

## **POLICY 310**

## **AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY**

Each Service Provider who employs 15 or more individuals must operate under Affirmative Action and Equal Employment Opportunity Policies and Procedures. These policies and procedures must include at a minimum: language for appropriate civil rights staffing, affirmative action in employment (Affirmative Action Plan), compliance with civil rights regulations (laws), civil rights responsibilities of the Service Provider, a discrimination complaint process, and personnel administration of the Service Provider.

Discrimination due to age (40 years or more), race, sex (including sexual harassment and sexual orientation), color, religion, national origin or handicap (physical or mental disabilities) will not be tolerated within any program utilizing funds administered through the Agency.

### **PROCEDURE A    CIVIL RIGHTS STAFFING**

1. Each Service Provider will assign responsibility for implementation of its overall Civil Rights Program to an in-house staff person (identified as an Equal Opportunity Representative - E.O. Rep.) who is employed with the Service Provider on a full-time basis.
  - a. The position of the designated staff person assigned the duties as an E.O. Rep. should be that of sufficient authority with the Service Provider to coordinate and assure compliance with the civil rights program. Every effort should be made to recruit and hire the civil rights staff from among experienced compliance personnel.
  - b. The E.O. Rep. must contact the Agency Equal Opportunity Officer to schedule training in Civil Rights responsibilities and techniques. The E.O. Rep. must receive this training within 60 days following the assignment of Civil Rights Program duties.

### **PROCEDURE B    AFFIRMATIVE ACTION IN EMPLOYMENT**

1. Each Service Provider will prepare and maintain an affirmative action plan (AAP).

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- a. This plan must be a written plan, which is updated annually.
  - b. The AAP must be submitted to the Agency for approval within 30 days following the beginning of each Service Provider's program year.
  - c. The AAP must outline specific objectives, action steps and timetables that will indicate the course the Service Provider will undertake to provide equal employment opportunity.
2. Each Service Provider will develop written procedures for handling in-house investigations and resolution processes of formal complaints of alleged discrimination filed against the Service Provider by its employees.
- a. These procedures will be submitted to the Agency with the AAP.
3. All complaints must be thoroughly investigated by the Service Provider E.O. Rep. and handled promptly, fully and in accordance with written procedures prior to referral to the Agency.
- a. The complaint and investigation is to be kept **confidential**.
  - b. The discrimination complaint investigation by the Service Provider must include, at a minimum, gathering facts, analysis of facts, witness interviews, and a written investigation report and recommendations.
4. Each Service Provider shall develop a written non-discrimination policy statement.
- a. This statement will be signed by the Service Provider director and posted in a location conspicuous to the Service Provider's employees.

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**PROCEDURE C CIVIL RIGHTS - REGULATIONS**

1. Each Service Provider shall be in compliance with the following laws and rules:
  - a. **The Equal Pay Act of 1963:** requires that individuals must receive equal pay for equal work regardless of sex. The federal enforcement agency is the Equal Employment Opportunity Commission.
  - b. **Title VI of the Civil Rights Act of 1964:** forbids that anyone be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination on the basis of race, color, and national origin through expenditure of federal monies. Title VI is enforced by the appropriate federal grantor.
  - c. **Title VII of the Civil Rights Act of 1964 (As Amended):** forbids employment discrimination on the basis of race, color, religion, sex (including sexual harassment), and national origin. The Federal enforcement agency is the Equal Employment Opportunity Commission.
  - d. **The Age Discrimination in Employment Act of 1964 (As Amended):** Generally forbids discrimination in employment on the basis of age (40 years or more). The federal enforcement agency is the Equal Employment Opportunity Commission.
  - e. **The Rehabilitation Act of 1973:** requires that governmental agencies receiving federal monies be non-discriminatory toward handicapped. The pertinent section is enforced by guidelines of the respective federal grantors.
  - f. **The Americans with Disabilities Act of 1990:** incorporates portions of the Rehabilitation Act of 1973 but forbids employment

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discrimination for disabled whether or not the employer receives federal funds. Enforcement is by the Equal Employment Opportunity Commission, the Attorney General, and the Office of Federal Contract Compliance Programs.

- g. **The Vietnam Era Veteran Readjustment Assistance Act of 1974:** requires employers with government contracts or subcontracts of \$10,000 or more to take affirmative action "to employ and advance in employment" disabled veterans and qualified veterans of the Vietnam era.

