

NEW MEXICO CRIME VICTIMS REPARATION COMMISSION
CIVIL RIGHTS COMPLIANCE/ANTI-HARASSMENT POLICY

Purpose: To prohibit discrimination and harassment and behaviors, which, if repeated, could constitute discrimination. This policy establishes written procedures for 1) individuals to follow in filing an employment or services discrimination complaint with the CVRC; and 2) CVRC employees to follow when they receive complaints alleging employment or services discrimination from employees, clients, customers, program participants, applicants, or consumers of CVRC or of CVRC subgrantees receiving federal financial assistance from DOJ; and 3) provide protection against retaliation for reporting or assisting in the investigation of discrimination/harassment claims.

Scope: This policy applies to all Agency staff persons and CVRC-funded grantee programs

References:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in the delivery of services (42 U.S.C § 2000d), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C;

The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789d(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794) and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;

Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132) and the DOJ implementing regulations at 28 C.F.R. Part 35;

Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities (20 U.S.C. § 1681), and the DOJ implementing regulation at 28 C.F.R. Part 54;

The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart I; and

The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ federal financial assistance for inherently religious activities (28 C.F.R. Part 38).

Background: The New Mexico Crime Victims Reparation Commission is committed, as a matter of principle, and in compliance with applicable federal laws, to prohibiting discrimination and behaviors, which, if repeated, could constitute discrimination and/or harassment. As a recipient of federal financial assistance from the U.S. Department of Justice (DOJ), CVRC directs that all transactions and the operation of all CVRC-funded grantee programs, activities, and services shall not discriminate or retaliate on the basis of race, color, religion, national origin, sex, age, or disability. Harassment on any of the above-stated grounds is a form of prohibited discrimination. This policy applies to all employees of the CVRC and all its contractors and subgrantees.

Definitions:

Agency: New Mexico Crime Victims Reparation Commission

Director: The agency director or designee.

Staff: A person in a permanent, temporary, or contractual position within the agency, also referenced as employee.

CVRC-funded grantee programs: Agencies that receive pass through funding from CVRC.

A person with a disability: Any person who: (1) has a physical or mental impairment that substantially limits one or more of such person's major life activities; (2) has a record of such an impairment; or (3) is regarded as having an impairment that is not both transitory and minor.

Complainant: The person or persons initiating the complaint.

Harassment: A behavior that threatens or torments somebody; generally, harassment is any unwelcome, discriminatory conduct in the workplace characterized by conduct: (1) based on race, color, national origin, ancestry, gender, religion, physical or mental disability, marital status, age or any other basis protected by federal state or local law and (2) if sufficiently severe, persistent, or pervasive, could reasonably be expected to create an intimidating, hostile, or offensive working or learning environment.. All such harassment is unlawful and will not be tolerated.

Respondent: The person or persons against whom a complaint has been initiated.

Retaliation: Adverse actions taken by an employer or service provider because an individual engaged in a protected activity, such as opposing a discriminatory practice or participating in a discrimination complaint process.

Civil Rights Officer: The director of CVRC.

Violation of Civil Rights and/or Harassment is defined as unwanted behavior when:

- A. Submission to such conduct is made a term or condition of employment or of receiving services;
- B. Submission to or rejection of such conduct is used as basis for employment or decisions affecting an individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with a staff's work performance or client's services or creating an intimidating, hostile or offensive environment. Prohibited behavior includes but is not limited to the following examples of offensive conduct:
 - a. Verbal conduct, such as threats, epithets, derogatory comments or slurs
 - b. Visual conduct, such as derogatory posters, photographs, cartoons, drawings or gestures
 - c. Written communications containing statements which may be offensive to individuals in a particular protected group, such as racial, ethnic, or gender-based stereotypes or caricatures
 - d. Physical conduct, such as assault, unwanted touching, blocking or impeding of normal movement
 - e. Belittling caricatures or objects depicting persons of a particular race or ethnicity
 - f. Graffiti that demeans others based on their gender or religious group
 - g. Engaging in indecent exposure
 - h. Coffee mugs, t-shirts, or prank gifts with offensive images or words
 - i. Racial, ethnic or gender-based jokes or stories
 - j. Teasing, mimicking or repeatedly commenting on an individual's disability
 - k. Invading an individual's physical space; standing too closely or touching a person's body or hair
 - l. Leering, staring or ogling at an individual
- D. Violations of Civil Rights and/or harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute harassment even if one of the incidents considered on its own would not be discriminatory.
- E. Violations of Civil Rights and/or harassment of a sexual nature can involve males or females being discriminated against by members of either sex. Although sexual harassment may involve a person in a position of greater authority as the harasser, individuals in positions of lesser or equal authority also can be found for engaging in prohibited behaviors.

Policy:

Due to the nature of the agency's business, staff will be exposed regularly and customarily to sexually graphic and explicit material. Discussion of this material in context of the reparation file among staff is an expected and necessary component of the job function.

Staff is prohibited from harassing other staff whether or not the incidents occur on the Agency's premises and whether or not the incidents occur during working hours. Staff is similarly prohibited

from harassing clients of the Agency, who have a right to apply for and receive services free from any form of discrimination

Procedures:

A. Filing a Complaint

A person who believes s/he has been harassed or been subject to discriminatory treatment within the Agency or by an Agency's subgrantee because of race, color, national origin, sex, age, religion, or disability, or has been retaliated against for engaging in protected activity, is urged to file a complaint through the Civil Rights Officer.

