**Discrimination Complaint Procedures**

**Appendix I**

**Sample complaint investigation plans**

**COMPLAINT INVESTIGATION PLAN (Disparate treatment)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Complainant:

Respondent:

Date of alleged act of discrimination:

Date written complaint filed:

Acceptance letter issued on:

Interrogatories to the Complainant and Respondent issued:

Due date for responses:

Issue(s):

Basis:

Legal Theory:

Statute/Regulations:

To demonstrate a *prima facie* case of discrimination in the denial of federally-funded services, benefits, training, aid, or jobs, the Complainant must demonstrate: (1) s/he is a member of a protected class (*e.g.,* gender, age, disability, national origin); (2) s/he sought to apply, or applied, for services, aid, training, benefits, or job; and (3) Respondent denied the Complainant access to apply, or denied the Complainant’s application for services, aid, training, benefits, or job. The burden then shifts to Respondent to articulate legitimate, nondiscriminatory reasons for denial of the Complainant’s application (*e.g.,* the Complainant was not qualified for the job, or did not meet the essential eligibility requirements for the services, aid, training, or benefits). Finally, the burden shifts back to the Complainant to establish that Respondent’s proffered reasons are pretextual and that the actual reason for the adverse action stemmed from discrimination on a prohibited basis.

Elements of proof Information Information Sources

on file needed

|  |  |  |  |
| --- | --- | --- | --- |
| The Complainant is a member of a protected class (*e.g.,* gender, age, disability)  The Complainant sought to apply, or applied, for services, aid, training, benefits, or job  The Complainant met the essential eligibility requirements for the services, aid, training, benefits, or met the *bona fide* occupational requirements for the job  Respondent denied the Complainant’s access to apply, or application, for services, aid, training, benefits, or job  Denial of the Complainant’s access to apply, or application, for services, aid, training, benefits, or job stemmed from discrimination on a prohibited basis (*e.g.,* Respondent did not demonstrate legitimate, nondiscriminatory reasons for its conduct, or proffered reasons were pretextual). |  |  |  |

**COMPLAINT INVESTIGATION PLAN**

**(reasonable accommodation - disability)**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Complainant:

Respondent:

Date of alleged act of discrimination:

Date written complaint filed:

Acceptance letter issued on:

Interrogatories to the Complainant and Respondent issued:

Due date for responses:

Issue(s):

Basis:

Legal Theory:

Statute/Regulations:

To demonstrate a *prima facie* case of discrimination in the denial of federally-funded services, benefits, training, aid, or jobs under the “reasonable accommodation” legal theory, the Complainant must demonstrate: (1) s/he is an “individual with a disability”; (2) s/he is a “qualified” individual with a disability; (3) the Complainant sought to apply for, or applied for, services, aid, training, or benefits at issue; (4) the Complainant requested accommodation in writing or verbally; and (5) Respondent did not provide/offer effective accommodation.

The burden then shifts to Respondent to proffer legitimate, nondiscriminatory reasons for its failure or refusal to offer the requested “accommodation” (*e.g.,* whether Respondent offered another “effective” accommodation that was refused by the Complainant, undue hardship). The Complainant then has the opportunity to demonstrate that Respondent’s proffered reasons are pretextual and that prohibited discrimination occurred.

Elements of proof Information Information Sources

on file needed

|  |  |  |  |
| --- | --- | --- | --- |
| The Complainant is an “individual with a disability” (*e.g.,* the disability “substantially limits a major life activity”)  The Complainant is a “qualified” individual with a disability  (*e.g.,* the Complainant meets the *bona fide occupational qualifications* for the job, or meets the *essential eligibility requirements* for the aid/training/benefit/service at issue even without the requested accommodation)  The Complainant sought to apply, or applied, for specific aid/training/benefit/service/job  The Complainant requested “reasonable accommodation” in writing or verbally (need not use words “reasonable accommodation”)  Respondent proffers legitimate, nondiscriminatory reasons for its failure or refusal to offer the requested “accommodation”  (*e.g.,* whether Respondent offered another “effective” accommodation that was refused by the Complainant, undue hardship)  Complainant demonstrates that Respondent’s proffered reasons are pretextual |  |  |  |

**COMPLAINT INVESTIGATION PLAN**

**(reasonable modification - religion)**

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Complainant:

Respondent:

Date of alleged act of discrimination:

Date written complaint filed:

Acceptance letter issued on:

Interrogatories to the parties issued:

Due date for responses:

Issue(s):

Basis:

Legal Theory:

Statute/Regulations:

To demonstrate a *prima facie* case of discrimination in the denial of federally-funded services, benefits, training, aid, or jobs under the “reasonable modification” legal theory, the Complainant must demonstrate: (1) s/he has a *bona fide* religious belief or practice; (2) the Complainant sought to apply, or applied, for the service, aid, training, benefit, or job at issue (3) the Complainant meets the *bona fide occupational qualifications* for the job, or *essential eligibility requirements* for the aid, training, benefit, or service at issue even without the requested modification; (4) the Complainant requested “reasonable modification” in writing or verbally; and (5) Respondent did not provide or offer effective modification.

The burden then shifts to Respondent to proffer legitimate, nondiscriminatory reasons for its failure or refusal to offer the requested “modification” (*e.g.,* whether Respondent offered another modification that was refused by the Complainant, undue hardship). The Complainant then has the opportunity to demonstrate that Respondent’s proffered reasons are pretextual and that prohibited discrimination occurred.

Elements of proof Information Information Sources

on file needed

|  |  |  |  |
| --- | --- | --- | --- |
| The Complainant has a *bona fide* religious belief or practice  The Complainant meets the *bona fide occupational qualifications* for the job, or *essential eligibility requirements* for the aid/training/benefit/ service at issue even without the requested modification  The Complainant sought to apply, or applied, for the service, aid, training, benefit, or job at issue  The Complainant requested “reasonable modification” in writing or verbally  Respondent proffers legitimate, nondiscriminatory reasons for its failure or refusal to offer the requested “modification”  (*e.g.,* another “effective modification” was offered and rejected, undue hardship)  Complainant demonstrates that Respondent’s proffered reasons are pretextual |  |  |  |