**PROCEDURE D CIVIL RIGHTS RESPONSIBILITIES OF SERVICE PROVIDERS**

- 1. Each Service Provider must sign an Assurance of Compliance With Health and Human Services Regulation under Title VI of the Civil Rights Act of 1964, AoA Form #441.
  - a. This form must be submitted with the bid proposal.
  - b. Each Service Provider shall establish methods to be used in targeting and giving preference in the provision of services to those persons with the greatest economic or social need with particular attention to low-income minority individuals and individuals who are frail, homebound or otherwise isolated.
  - c. When determining the location or relocation of a facility (senior center, nutrition site, etc.), each Service Provider is to make selections that will not exclude minority senior participants from these benefits. Each Service Provider is to take every step necessary to ensure that access to services at the facility by minority groups will not be jeopardized by a change in the geographic location.
  - d. Each Service Provider shall have procedures for monitoring all aspects of its operations to assure no policy or practice is, or has

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the effect of, discriminating against senior participants on the grounds of race, color, sex, national origin, religion, age, Vietnam era or disabled veteran status or physical handicap.

i. The monitoring procedures shall address, but not be limited to, such areas as:

- (1) Location of offices and facilities;
- (2) Manner of assignments of applicants/clients to staff;
- (3) Dissemination of program information;
- (4) Criteria for acceptance into the agency's programs;
- (5) Awareness of ethnic, cultural, and language differences;
- (6) Referral of clients to other agencies and facilities;
- (7) Referral sources;
- (8) Tests, if applicable;
- (9) Utilization of minority women and disabled contractors;
- (10) Use of volunteers, consultants, etc.;
- (11) Application for assistance, if appropriate;
- (12) Rules of courtesy;
- (13) Provision of services;
- (14) Records;
- (15) Representatives of disabled individuals, members of racial minority groups serving on planning, advisory and policy boards;
- (16) Program accessibility to disabled persons;
- (17) Accommodations and auxiliary aids for persons with impaired sensory, manual, or speaking skills.

e. Each Service Provider shall assure that no qualified handicapped person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any of their programs because facilities are inaccessible to, or unusable by, handicapped persons. (Ref: Sec. 504 of the

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Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990).

**PROCEDURE E    DISCRIMINATION COMPLAINT PROCESS**

1. The complaint shall be signed by the complainant(s). Complaints may be addressed to the Manager of the Office for Equal Opportunity Agency, who will conduct a prompt and thorough investigation.
2. The identity of complainants and investigation reports shall be kept confidential except to the extent necessary to carry out the purpose of conducting the investigation and applying corrective action.
3. After the complaint has been investigated, the Manager of the Office for Equal Opportunity shall determine whether or not any discriminatory practice occurred. If he/she determines it necessary, he/she makes recommendations to the Executive Director of the Agency to correct past practices and to prevent the recurrence of such discrimination.

**PROCEDURE F    PERSONNEL ADMINISTRATION**

1. Each Service Provider not operating within governmental personnel policies shall develop and maintain its own manual on personnel practices and policies that will govern the Service Provider's personnel-related activities.
  - a. The personnel manual shall include at a minimum:
    - i. Personnel administration policies;
    - ii. Written staff grievance procedure;
    - iii. Wage and fringe benefits;
    - iv. Procedures for keeping personnel records (methods of allocating personnel expenditures, taxes withheld and paid and payroll record-keeping requirements).

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- b. Each Service Provider will develop and maintain written job descriptions for all staff positions, paid or volunteer, that accurately describe responsibilities for each position. Lines of supervisory authority and responsibility are to be clearly designated.
  - c. A salary schedule should be developed which covers a period of 3-4 years and should identify salary increases to be determined specifically by the extent of work and job duties and not for employees or their personal circumstances. Salaries should be competitive, within the local geographic area, for jobs with similar responsibilities.
  - d. Each Service Provider will institute procedures for reviewing staff performance. This review should take place, at a minimum, annually.
2. Each Service Provider shall make a special and sustained effort to promote employment opportunities for older persons consistent with existing laws, practices and staffing needs of the agency.
- a. Special consideration must be given to the employment of people aged 60 and over.
  - b. Job opportunities should be available for senior volunteers and part-time workers, if possible. Each Service Provider will develop and maintain written job descriptions for these positions, paid or volunteer, that accurately describe responsibilities for each position.