

DHSES Non-Employee Discrimination Complaint Policy

It is the policy of the State of New York to provide for and promote equal opportunity in employment and equal access to all programs and services without discrimination on the basis of age, race, color, national origin, sex, sexual orientation, gender identity, creed, military status, disability, marital status, domestic violence victim status, predisposing genetic characteristics, arrest record, previous conviction record, and any other status or condition protected by law.

The Division of Homeland Security and Emergency Services (DHSES) complies with State and federal civil rights laws and is committed to providing its programs and services without discrimination in accordance with:

- *New York State Human Rights Law*, which prohibits discrimination on the basis of age, race, color, national origin, sex, sexual orientation, gender identity, creed, military status, disability, marital status, domestic violence victim status, predisposing genetic characteristics, arrest record, previous conviction record, and any other status or condition protected by law.
- *Executive Order 187: Ensuring Diversity and Inclusion and Combating Harassment and Discrimination in the Workplace*, which provides the Governor's Office of Employee Relations (GOER) shall be responsible for conducting all investigations into employment-related discrimination complaints filed by employees, contractors, interns or other persons engaged in employment at Affected State Agencies.
- *Title VI of the Civil Rights Act of 1964*, which prohibits discrimination based on race, color, or national origin (including language).
- *Section 504 of the Rehabilitation Act of 1973*, which prohibits discrimination based on disability.
- *Title IX of the Education Amendments Act of 1972*, which prohibits discrimination based on sex in education programs or activities.
- *Age Discrimination Act of 1975*, which prohibits discrimination based on age.
- *U.S. Department of Homeland Security regulation 6 C.F.R. Part 19*, which prohibits discrimination based on religion in social service programs.

It is against the law for DHSES to retaliate against anyone who takes action to oppose discrimination, files a grievance, or participates in the investigation of a grievance in accordance with the above authorities.

How to File a Complaint

If you think that DHSES has failed to provide these services or discriminated in another way based on age, race, color, national origin, sex, sexual orientation, gender identity, creed, military status, disability, marital status, domestic violence victim status, predisposing genetic characteristics, arrest record, previous conviction record, and any other status or condition protected by law, you may submit a complaint through the online portal or by mail, or email with: The Governor's Office of Employee Relations, Anti-Discrimination Unit.

Members of the public, employees, contractors, or interns should use this form to file a discrimination complaint against or on behalf of a NYS employee.

Online: <https://antidiscrimination.goer.ny.gov> (fastest method to submit your complaint)

E-mail: antidiscrimination@goer.ny.gov

U.S. Mail:

Governor's Office of Employee Relations Anti-Discrimination Investigations Division
Empire State Plaza
Agency Building 2
Albany, New York 12223

For additional information: <https://goer.ny.gov/anti-discrimination-investigations>

Telephone: 518-474-1920

Alternatively, members of the public or grant recipients may submit a complaint to DHSES directly.

Online: (link to the complaint form)

Complaint forms in the following languages can be found here: [Anti-Discrimination Investigations | Office of Employee Relations \(ny.gov\)](#)

- العَرَبِي (Arabic)
- বাংলা (Bengali)
- 繁體中文 (Traditional Chinese)
- Traduction française (French)
- Tradiksyon kreyòl ayisyen (Haitian Creole)
- Traduzione italiana (Italian)
- 한국어 번역 (Korean)
- Polski (Polish)
- Перевод на русский язык (Russian)
- Traducción al español (Spanish)
- اردو (Urdu)
- אידיש (Yiddish)

If you need assistance completing the forms or need the form in a different format, please contact DHSES via email or telephone.

Email: diversityandinclusion@dhses.ny.gov

U.S. Mail:

Division of Homeland Security and Emergency Services
ATTN: Director of Human Resources
1220 Washington Ave.
Building 7A
Albany, NY 12226

Telephone: (518) 486-5700

Additional information can be found here: (link to Non-Employee Discrimination Complaint Policy)

You can also file a civil rights complaint with the U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL):

E-mail: CRCLCompliance@hq.dhs.gov (fastest method to submit your complaint)

Fax: 202-401-4708

U.S. Mail:

U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties Compliance Branch
Mail Stop #0190
2707 Martin Luther King, Jr. Ave.
SE Washington, D.C. 20528

