

 <p>Corrections and Rehabilitation</p> <p><b>POLICY &amp; PROCEDURES</b></p>		<b>POLICY NUMBER AND SECURITY:</b> 1A-20 – This policy has no confidential or exempt information.
		<b>RELATED STANDARDS (such as ACA/ACI/ACRS/PbS/PREA):</b>  ACA 2-CO-1C-09, 2-CO-1C-09-1; Central Office
<b>RELATED REFERENCES:</b>  None		
<b>DIVISION:</b> Central Office	<b>FACILITY/WORK GROUP:</b> Administration	<b>TOPIC:</b> Complaints against Sub-Recipients or Employees of Sub-Recipients receiving Federal or State Financial Assistance

Effective Date: September 29, 2010 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 Revised: February 14, 2019 Revised: September 24, 2021
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### Summary of Revision(s):

*Revisions by Michele Zander, Amy Vorachek, Tammy Klein, and Tyler Spomer. Reviewed by the Administrative Policies Committee.*

1. Topic revision: Complaints **against** ~~from~~ Sub-Recipients or Employees of Sub-Recipients receiving Federal or State Financial Assistance
2. Revised the definition of Retaliation: Any adverse action taken against a client, customer or program participant, consumer, applicant, or employee of a sub-recipient who has filed a grievance. ~~An adverse action taken against an employee who has filed a grievance.~~
3. Revised the definition of Sub-Recipient: The agency or organization receiving federal financial assistance funds through and administered by the recipient, ~~the Department of Corrections and Rehabilitation to 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 who ~~that~~ is a beneficiary of such a program.
4. 5-C: Resolution Options: **Any client, customer, program participant, consumer, applicant, or employee of a sub-recipient** ~~Any sub-recipient, employee of a sub-recipient, or DOCR employee~~ who claims they have been subjected to unlawful discrimination may seek relief through the informal resolution process, the formal complaint procedure, or both.
5. 5-C-2-a: 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 **to** within 180 days **or one year, depending on the relevant statute.** ~~from the alleged act of discrimination.~~

1. **AUTHORITY:** Authority for this policy with procedures is found in chapter 54-23.3 of the North Dakota Century Code; Title VI of the Civil Rights Act of 1964, as amended, 42 USC § 2000d; Omnibus Crime Control and Safe Streets Act of 1968, 34 USC § 10228; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; Title IX of the Education Amendments of 1972, as amended, 20 USC § 1681; the Age Discrimination Act of 1972 42 USC §§ 6101-6107 and the Americans with Disabilities Act of 1990 as amended, 42 USC § 12132; Juvenile Justice and Delinquency Prevention Act (JJDP A) of 1974, 34 USC § 11182 (b); Victims of Crime Act (VOCA) of 1984, 34 USC § 20110 (e).
2. **APPLICABILITY:** This policy with procedures applies to the North Dakota Department of Corrections and Rehabilitation and its Division of Adult Services and Division of Juvenile Services (referred to as the Department), and all employees of the Department, and to all sub-recipients, 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 sub-recipient, by an employee of a Department 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 Employment:** An act that results in adverse or unequal treatment of employment based on race, color, religion, sex, national origin, age, sexual orientation, physical or mental disability, status with regard to marriage or public assistance, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer with regard to employment relations and provisions of services through the department, to prevent and eliminate discrimination and retaliation, and to deter those who aid, abet, or induce discrimination, or coerce others.
  - C. **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, color, sex, sexual orientation, national origin, religion, disability or status with respect to marriage or the receipt of public assistance.
  - D. **Recipient:** The Department is the State Administering Agency and recipient of federal financial assistance funds.
  - E. **Respondent:** An individual or entity alleged to have committed an act of unlawful discrimination.
  - F. **Retaliation:** Any adverse action taken against a client, customer or program participant, consumer, applicant, or employee of a sub-recipient who has filed a grievance.

- G. Sub-Recipient: The agency or organization receiving federal financial assistance funds through and administered by the recipient to carry out and achieve federal program goals. This does not include any individual who is a beneficiary of such a program.
  - H. Sub-Recipient Employee: An employee of an entity receiving United States Department of Justice federal financial assistance through and administered by the Department.
4. **POLICY:** All individuals have the right to participate in programs and activities funded by federal or state financial assistance and operated by the Department or its sub-recipients. The Department and its sub-recipients and employees of sub-recipients are committed to the principle of equal opportunity. The Department, sub-recipients, and employees of sub-recipients shall comply with the federal and state laws prohibiting discrimination. 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.) Sub-recipients may not retaliate against an individual for taking action or participating in action to secure rights protected discrimination laws. The Department shall provide a process for receiving and addressing complaints of discrimination or retaliation against sub-recipients and employees of sub-recipients from employees, applicants, clients, customers, consumers, and program participants.
5. **PROCEDURES:**
- A. Any sub-recipient employee who is informed about or believes discrimination is occurring shall report it as soon as possible after the occurrence to the Department's Human Resources Director.
  - B. The sub-recipient shall ensure no retaliation occurs against complainants or persons who participate in a complaint investigation.
  - C. Resolution Options: Any client, customer, program participant, consumer, applicant, or employee of a sub-recipient who claims they have been subjected to unlawful discrimination may seek relief through the informal resolution process, the formal complaint procedure, or both.
    - 1. Informal Department Resolution Process:
      - a. A complainant may meet and consult with the Department's Human Resources Director or designee.
      - b. 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.
    - 2. Department Formal Complaint Filing Procedures: Complainants who believe they have been the target of employment or services discrimination may file a formal civil rights complaint with the Department's Human Resources Director within 180 days *or* one year, depending on the relevant statute, at the following address:

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  
Email Address: dochr@nd.gov

3. If a Department employee other than the Department's Human Resources Director receives a complaint, the employee shall forward the complaint to the Department's Human Resources Director within 24 hours.
- D. Training: The Department shall require sub-recipient agencies and appropriate sub-recipient employees receive annual training regarding applicable federal civil rights laws and regulations and related complaint procedures and policies.
- E. The Department shall post this policy and procedures on the Department's website in the Victim Services Section to make it available to sub-recipient agencies and their employees. Sub-recipient agencies shall make their policies and procedures regarding discrimination available to sub-recipient employees.
- F. Recordkeeping and Disclosure:
1. The Department and Department's sub-recipients shall retain records related to complaints and investigations in accordance with federal and state law. Sub-recipients shall submit copies of records related to complaints and investigations to the Department's Human Resources Director. The Department's Human Resources Director shall maintain 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 sub-recipient's director and appropriate sub-recipient employees for review by the Department.
- G. External State and Federal Agencies: This policy does limit individuals' rights to seek other remedies that may be available under federal or state law. Other sources of reporting and assistance include the following:
1. 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>
  2. United States Equal Employment Opportunity Commission  
909 First Avenue, Suite 400  
Seattle Washington 98104  
Phone: (800) 669-4000 <http://www.eeoc.gov>

3. United States Department of Education  
Office for Civil Rights  
915 Second Avenue, Room 3310  
Seattle Washington 98174  
Phone: (206) 607-1600
4. Office for Civil Rights  
Office of Justice Programs  
United States Department of Justice  
810 7th Street, NW  
Washington DC 20531  
Phone: (202) 307-0690 <https://ojp.gov/about/ocr/complaint.htm>
6. **SIGNATURE:** This policy with procedures and applicable manuals 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.***