



# INTERNAL MANAGEMENT POLICY & PROCEDURE

**Applicability:**  Adult Operation Only  JUVENILE Operations Only  DEPARTMENT-WIDE

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**IMPP #: 01-128D**

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## **ADMINISTRATION: Discrimination Complaints by Non-Offender Program Beneficiaries**

**Original Date Issued: 01-21-2022 Replaces IMPP Issued: NA CURRENT EFFECTIVE DATE: 01-21-2022**

**Approved By:**

**Secretary**

**Next Scheduled Review: 09/2024**

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### **POLICY**

The Department of Corrections is committed to prohibiting illegal discrimination as defined by state and federal law. Discrimination against program beneficiaries on the basis of protected class characteristics, including, but not limited to race, color, religion, national origin or ancestry, gender, age, disability, political affiliation, or military status is prohibited. This prohibition applies to all staff, volunteers, and contractors of the Department of Corrections and its subgrantees.

Whereas existing policies and procedures provide for the resolution of discrimination complaints by offenders and staff, this policy is intended to provide for resolution of discrimination complaints by non-offender beneficiaries of the Department's programs and services. It is intended to ensure fairness for both the complainant and the respondent in the handling of discrimination complaints, as well as to prevent retaliation or reprisals against individuals who take action or participate in action to secure rights protected by law.

The KDOC, its contractors, staff, volunteers, and subgrantees shall comply with all applicable non-discrimination requirements, including, but not limited to:

- 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 and also entails taking reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access to Agency programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English (42 U.S.C. § 2000d), and the Department of Justice (DOJ) implementing regulations at 28 C.F.R. § Part 42, Subpart C;
- The Omnibus Crime Control and Safe Streets Act (SSA) 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, prohibits discrimination on the basis of disability in the delivery of services and employment (29 U.S.C. § 794) and DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G; and Title II of the Americans with Disabilities Act (ADA) of 1990, each as amended by the ADA Amendments Act (ADAAA) of 2008, prohibit 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 (section 504 applies when an organization of 50 or more persons receives \$25,000.00 or more in federal financial assistance);
- Title IX of the Education Amendments of 1972, prohibits discrimination on the basis of sex, in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54);

- The Age Discrimination Act of 1975, applies to people of any age and 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 1;
- Section 1407 of the Victims of Crime Act (VOCA) of 1984, prohibits discrimination on the basis of race, color, national origin, religion, sex, or disability (42 U.S.C. § 10604 et seq);
- The Juvenile Justice and Delinquency Prevention Act (JJDP) of 2002 (42 U.S.C. § 5672b); and Violence Against Women Act (VAWA) of 1994, as amended, 42 U.S.C. § 13925(b)(13), prohibit discrimination in programs either funded under the statute or administered by the Office on Violence Against Women, both in employment and in the delivery of services or benefits, based on actual or perceived race, color, national origin, sex, religion, disability (they refer to the SSA for enforcement).
- KDOC receives funds under the Violence Against Women Act of 1994, as amended, and covered protections include those individuals regardless of their sexual orientation or gender identity.

Each of the laws listed above prohibit a recipient or subrecipient from retaliating against any individual for making a claim or participating in action to secure rights protected by the laws.

The principal administrator for each program shall monitor the atmosphere and events within the program sufficiently to ensure that no program recipient is being subjected to discrimination. If such treatment is observed or there is otherwise cause to believe it is occurring, the principal administrator shall take steps, or cause steps to be taken, necessary to rectify the situation whether or not a complaint has been filed.

## **DEFINITIONS**

**Civil Rights Liaison:** The staff member responsible for coordinating the Department's investigation of and response to discrimination complaints and inquiries made by non-offender program beneficiaries.

**Illegal Discrimination:** The denial of rights, benefits, justice, or equitable treatment on the basis of protected class characteristics, including, but not limited to race, color, religion, national origin or ancestry, gender, age, disability, political affiliation, or military status.

**Principal Administrator:** Person directly responsible for the overall administration of a KDOC facility, parole region, or Central Office work unit.

