POLICY & PROCEDURES

NORTH DAKOTA
DEPARTMENT OF CORRECTIONS
AND REHABILITATION

POLICY & PROCEDURES NUMBER:
1A-20 – May be Posted on DOCR Internet

ACA/ACI/PBS RELATED STANDARDS:
ACA 2-CO-1C-09, 2-CO-1C-09-1; Central Office

RELATED REFERENCES:

DIVISION: Central Office
SECTION: Administration
SUBJECT: Complaints from Sub-Recipients or Employees of Sub-Recipients receiving Federal or State Financial Assistance

Effective Date: September 29, 2010

Revision/Review History
Revised: February 1, 2012
Revised: December 9, 2013
Revised: July 8, 2014
Reviewed: April 7, 2015
Reviewed: February 8, 2016
Revised: February 28, 2017
Revised: August 18, 2017
Revised: February 20, 2018

Summary of Revision(s)

1. Changed both headers, changed all wording referring to directives to policies, deleted the reference CO 1B-20. Tim B. 01/30/2018

2. Deleted all appendixes and deleted the definition of investigator. Tim B. 02/06/2018

3. Updated the definitions of retaliation, Sub-Recipient and Sub-Recipient Employee. Tim B. 02/06/2018

4. Changed the wording in F-1 and deleted F-2-a. Robyn Setty. 02/06/2018

5. Changed the wording in G. Robyn Setty. 02/06/2018

6. Added item 2 to H. Robyn Setty. 02/06/2018

2. **APPLICABILITY:** This policy with procedures applies to all sub-recipients or employees of sub-recipients receiving federal or state financial assistance.

3. **DEFINITIONS:**

   A. Complainant: An individual who alleges he or she has suffered an act of unlawful discrimination committed by a Department of Corrections and Rehabilitation sub-recipient, by an employee of a sub-recipient, or by another individual acting on behalf of the sub-recipient. A complainant may be a client, customer, program participant, consumer, applicant, or employee of a sub-recipient who has made an informal or formal discrimination complaint under these procedures.

   B. Discrimination in the Provision of Services: An act that results in adverse or unequal treatment of a services applicant, client, customer, program participant, or consumer due to age, race, sex or gender identity, national origin, religion, disability or status with respect to marriage or the receipt of public assistance.

   C. Recipient: The state agency receiving federal financial assistance funds. The North Dakota Department of Corrections and Rehabilitation is the State Administering Agency and recipient of federal financial assistance funds.

   D. Respondent: An individual or entity alleged to have committed an act of unlawful discrimination.

   E. Retaliation: Any adverse action taken against an employee who has filed a grievance.

   F. Sub-Recipient: The agency or organization receiving federal financial assistance funds through and administered by the recipient, the Department of Corrections and Rehabilitation. The sub-recipient agency receiving federal financial assistance funds from the recipient shall carry out and achieve
federal program goals. This does not include any individual that is a beneficiary of such a program.

G. Sub-Recipient Employee: An employee of an entity receiving United States Department of Justice federal financial assistance through and administered by the Department of Corrections and Rehabilitation.

4. **POLICY:** The Department of Corrections and Rehabilitation and its sub-recipients or employees of sub-recipients are committed to the principle of equal opportunity.

   A. All individuals have the right to participate in programs and activities provided federal or state financial assistance and operated by the Department of Corrections and Rehabilitation and its sub-recipients. The Department of Corrections and Rehabilitation and sub-recipients will comply with the federal and state laws prohibiting discrimination.

   B. Sub-recipients shall have a mechanism to process requests for reasonable accommodations to known physical or mental impairments of a qualified individual with a disability, either an applicant or an employee (2-CO-1C-09-1.)

   C. Sub-recipients will also not retaliate against an individual for taking action or participating in action to secure rights protected by the above laws.

5. **PROCEDURES:** This policy with procedures shall be followed by sub-recipients and employee sub-recipients when they receive and respond to an employment or services discrimination complaint. Individuals who claim they have been discriminated against may pursue a discrimination complaint under the procedures below.

   A. Any sub-recipient employee who is informed or believes discrimination is occurring should report it as soon as possible after the time of occurrence.

   B. The sub-recipient shall ensure no retaliation occurs against complainants or persons who participate in a complaint investigation.

   C. Resolution Options:

      1. Individuals who claim they have been subjected to unlawful discrimination may seek relief through the informal resolution process, the formal complaint procedure, or both.

   D. Informal Department of Corrections and Rehabilitation Resolution Process:

      1. A complainant may meet and consult with the Department of Corrections and Rehabilitation.

      2. The complainant may, at any time, decline to continue with the informal process. Use of the informal procedure is not required before making a formal complaint.

   E. Department of Corrections and Rehabilitation Formal Complaint Filing Procedures:

      1. Complainants who believe they have been the target of employment or services discrimination should file a complaint with the Department of
Corrections and Rehabilitation, Director of Human Resources as soon as possible.

2. To file a formal civil rights complaint with the Department of Corrections and Rehabilitation, contact the Department of Corrections and Rehabilitation, Director of Human Resources for assistance at the following address:

a. North Dakota Department of Corrections and Rehabilitation
   Office of the Director of Human Resources
   PO Box 1898
   3100 Railroad Avenue
   Bismarck ND 58502-1898
   Phone: (701) 328-6100

F. Training:

1. The Department of Corrections and Rehabilitation shall require sub-recipient agencies and appropriate sub-recipient employees to receive annual training regarding applicable federal civil rights laws and regulations and related complaint procedures and policies.

G. The Department of Corrections and Rehabilitation shall make available procedures to sub-recipient agencies and appropriate sub-recipient employees by posting these procedures on the Department of Corrections and Rehabilitation website under the Victim Services section. Sub-recipient agencies shall also make available their own agency policies and procedures to new and existing sub-recipient employees.

H. Recordkeeping and Disclosure:

1. The Department of Corrections and Rehabilitation and Department of Corrections and Rehabilitation sub-recipients shall retain records related to complaints and investigations in accordance with federal and State of North Dakota laws. Sub-recipients shall submit copies of all such records to the Department of Corrections and Rehabilitation Director of Human Resources. The Department of Corrections and Rehabilitation Human Resources Director shall be responsible for records related to all complaints. Information about the identity of any persons providing information related to or assisting in an investigation must be maintained in a confidential manner to the extent possible. In the event it is necessary to disclose a person’s identity, the person shall be protected from retaliation.

2. The sub-recipient agency shall maintain a record of the federal civil rights laws and regulations annual training completed by the director and appropriate sub-recipient employees for review by the Department of Corrections and Rehabilitation.

I. External State and Federal Agencies:

1. While the Department of Corrections and Rehabilitation encourages individuals to file employment and services discrimination complaints with the department, this policy is not intended to impair or limit the
rights of anyone seeking other remedies that may be available under federal or state law. As a result, an aggrieved party may also inquire with the Department of Corrections and Rehabilitation about rights to file a discrimination complaint with another federal or state agency. These agencies include:

a. North Dakota Department of Labor Division of Human Rights
   600 East Boulevard Avenue, Dept 406
   Bismarck North Dakota 58505-0304
   Phone: (701) 328-2660 http://www.nd.gov/labor

b. United States Equal Employment Opportunity Commission
   909 First Avenue, Suite 400
   Seattle Washington 98104
   Phone: (800) 669-4000 http://www.eeoc.gov.

c. United States Department of Education
   Office for Civil Rights
   915 Second Avenue, Room 3310
   Seattle Washington 98174
   Phone: (206) 607-1600

d. Office for Civil Rights
   Office of Justice Programs
   United States Department of Justice
   810 7th Street, NW
   Washington DC 20531
   Phone: (202) 307-0690

6. **SIGNATURE:** This policy with procedures becomes effective when signed by the Director of the Department of Corrections and Rehabilitation.

   *This copy has been approved by the Director with the original signature on file.*