origin, religion, sex, disability, and, if a VAWA recipient, sexual orientation and gender identity, in employment practices (e.g., posters, dissemination of relevant orders or policies, inclusion in recruitment materials)?

Comments:

6. Does the subrecipient have written policies or procedures in place for notifying employees how to file complaints alleging discrimination by the subrecipient?

Yes No

If yes, an explanation of these policies and procedures:

Checklist (cont.)

7. Does the subrecipient have written policies or procedures in place for notifying program participants and beneficiaries how to file complaints alleging discrimination by the subrecipient, including how to file complaints with the [State Administering Agency] and the OCR?

Yes No

If yes, an explanation of these policies and procedures:

8. If the subrecipient has 50 or more employees and receives DOJ funding of \$25,000 or more, has the subrecipient taken the following actions:

Adopted grievance procedures that incorporate due process standards and provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Section 504 of the Rehabilitation Act of 1973, found at 28 C.F.R. Part 42, Subpart G, which prohibit discrimination on the basis of disability in employment practices and the delivery of services.

Yes No

Designated a person to coordinate compliance with the prohibitions against disability discrimination contained in 28 C.F.R. Part 42, Subpart G.

Yes No

Notified program participants, beneficiaries, employees, applicants, and others that the subrecipient does not discriminate on the basis of disability.

Yes No

Checklist (cont.)

9. If the subrecipient operates an education program or activity, has the subrecipient taken the following actions:

Adopted grievance procedures that provide for the prompt and equitable resolution of complaints alleging a violation of the DOJ regulations implementing Title IX of the Education Amendments of 1972, found at 28 C.F.R. Part 54, which prohibit discrimination on the basis of sex.

Yes No

Designated a person to coordinate compliance with the prohibitions against sex discrimination contained in 28 C.F.R. Part 54.

Yes No

Notified applicants for admission and employment, employees, students, parents, and others that the subrecipient does not discriminate on the basis of sex in its education programs or activities.

Yes No

Checklist (cont.)

10. Has the subrecipient complied with the requirement to submit to the OCR any findings of discrimination against the subrecipient issued by a federal or state court or a federal or state administrative agency on the grounds of race, color, religion, national origin, or sex?

Yes No

Comments:

11. What steps has the subrecipient taken to provide meaningful access to its programs and activities to persons who have limited English proficiency (LEP)?

Comments, including an indication of whether the subrecipient has developed a written policy on providing language access services to LEP persons:

12. Does the subrecipient conduct any training for its employees on the requirements under federal civil rights laws?

Yes No

Comments:

Checklist (cont.)

13. If the subrecipient conducts religious activities as part of its programs or services, does the subrecipient do the following:

Provide services to everyone regardless of religion or religious belief.

Yes No

Ensure that it does not use federal funds to conduct inherently religious activities, such as prayer, religious instruction, or proselytization, and that such activities are kept separate in time or place from federally-funded activities.

Yes No

Ensure that participation in religious activities is voluntary for beneficiaries of federally-funded programs.

Yes No

Comments:

Checklist (cont.)

14. If the subrecipient receives VAWA funds, does it serve male victims of domestic violence, dating violence, sexual assault, and stalking?

Yes No

Comments:

15. If the subrecipient receives VAWA funds, does the subrecipient provide sex- segregated or sex-specific services?

Yes No

If yes, describe how services are sex-segregated or sex-specific:

If yes, has the subrecipient determined that providing services that are sex- segregated or sex-specific is necessary to the essential operation of the program?

Yes No

If yes, describe how the subrecipient determined that providing sex-segregated or sex-specific services is necessary to the essential operation of the program: