



Human Capital Issuance System



Chapter: 900

Transmittal Number: TN-11-003

Date: October 20, 2010

Office: Office of Civil Rights and Diversity

Subject: External Civil Rights Responsibilities and Complaint Process

1. **PURPOSE.** To establish the Department's policy and procedures concerning its obligations to ensure nondiscrimination in Treasury conducted and assisted programs and activities, and to explain the civil rights discrimination complaint process.
2. **SCOPE.** The provisions of this Chapter apply to all Treasury bureaus, offices and organizations in the Department of the Treasury. The Complaint Process outlined in this issuance is not intended for the resolution of employment discrimination complaints filed by Treasury employees and applicants for employment. The authority of the Inspectors General is set forth in Section 3 of the Inspector General Act of 1978, as amended, the Internal Revenue Service Restructuring and Reform Act of 1988, and the Emergency Economic Stabilization Act of 2008, and defined in Treasury Order 114-01 (OIG) and Treasury Order 115-01 (TIGTA), or successor orders. The provisions of this policy shall not be construed to interfere with these authorities.
3. **CANCELLATION.** Not applicable.
4. **EFFECTIVE DATE.** This policy is effective with the date of this chapter.
5. **REFERENCES.**
 - A. 29 U.S.C. §§794-794e, Section 504 of the Rehabilitation Act of 1973 - prohibits discrimination solely by reason of disability under any program or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency.

- B. 31 C.F.R. Part 17, Treasury regulation implementing Section 504 of the Rehabilitation Act, provides for nondiscrimination based on disability in programs and activities conducted by the Department.
- C. 42 U.S.C. §§2000d- 2000d-7, Title VI of the Civil Rights Act of 1964 - prohibits discrimination on the basis of race, color or national origin in programs or activities receiving federal financial assistance.
- D. 42 U.S.C. §§6101-6107, Age Discrimination Act of 1975 - prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- E. 20 U.S.C. §§1681-1688, Title IX of the Education Amendments of 1972 - prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance.
- F. 29 U.S.C. §794d, Section 508 of the Rehabilitation Act as amended – requires federal agencies to purchase accessible electronic information technology, and provides a complaint process for cases of noncompliance.
- G. 31 C.F.R. Part 38, Treasury regulations provide for the enforcement of Title IX of the Education Amendments of 1972, as it applies to educational programs or activities operated by recipients of financial assistance from Treasury.
- H. Executive Order 13160, prohibits discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in federally conducted education and training programs.
- I. Executive Order 13166, requires agencies to improve the enforcement and implementation of the existing obligation under Title VI to provide language access services to limited English proficient individuals, in order to allow them meaningful access to the assisted programs. The Executive Order also requires federal agencies to meet the same standards as federal financial assistance recipients in providing meaningful access to limited English proficient individuals to federally conducted programs.
- J. Treasury Order 102-02, §§1-2, Delegation of Authority Concerning Equal Opportunity Programs.
- K. Treasury Directive 12-41, §§2(b)(4)-(7), Delegation of Authority Concerning Equal Employment Opportunity (EEO) Programs and Treasury Complaint Center.

This chapter supplements policies and requirements contained in the references cited above; it is not self-contained, and must be read in conjunction with the cited references.

6. **BACKGROUND.** The laws, regulations and executive orders referenced above establish civil rights compliance requirements for the Department of the Treasury.

Federal Financial Assistance and Civil Rights - Programs or activities receiving financial assistance from the Department and its bureaus shall not discriminate on the grounds of race, color, national origin, sex, disability or age. To prevent recipients from using federal funds to engage in discriminatory practices, Congress authorized and directed federal agencies to implement and enforce the prohibitions against discrimination listed above. These laws, regulations and executive orders are designed to eradicate discrimination in programs or activities funded by the Federal Government.

Federally Conducted Programs - The Federal Government is held to the same principles of nondiscrimination in its federally conducted programs as apply to federally assisted programs or activities, under sections 504 and 508 of the Rehabilitation Act, and under Executive Orders 13160 and 13166, discussed below.

7. DEFINITIONS.

Federal Financial Assistance is monetary or nonmonetary assistance to a recipient to support a public purpose. It includes, but is not limited to, grants and loans of federal funds; grants or donations of federal property; training; details of federal personnel; or any agreement, arrangement, or other contract which has as one of its purposes the provision of assistance. For instance, Treasury and its bureaus provide federal financial assistance by donating surplus computer equipment to schools and police departments; by providing community development funds to institutions serving distressed communities and low-income individuals; and by providing grants to organizations to fund low-income taxpayer clinics.

A **federally conducted program or activity** is, in simple terms, anything a federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by the regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the Department for program beneficiaries and participants. Activities in the first part include communication with the public (e.g., website, telephone contacts, or office walk-ins) and the public's use of the Department's facilities (e.g., cafeteria, library). Activities in the second category include programs that impose a burden on the public or provide federal services or benefits (e.g., license applications for travel to Cuba, public tours, visitor information centers, tax collection).

