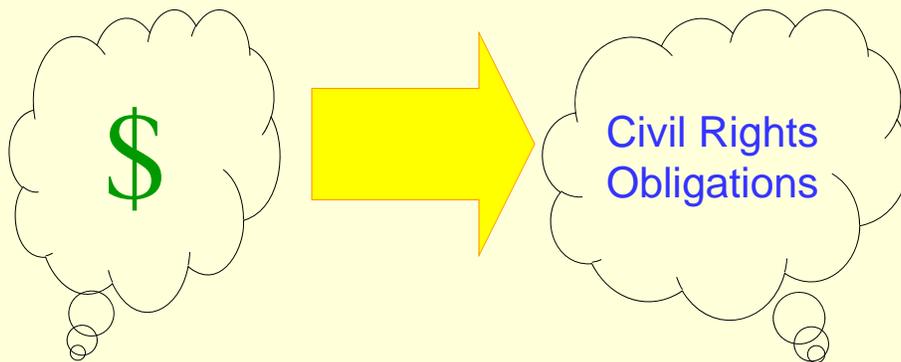


Civil Rights Obligations of
Recipients of Federal Financial Assistance
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Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice



Federal Financial Assistance

- Grants
- Facilities
- Technical Support
- Training

Applicable 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

Protected Classes

- Race
- Color
- National Origin
- Religion
- Sex
- Disability
- Age
- Sexual orientation (VAWA only)
- Gender Identity (VAWA only)

No Retaliation

- Recipients cannot take an adverse action against someone for opposing discrimination
 - harassment
 - demotion
 - discharge
 - denial of services

Title VI

Civil Rights Act of 1964

Title VI Protection

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Title VI Prohibits

- Providing different services to individuals
- Denying the opportunity to participate as a member of a planning or advisory body
- Selecting the location of a facility with the purpose or effect of excluding individuals

OJP Program Statutes

Omnibus Crime Control and Safe Streets Act

No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter.

Victims of Crime Act

No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

Violence Against Women Act

Violence Against Women Act

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 (continued)

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 (continued)

Nothing in this title shall be construed to prohibit male victims of domestic violence, dating violence, sexual assault, and stalking from receiving benefits and services under this title.

VAWA (continued)

- October 1, 2013 effective date
- Covers employment practices
- “actual or perceived”
- Applies to all recipients, including funded FBOs, SAAs, and law enforcement agencies

VAWA (continued)

- 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

VAWA (continued)

- “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

VAWA (continued)

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

VAWA (continued)

- 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

VAWA (continued)

- Serving Transgender Clients
 - Assign clients to service which corresponds to the gender with which the client identifies
 - 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

Section 504 of the Rehabilitation Act of 1973

504 Protection

No qualified handicapped person shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, [including employment], under any program or activity receiving Federal financial assistance

Definition of Handicap

- Has a physical or mental impairment which substantially limits one or more major life activity
- Has a record of such an impairment, **or**
- Is regarded as having such an impairment

Discrimination Prohibited

- Denial of participation in program or activity
- Denial of opportunity for same benefit
- Different or separate services
- Denial of participation in planning or advisory body
- Ineffective communication

Administrative Requirements

- If you have 50 or more employees **and** receive \$25,000 or more, you must:
 - Have a 504 compliance coordinator
 - Adopt grievance procedures
 - Notify participants, beneficiaries, applicants, employees, and unions that recipient does not discriminate on basis of disability

ADA and 504 Resources

- DOJ, Civil Rights Division, Disability Rights Section
 - Technical assistance
 - Outreach initiatives
- www.ada.gov
- Toll-Free Information Line
 - 800-414-0301 (voice)
 - 800-514-0383

Faith Based Organizations

Executive Orders

- Established *Office for Faith-Based and Neighborhood Partnerships*
- Directed Government agencies to remove barriers for FBOs applying for aid
- Government agencies providing financial assistance must not discriminate either in favor of or against FBOs
- Faith based recipients may *never* discriminate against beneficiaries

DOJ Equal Treatment Regulations

- FBOs must not use Federal funding to advance inherently religious activity
- Inherently religious activity must be separate in time and location from federally funded activity
- FBOs may not discriminate against beneficiaries based on religion or religious belief
- May retain religious character, icons, and name