**Program:** A formal multi-faceted package of interventions and services, including such things as case management, treatment, counseling, service-connection, or similar activities that address multiple offender areas of risk or need.

**Program Beneficiary:** A person, other than an offender, who is eligible to receive services or benefit from KDOC programs.

**Retaliation:** Coercion, intimidation, or discrimination against an individual as punishment for engaging in legally protected activity such as making a complaint of harassment or participating in investigations or intended to deter such individual from engaging in such protected activity.

**Subgrantee/Subrecipient:** An organization that receives financial assistance as a pass-through obligation from the direct recipient of those funds.

## **PROCEDURES**

### **I. Designation of a Civil Rights Programs Coordination**

- A. In compliance with the Americans with Disabilities Act of 1990 (ADA); Section 504 of the Rehabilitation Act of 1973; title IX of the Education Amendments Act of 1972; and the Juvenile Justice and Delinquency Prevention Act (JJDP); any complaints and questions regarding discrimination in any of the Kansas Department of Corrections' civil rights programs, activities and employment, or similar complaints related

to those of the KDOC's vendors, contractors, volunteers and subrecipients, may be directed to the Civil Rights Liaison designated below:

1. Civil Rights Programs Manager  
Kansas Department of Corrections  
714 SW Jackson St., 3<sup>rd</sup> Floor  
Topeka, KS 66612  
Toll Free Telephone: 1-844-522-1956

## II. Complaint Procedures

- A. A program beneficiary who believes s/he has been excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with a program or activity funded in whole or in part with DOJ funds on the basis of race, color, national origin, sex, age, religion, or disability or has been retaliated against for engaging in protected activity may file a complaint directly with the KDOC Agency Coordinator/ Liaison at:
  1. Civil Rights Manager  
Kansas Department of Corrections  
714 SW Jackson St., 3<sup>rd</sup> Floor  
Topeka, KS 66612  
Toll Free Telephone: 1-844-522-1956
  2. Nothing in this policy shall be deemed to abridge or limit a complainant's right to file claims directly with outside entities having jurisdiction over such complaints, including:
    - a. Office of Justice Programs  
Office for Civil Rights (OCR)  
U.S. Department of Justice  
810 7<sup>th</sup> Street, NW  
Washington, DC 20531  
Telephone: 202-307-0690  
Fax: 202-616-9865  
TTY: 202-307-2027
    - b. Kansas Governor's Grant Program  
900 SW Jackson St.  
Landon State Office Building, Room 304 North  
Topeka, Kansas 66612  
Telephone: 785-291-3205  
Fax: 785-291-3204
- B. Any KDOC staff or staff of any subgrantee who receives a complaint of alleged discrimination involving a program beneficiary shall:
  1. provide the complainant with a KDOC Discrimination Complaint Form for Non-Offender Program Beneficiaries (Attachment B), and assist the complainant as needed in completing the form;
  2. forward all written complaints to the KDOC Civil Rights Liaison; and
  3. direct the charging individual to contact the KDOC civil rights liaison.
- C. If the KDOC Civil Rights Liaison determines that the complaint is outside the scope of this policy, s/he shall advise the complainant of appropriate policies for pursuing such complaints.