For additional information: www.dhs.gov/crcl

Phone: 202-401-1474 Toll-Free: 1-866-644-8360

****Complaints must be filed no later than 180 days after the date of the alleged discrimination.****

Complaint Processing

1. Complainants should email completed complaint forms to DHSES at diversityandinclusion@dhses.ny.gov or send via U.S. mail to the address above. This email box is monitored by multiple individuals. Staff with access to the email box will check it at least once a day, Monday through Friday between the hours of 8:00 am and 5:00 pm.
 - Emailed complaints and those received via U.S. mail will be immediately forwarded to the Director of Human Resources for appropriate handling.
 - The Director of Human Resources or their designee will send a notice of receipt to the complainant within three business days in the same manner in which the complaint was received.
 - Within five business days of receipt, the Director of Human Resources or their designee will review the complaint for completeness and to determine the nature of the complaint.
 - If not already known, the Director of Human Resources or their designee will contact the complainant to determine whether or not they have already filed a complaint with another agency (e.g., ADID, CRCL, DHR, EEOC).
 - If the complaint is complete and no additional information is needed, the Director of Human Resources or their designee will process in accordance with the correct administrative course of action:
 - If the nature of the complaint is discrimination, the Director of Human Resources or their designee will forward the complaint to the Governor’s Office of Employee Relations – Anti-Discrimination Investigations Division (ADID) in

accordance with NYS policy. Additional information regarding the ADID process can be found here: <https://goer.ny.gov/anti-discrimination-investigations>.

- If the nature of the complaint is a human resources issue, the matter will be handled internally by DHSES HR/LR as appropriate.
2. Individuals may also contact DHSES by telephone at (518) 486-5700 to submit a complaint verbally. The Director of Human Resources or their designee will handle all complaint-related calls. An individual may choose to call to submit a complaint for several reasons:
- The Individual is in need of an accommodation (e.g. form in bigger print, limited English proficiency);
 - The individual does not have a computer or internet access; or
 - Difficulty reading or writing.
 - If the individual needs an accommodation, the Director of Human Resources or their designee can offer to email the complainant a form that meets their needs (language, size, etc.) or direct them to the multi-language forms on the ADID website. If the individual's needs are met, they can then submit the form via email and it will be handled in accordance with section 1.
 - If the individual's needs are not met or if they need assistance filling out the form, the Director of Human Resources or their designee will fill out the form for the individual over the phone.
 - If there is a need for interpretive services, the Director of Human Resources or their designee will call the language translation phone number to assist the individual in their preferred language per DHSES Language Access Policy.
 - The Director of Human Resources or their designee will use the online form on the ADID website so that the complaint will be submitted to ADID directly. DHSES will take no further action once the complaint is submitted.
 - The Director of Human Resources or their designee will explain the ADID process to the individual and let them know all future contact regarding the matter will be from ADID.
3. All complaints will be logged in spreadsheet maintained by the Director of Human Resources or their designee. Each complaint should be assigned a unique identification number in order to protect the identity and privacy of the complainant.

Investigation

Once the matter is forwarded to ADID, DHSES is not involved in the investigation. ADID will contact the complainant directly as part of its investigation. When ADID completes its investigation, a report of findings is sent to DHSES. DHSES reviews and makes recommendations based on ADID's findings. ADID contacts the complainant to let them know the investigation is closed and whether the complaint was substantiated.

Subrecipient Procedures

The following language excerpts are communicated to entities receiving funding from DHSES through request for applications (RFA) and contract documents, both of which are publicly posted or available, regarding nondiscrimination. DHSES staff do fiscal and program monitoring visits of subrecipients routinely to review compliance with program requirements. If subrecipients are found to be noncompliant with nondiscrimination practices, the contract can be canceled, terminated or suspended and the subrecipient may be deemed ineligible for future funding opportunities.

RFA Language

All qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the applicant and subrecipients will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Contract Language

- I. Non-Discrimination Requirements: Pursuant to Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional nondiscrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that the Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under the Contract. The Contractor shall be subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 of the Labor Law.

3. The Contractor shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

5. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

6. The Contractor shall have institutional policies or practices that address harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sexual orientation, gender identity, military status, sex, marital status, disability, or other protected basis.

b. The Contractor to the subject contract (the Contractor and the Contract, respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the DHSES, to fully comply and cooperate with the DHSES in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (EEO) and contracting opportunities for certified minority and women-owned business enterprises (MWBES). Contractors demonstration of good faith efforts pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the Human Rights Law) or other applicable federal, state or local laws.

i. Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

e. Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non- discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic

characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts. (b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status. (c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein. (d) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional nondiscrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and skeleton for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government Agreements or federally assisted construction Agreements in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

Any discrimination complaints can be referred to DHSES through the processes outlined in sections 1 and 2 of the DHSES Non-Employee Discrimination Complaint Policy. Going forward, DHSES will include language in subrecipient contracts that explicitly states the complaint referral requirements and process.