Equal Treatment Regulations & Employment

- Title VII exemption from religious discrimination in employment
- Generally speaking, religious organizations do **not** forfeit this exemption by receiving Federal funds

...But

“Some Department programs, however, contain independent statutory provisions requiring that all grantees agree not to discriminate in employment on the basis of religion. Accordingly, grantees should consult with the appropriate Department program office to determine the scope of any applicable requirements.” 28 C.F.R. 38.1(f) & 38.2(f)

Certificate of Exemption

- Grantee FBOs may hire based on religion if certifying that:
 - It will offer all federally-funded services to all qualified beneficiaries;
 - Inherently religious activities will be voluntary and kept separate from federally-funded activities; and
 - It is a religious organization that sincerely believes that abandoning its religious hiring practice in order to receive federal funding would substantially burden its religious exercise.

Limited English Proficiency

Civil Rights Authority

- Title VI Disparate Impact Regulations
- Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency
- DOJ Guidance

Who is LEP?

“Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient, or ‘LEP,’ entitled to language assistance.”

Obligations of Recipients

- Take reasonable steps to ensure meaningful access to programs, services, and information free of charge.
- Establish an LEP implementation plan to address identified language assistance needs of LEP populations.

4 Factor Analysis

- The number or proportion of LEP persons served or encountered in the eligible service population
- The frequency with which LEP individuals come in contact with the program
- The nature and importance of the program, activity, or service provided by the program
- The resources available to the recipient

What are language services?

- Interpretation: Oral Language Services
 - ensure competency
 - use of bilingual staff
 - telephone Interpreter Lines
 - not family, friends, or detainees
- Translation: Written Language Services
 - vital documents
 - safe harbor

Safe Harbor for Written Translations

- If 5% or 1000, whichever is less, of population is LEP, translate vital documents
- If 5% represents fewer than 50 persons, then provide translated written notice of right to receive oral interpretation of written materials

Elements of Effective LEP Plan

- A process for identifying LEP individuals who need language assistance
- Information about the language assistance measures
- Training for staff
- Notice to LEP persons
- Monitoring and Updating the LEP plan

LEP and Court Access

- DOJ Federal Coordination and Compliance Section (FCS) internal working group on court access by LEP individuals
- DOJ Letter to State Courts
- OJP and OVW Funding Opportunities
- State Justice Institute Grants
- www.lep.gov

Equal Employment Opportunity Plans

What is an EEOP Utilization Report?

- A comprehensive document which analyzes:
 - An agency's workforce in comparison to its relevant labor market data
 - All agency employment practices to determine their impact on the basis of race, sex, and national origin
- A tool used to identify possible problem areas where discrimination may be occurring

Who has to prepare an EEOP Utilization Report?

- Recipient required to fill out an EEOP Utilization Report:
 - state or local government agency or any business; AND
 - 50 or more employees; AND
 - Single award of \$25,000 or more

Who is exempt from preparing EEOP Utilization Report?

- Recipients exempt from developing an EEOP Utilization Report:
 - Nonprofit organization, a medical or educational institution or Indian Tribe; OR
 - Fewer than 50 employees; OR
 - Single award for less than \$25,000

Submission of EEOP Utilization Report

- Organizations receiving a single grant over \$500,000 must submit EEOP to OCR
- Organizations required to prepare an EEOP, but not receiving a single grant of \$500,000 can claim exemption from submission

Preparing an EEOP Utilization Report

- Step-by-step instructions for preparing an EEOP Utilization Report are online at www.ojp.usdoj.gov/ocr
- Must Complete an EEOP Certification Form, no matter what your obligations are
- For technical assistance, contact Maya Elzein, Equal Opportunity Assistant, at 202-307-5406

Filing a Complaint with DOJ

Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice
810 7th Street, NW
Washington, DC 20531
202-307-0690
askOCR@ojp.usdoj.gov
www.ojp.usdoj.gov/ocr

OJP's Civil Rights Enforcement

- EEOPs
- Complaints
- Findings
- Compliance Reviews

Office for Civil Rights

202-307-0690

TTY 202-307-2027

www.ojp.usdoj.gov/ocr