- D. The KDOC Civil Rights Liaison shall advise the complainant of the complainant's right to pursue the matter with the Kansas Human Rights Commission (KHRC) or another entity having jurisdiction over such matters.
1. The KDOC Civil Rights Liaison will advise the charging party that a complaint must be filed with KHRC and EEOC within 180 days from the date of the alleged violation in order to protect the charging party's rights.
  2. Complainants who have filed a complaint with outside enforcement agencies or who have filed a lawsuit against the Department may not file an internal complaint on the same matter, and no further action will be taken on a pending internal complaint on the same matter.
  3. A complaint with an outside enforcement agency or lawsuit does not affect the filing of an internal complaint on an unrelated matter.
- E. The KDOC Civil Rights Liaison shall be precluded from participating in the investigation or resolution of any complaint in which s/he is otherwise involved as a witness or participant or in a close personal or working relationship with individuals who are principals in the matter being reported.
- F. Prior to any investigation, the KDOC Civil Rights Liaison shall contact the appointing authority to inform them that the complaint has been filed.
1. The appointing authority or designee shall notify the individual(s) named in the complaint that the complaint has been filed.
    - a. As a part of the notification to the individual(s) who allegedly committed the act of discrimination, the appointing authority or designee shall:
      - (1) Provide a copy of the complaint to the individual(s), inform them not to discuss the complaint with anyone not having the need to know, and advise them that the commission of retaliating acts is prohibited; and,
      - (2) Direct said person(s) to the appropriate provisions of this policy.
- G. Within twenty (20) working days following the receipt of a complaint, the KDOC Civil Rights Liaison shall gather any information needed, make a determination on the complaint, and forward the report and recommendation for resolution to the appropriate appointing authority. (See Section VI. for extending time limits).
- 1, The KDOC Civil Rights Liaison shall be authorized to interview all individuals and to review all documents and records that might provide relevant information concerning the complaint.
- H. Resolution During Investigative Procedure
1. If at any time during the investigation the KDOC Civil Rights Liaison can achieve a mutually agreeable resolution of the complaint, s/he should do so and draft a written report of the resolution. Such a resolution must be approved by the appropriate appointing authority.
  2. The resolution shall be signed by all parties to the agreement.
  3. The original agreement shall be maintained by the KDOC Civil Rights Liaison. Copies of the agreement shall be provided to the appointing authority and to each of the parties to the agreement. Copies will not be placed in an employee's official personnel file unless that employee received formal disciplinary action directly related to events alleged in the complaint.
- I. Within twenty (20) working days following receipt of the report and the KDOC Civil Rights Liaison's recommendation, the appointing authority shall make a determination concerning resolution of the

complaint, which shall be subject to review by the Chief Legal Counsel or designee and the Director of Human Resources.

- J. Following review by the Chief Legal Counsel or designee and the Director of Human Resources, the appropriate appointing authority shall make the final decision and the decision shall be given to the KDOC Civil Rights Liaison.
  - 1. This decision shall set forth findings and conclusions supporting the decision.
- K. The KDOC Civil Rights Liaison shall advise the complainant of the determination and of the complainant's right to pursue the matter further with the Kansas Human Rights Commission (KHRC) or another entity having jurisdiction over such matters.
  - 1. The KDOC Civil Rights Liaison will advise the charging party that a complaint must be filed with KHRC and EEOC within 180 days from the date of the alleged violation in order to protect the charging party's rights.
- L. Once all actions stated in the determination have been completed, the complaint will be considered closed and the Department will take no further action toward resolution. However, nothing shall prevent an employee from filing another complaint should significant additional information become available or should subsequent incidents of retaliation be alleged.
  - 1. Notice of closure shall be provided by the KDOC Civil Rights Liaison or designee to all parties concerned.
- M. All discrimination investigations and supporting documentation shall be maintained in a secure area with limited access.

### **III. Processing Complaints Against the Department Filed with External Enforcement Authorities**

- A. Any person within the Department receiving notice of a complaint or charge from an outside enforcement authority shall notify his or her appointing authority that a complaint has been filed, and shall immediately forward such complaint or charge to the KDOC Civil Rights Liaison.
- B. The KDOC Civil Rights Liaison shall notify Chief Legal Counsel that a complaint has been received.
- C. The KDOC Civil Rights Liaison shall make an initial determination as to the most appropriate internal method for processing the complaint based upon the allegation(s) and a preliminary investigation of the circumstances precipitating the complaint.
- D. During all phases of an investigation by an outside enforcement authority, the KDOC Civil Rights Liaison or his or her designee shall act as the Department's liaison with such enforcement authorities.
- E. The KDOC Civil Rights Liaison or his or her designee shall be present during all interviews conducted with departmental employees other than the complainant(s) and during review of any documentary materials by representatives of any enforcement authority.
- F. In the event of a finding by an enforcement authority that probable cause exists to believe the validity of the complaint, any negotiation with such authorities for a settlement agreement shall be conducted by the Chief Legal Counsel or his or her designee.
- G. The KDOC Civil Rights Liaison shall provide such assistance as the Chief Legal Counsel requires in the conduct of these negotiations and a satisfactory resolution of the complaint.
- H. In cases involving court action or where the complainant has obtained independent legal representation pursuant to an action outside the realm of an internal complaint, the Department's Chief Legal Counsel

or his or her designee shall act as the Department's liaison with such authorities or agents and shall represent the Department in all subsequent actions.