The Civil Rights Officer is:

Frank Zubia Director
NM Crime Victims Reparation Commission
6200 Uptown Blvd, Suite 210
Albuquerque, NM 87110
Tel: 505-841-9433
Toll Free: 800-306-6262
Fax: 505-841-9437
Frank.Zubia@state.nm.us

Generally, formal complaints must be filed with the Civil Rights Officer within 180 calendar days of the alleged discrimination. If the complaint is not filed on time, the complainant shall provide the reason for the delay and request a waiver of this filing requirement. CVRC shall forward the complaint and request for waiver to the federal Office of Civil Rights. The complaint may be filed in a letter, in an email, in person, or over the phone. In anticipation of filing a complaint, an individual may find it beneficial to contact the Civil Rights Officer to obtain policy clarification, advice, or assistance.

B. Referral of Complaint to Civil Rights Officer

If an employee of the Agency other than the Civil Rights Officer receives a discrimination complaint from an employee, client, customer, program participant, applicant, grantee, or consumer of the Agency or of Agency's subgrantees, s/he shall:

- Make a written record of the date, time, and nature of the incident(s) and the names of any witnesses as soon as possible after the incident; and
- Report the incident either to the Civil Rights Officer or their direct supervisor.
- If the complaint involves the staff's supervisor or someone in the direct line of supervision, or if the employee for any reason is uncomfortable in reporting to his or her immediate supervisor, the employee may go to another supervisor or directly to the Civil Rights Officer.
- Submit the complaint to the Civil Rights Officer within five (5) business days of receiving the complaint.

- The Civil Rights Officer shall provide the complainant with a written notice acknowledging receipt of the complaint and explaining that the complaint will be sent on to federal Office for Civil Rights within ninety (90) calendar days of receipt of the complaint.
- An Agency's subgrantee shall advise the Civil Rights Officer of an employment or services discrimination complaint filed against it within ninety (90) calendar days of receiving the complaint, delayed complaint and request of waiver of the 180 days filing deadline.

C. External Agencies

While the Agency encourages individuals to file any employment or services discrimination complaint with the CVRC, the Agency's policies and procedures are not intended to impair or limit the rights of anyone to seek a remedy available under state or federal law. In addition to filing a complaint with the Agency, an individual may wish to file a complaint with an external agency for investigation, such as a local or state human rights commission, or an appropriate federal agency. For instance, if a complainant alleges a violation of a federal civil rights law that is enforced by the Office for Civil Rights (OCR), Office of Justice Programs, DOJ, a CVRC acknowledgement letter will inform the complainant that s/he may file a complaint directly with the OCR and provide the following contact information:

Office for Civil Rights
 Office of Justice Programs
 U.S. Department of Justice
 810 7th Street NW
 Washington, DC 20531
 Telephone: 202.307.0690
 TDD/TTY: 202.307.2027

If appropriate, the Civil Rights Officer also may elect to refer employment discrimination complaints to the U.S. Equal Employment Opportunity Commission (EEOC) and services discrimination complaints to the OCR for investigation and resolution. CVRC shall notify the EEOC or the OCR in writing of any referral within ninety (90) calendar days of receipt of the complaint. If the CVRC refers the complaint to an external agency, the Civil Rights Officer will notify the Complainant of the agency's contact information and the civil rights provision(s) involved.

D. Complaint Evaluation, Investigation, and Resolution Proceedings

The Agency will pass on each complaint it receives to the federal Office for Civil rights. It will not investigate or make a determination on any complaint.

E. Policy Dissemination

The Agency's Non-Discrimination Policy will be made available to all employees, clients, customers, program participants, applicants, grantees, and consumers. This Policy shall be included with information materials given to all new employees, available on shared computer access, and available on the Agency's website. Non-discrimination clauses shall also be incorporated in all agreements, award packets, and contracts with vendors who contract with the Agency. Furthermore, all grantees of the Agency must acknowledge reviewing the policy by initialing a special condition before receipt of their award.

F. Training and Grantee Monitoring

The Agency shall provide training for agency employees on the Non-Discrimination Policy annually. The training shall include an overview of complaint policies and procedures, including an employee's responsibility to refer potential discrimination issues and discrimination complaints from employees, clients, customers, program participants, applicants, grantees, and consumers to the Civil Rights Officer/Director.

Through its compliance monitoring process, the Agency ensures that grantees have procedures in place for responding to discrimination complaints that employees, clients, customers, program participants, applicants, and consumers file directly with the grantee. The Agency also ensures that grantees notify their employees, clients, customers, program participants, applicants, and consumers of prohibited discrimination and the procedures for filing an employment or services discrimination complaint.

G. Retaliation

Retaliation against employees, clients, customers, program participants, applicants, grantees, and consumers alleging wrongdoing is strictly prohibited and will subject the employee and/or grantees engaging in retaliation to severe disciplinary action, up to and including dismissal and/or termination of funding. Retaliation is covered further in the Whistle Blower Policy.