8. POLICY. It is the policy of the Department of the Treasury to ensure nondiscrimination in federally assisted and federally conducted programs. To do so more effectively, we have established the following civil rights complaint process.

9. RESPONSIBILITIES.

- A. The Office of Civil Rights and Diversity (OCRD), is responsible for processing complaints from individuals alleging discrimination in Treasury conducted or assisted programs or activities. Race, color or national origin complaints alleging discrimination in programs or activities receiving Treasury financial assistance may

be filed pursuant to Title VI of the Civil Rights Act of 1964. Complaints alleging age discrimination in Treasury assisted programs may be filed pursuant to the Age Discrimination Act of 1975. Complaints alleging sex discrimination in Treasury assisted educational programs may be filed pursuant to Title IX of the Education Amendments Act of 1972. Complaints alleging disability discrimination in programs or activities receiving financial assistance from, or conducted by, the Department may be filed pursuant to Section 504 of the Rehabilitation Act. Complaints alleging that the Treasury has failed to provide access to electronic and information technology may be filed pursuant to Section 508 of the Rehabilitation Act. Additional instructions on the processing of complaints filed pursuant to Section 508 can be found in the Human Capital Issuance TN 07-008, Section 508 Administrative Complaint Processing Procedures, issued on March 30, 2007.

Complaints may also be filed on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent in Treasury conducted education or training programs or activities under Executive Order (EO) 13160, or on the basis of national origin under EO 13166 in any Treasury conducted program or activity.

- B. Bureaus are responsible for reviewing their programs to determine which programs may fall under the definitions set out in section 7, ensuring that recipients submit signed assurances of compliance, and posting appropriate notice on websites, bulletins, and publications, including notices that explain to individuals how to file a complaint.

10. PROCEDURES FOR FILING COMPLAINTS.

- A. Right to File. Any person, or authorized representative of a person, who believes that he or she has been subjected to unlawful discrimination may file a complaint. Any person who believes that any specific class of persons has been subjected to discrimination and who is a member of that class or the authorized representative of a member of that class may file a complaint. Complaints should be filed with OCRD at 1500 Pennsylvania Avenue N.W., Attn. 1801 L St., 6th Floor, Washington DC 20220, or by facsimile to (202) 622-0317.
- B. Timeliness. Complaints must be filed within 180 days of the alleged act of discrimination. The Associate Chief Human Capital Officer (CHCO), (Civil Rights and Diversity), may extend this time period for good cause.
- C. Notification to OCRD. If a complaint is received directly by a bureau, the complaint must be immediately referred to OCRD for tracking and intake review.
- D. Complaint Investigations – Once a complaint has been accepted as timely and under the jurisdiction of the Department, it will be referred to the bureau for an investigation, and a submission to OCRD of a report of investigation and agency position statement on the complaint. The bureau's response will customarily include

interviews of the complainant, the recipient's staff, agency staff, and other witnesses, a review of the recipient's pertinent records, a review of agency records, potentially a review of building facilities, and consideration of the evidence gathered and defenses asserted. The Associate CHCO (Civil Rights and Diversity), will establish the time frame allotted for the complaint investigation on a case by case basis, based on the allegations in the complaint.

- E. Findings of Fact and Conclusions of Law. After a review of the report of investigation and agency position statement submitted by the bureau, the Associate CHCO (Civil Rights and Diversity), will issue the decision on the merits of the complainant's allegations. The Associate CHCO (Civil Rights and Diversity), shall notify the complainant of the results of the investigation in a decision letter containing findings of fact, and conclusions of law; a description of the remedy for each violation found, if any; and a notice of the right to appeal if applicable.
 - F. Cooperation Required. Agency employees are required to cooperate in the investigation and attempted resolution of complaints. Employees who are required to participate in any investigation shall do so as part of their official duties and during the course of regular duty hours.
 - G. Settlement Agreements. If a complaint is resolved informally, the terms of the agreement shall be reduced to writing and made part of the complaint file, with a copy of the agreement provided to the complainant. The written agreement shall describe the subject matter of the complaint and any action/s to which the parties have agreed. Settlement agreements must be approved by the Office of General Counsel or appropriate bureau counsel.
 - H. Appeals. Appeals must be filed by the complainant within 60 days of the receipt of the letter of findings. OCRD may extend this time for good cause. Timely appeals shall be accepted and processed by the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer, or his or her designee, who will issue the final decision.
11. AUTHORITY. This issuance is being issued pursuant to Treasury Directive 12-41 §(b)(4).
12. OFFICE OF PRIMARY INTEREST. Office of the Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer; Office of Civil Rights and Diversity.

Mariam G. Harvey
Acting Deputy Assistant Secretary for Human
Resources and Chief Human Capital Officer