- I. In the event a federal or state court or federal or state administrative agency makes a finding against KDOC of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, age, or disability, the KDOC Civil Rights Liaison shall forward a copy of the findings to the Kansas Governor's Grants Program.

#### **IV. Confidentiality of Investigative Information**

- A. Information obtained or shared during an investigation shall be considered confidential to the greatest extent possible. No employee involved in the investigation shall discuss or divulge any information obtained in the course of the investigation with anyone other than the KDOC Civil Rights Liaison, KDOC legal counsel, investigators from outside enforcement entities, or the appointing Authority.
- B. Breach of confidentiality may result in disciplinary action against the person committing the breach.
- C. The KDOC Civil Rights Liaison may direct employees to share information with people other than those specified above.
- D. Each employee involved in a discrimination investigation shall sign the KDOC Acknowledgement of Confidentiality of Discrimination Investigation (Attachment C).

#### **V. Policy Dissemination**

- A. This policy will be made available to all KDOC staff, KDOC program beneficiaries, and subgrantees.
- B. Every employee shall receive a copy of this policy during new employee orientation.
- C. Non-discrimination clauses will be incorporated in all agreements, award packets and contracts that operate with KDOC. All subgrantees of KDOC shall acknowledge reviewing the policy and assure that their staff review the policy by initialing a special condition before receipt of their award.

#### **VI. Training**

- A. KDOC will provide training for staff on this policy during new employee orientation and annual training. The training will include an overview of complaint policies and procedures, including staff responsibility to refer discrimination complaints from program beneficiaries and subgrantees to the KDOC Civil Rights Liaison.

#### **VII. Time Frames Involved in Processing a Complaint**

- A. The KDOC Civil Rights Liaison shall be responsible for ensuring compliance with the procedures and time frames indicated in the policy.
- B. Those involved in investigating the complaint or making decisions regarding the complaint may submit a notice to the KDOC Civil Rights Liaison that an extension, not to exceed thirty (30) working days, of any time limit will be required.
- C. Upon approval of an extension to any time limit, the KDOC Civil Rights Liaison or designee shall provide notice of such extension to the complainant, to the person charged, to those persons involved in investigating the complaint, and to the appointing authority of the facility or office where the complaint originated.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff, residents, and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees, residents, or offenders, or an independent duty owed by the Department of Corrections to employees, residents, offenders, or third parties. Similarly, those references to the standards of various

accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

## REPORTS

None.

## REFERENCES

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d, and DOJ implementing regulations at 28 C.F.R. § 42.201 *et seq.*), as amended
- The Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789d(c)(1), and DOJ implementing regulations at 28 C.F.R. § 42.201, *et seq.*), as amended
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 and DOJ implementing regulations at 28 C.F.R. § 42.501 *et seq.*), as amended
- Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132, and DOJ implementing regulations at 28 C.F.R. § 35), as amended
- Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681, and DOJ implementing regulations at 28 C.F.R. § 54), as amended
- The Age Discrimination Act of 1975 (42 U.S.C. § 6102, and DOJ implementing regulations at 28 C.F.R. § 42.700 *et seq.*), as amended
- The DOJ regulations on Equal Treatment for Faith-Based Organizations, 28 C.F.R. § 38, as amended
- Section 1407 of the Victims of Crime Act (VOCA) (42 U.S.C. § 10604), as amended
- The Kansas Act Against Discrimination as amended & The Kansas Age Discrimination in Employment Act of 1983, as amended
- Section 1407 of the Victims of Crime Act (VOCA) (42 U.S.C. § 10604), as amended
- The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672b), as amended

## HISTORY

01-21-2022 Original

## ATTACHMENTS

Attachment	Title of Attachment	Page Total
A	EEO Acknowledgements	1 page
B	KDOC Discrimination Complaint Form for Non-Offender Program Beneficiaries	1 page
C	KDOC EEO and/or Sexual Harassment Acknowledgment of Confidentiality	1 page

**KANSAS DEPARTMENT OF CORRECTIONS**  
**DISCRIMINATION ACKNOWLEDGMENTS**

**I. Receipt of KDOC Discrimination Complaint Resolution Policy**

I, \_\_\_\_\_, the undersigned, am employed by the Kansas Department of Corrections in the position of \_\_\_\_\_, and hereby acknowledge, by my signature below, that on this date I was provided with a full and complete copy of **IMPP 01-128 -- Discrimination Complaints by Non-Offender Program Beneficiaries**, was afforded adequate time, on the job, to read the same, and was informed by my supervisor that I could ask any questions of said supervisor, the appointing authority, or the human resources manager, necessary to understand the policy. I further hereby agree that I understand and agree to fully abide by the policy.

\_\_\_\_\_ Signature of Employee  
Date

\_\_\_\_\_ Signature of Supervisor  
Date

**AFTER THIS FORM HAS BEEN SIGNED BY THE EMPLOYEE AND SUPERVISOR, IT SHALL BE FORWARDED TO THE HUMAN RESOURCES OFFICE OF THE FACILITY OR OFFICE WHERE THE EMPLOYEE WORKS, AND SHALL BE MADE A PERMANENT PART OF THE OFFICIAL PERSONNEL FILE OF THE EMPLOYEE.**



**KANSAS DEPARTMENT OF CORRECTIONS**  
**Discrimination Complaint Form for Non-Offender Program Beneficiaries**

1. Name of Person Reporting or filing complaint: \_\_\_\_\_  
Position: \_\_\_\_\_ Facility/Office: \_\_\_\_\_  
At what phone number should we call you? \_\_\_\_\_
2. Name(s) of Person(s) Alleged to have committed the actions:
- | Name  | Position Title/Rank |
|-------|---------------------|
| _____ | _____               |
| _____ | _____               |
| _____ | _____               |
- Facility/Office \_\_\_\_\_
3. Date(s) of incident(s): \_\_\_\_\_

**Use additional pages if necessary and attach to this form**

4. Describe the incident(s) in detail. Include names, dates, locations, approximate time of day, etc.
5. State the name and phone number or work location of any person(s) who witnessed any of the alleged discrimination. Briefly explain what you think they know about this complaint and how they were involved or observed the alleged incident.
6. Have you discussed this alleged incident with any other person(s) within the Department of Corrections? If so, provide their name(s), and phone number(s) or work location(s), the dates on which such discussions occurred and what, if anything, happened as a result of your discussion.
7. How would you like to see this complaint resolved? What action would you like to see take place?

\_\_\_\_\_  
Signature of Complainant/Reporter

\_\_\_\_\_  
Date of Filing

\_\_\_\_\_  
Name of Person Receiving Complaint (print)

\_\_\_\_\_  
Signature of Person Receiving Complaint

\_\_\_\_\_  
Date Received

=====

**FOR OFFICE USE ONLY**

Resolution:

Date of Resolution: \_\_\_\_\_

## KDOC Acknowledgement of Confidentiality of Discrimination Investigation

I, \_\_\_\_\_ an employee of \_\_\_\_\_  
(Print Name) (Facility or Office)

hereby affirm that the Kansas Department of Corrections policy on maintaining confidentiality related to discrimination investigations has been made available to me. I further acknowledge that I have read and fully understand the policy as it applies to any involvement I may have in a discrimination investigation. I understand that I am not to discuss or divulge any information I have obtained or will obtain in the course of a discrimination investigation with anyone other than the KDOC Civil Rights Liaison, KDOC legal counsel, investigators from outside enforcement entities, or the Appointing Authority unless directed to do so by the KDOC Civil Rights Liaison and that a breach of confidentiality can result in disciplinary action up to and including termination.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Date