

MEMORANDUM OF UNDERSTANDING

BETWEEN

IDAHO HUMAN RIGHTS COMMISSION

and

**UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION-RELATED
UNFAIR EMPLOYMENT PRACTICES**

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 26 day of April, 2013, by and between the Idaho Human Rights Commission (hereinafter identified as "IHRC") and the Office of Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter identified as "OSC") of the Civil Rights Division, U.S. Department of Justice.

I. BACKGROUND

1. On September 6, 1989, IHRC and OSC entered into an Agreement regarding the cross-referral of cases. This Memorandum of Understanding supersedes that agreement and reaffirms the agencies' desire to minimize duplication of effort and ensure the proper cross-referral of cases.
2. IHRC, a designated fair employment practice agency under section 706(c) of Title VII of the Civil Rights Act of 1964, is charged with enforcing the provisions of the Idaho Commission on Human Rights Act that prohibit employment discrimination on the basis of the following categories, either actual or perceived: race, color, religion, sex, national origin, age or disability. Individuals or entities that employ five or more employees are prohibited from using such a basis in consideration of employment and discharge. Employers are further prohibited from using such a basis to discriminate against an individual with respect to compensation or the terms, conditions, or privileges of employment. The Idaho Commission on Human Rights Act also protects individuals from retaliation for engaging in protected activities.
3. OSC is charged with the enforcement of the anti-discrimination provision of the Immigration and Nationality Act ("INA"), codified at 8 U.S.C. § 1324b, which prohibits (1) covered persons or entities that employ four or more employees from using citizenship status in consideration of hiring, firing, or recruitment or referral for a fee; (2) covered persons or entities that employ four to fourteen employees from using national origin in consideration of hiring, firing, or recruitment or referral for a fee; (3) covered persons or entities that employ four or more employees from engaging in unfair documentary practices in the employment eligibility verification process on the basis of citizenship status or national origin, and (4) covered persons or entities that employ four

or more employees from retaliation for engaging in protected activity relating to the rights and privileges secured under 8 U.S.C. § 1324b.

4. Title 67, Chapter 59 of the Idaho Statutes requires aggrieved parties to file charges of discrimination with the IHRC within one year of the alleged unlawful discrimination. OSC requires charges of discrimination to be filed within 180 days of the last alleged act of discrimination.

II. PURPOSE OF MEMORANDUM OF UNDERSTANDING

1. The purpose of this Memorandum of Understanding is to minimize the duplication of efforts by IHRC and OSC, and to ensure that matters within the jurisdiction of each agency are referred to the other agency.
2. IHRC and OSC hereby appoint each other to act as their respective agents for the sole purpose of accepting charges that fall within each other's jurisdiction in order to toll the statutory time limits for filing charges. To ensure that filing deadlines are satisfied, each agency will accurately record the date of receipt of charges, and notify the other agency of the date of receipt when referring a charge.

III. REFERRAL OF CHARGES

1. When, during the processing of a charge by either agency, it becomes apparent to the agency processing the charge that the charge or any aspect of the charge falls within the jurisdiction of the other agency, the agency processing the charge will, to the extent permitted by applicable law and to the extent the charge has not already been filed with the other agency, refer the charge to the other agency by forwarding a copy of the charge to the other agency as soon as possible. To the extent permitted under applicable law, each agency will forward the other agency copies of all relevant documents related to the charge. The referral agency processing the charge will notify the charging party of the referral.
2. For the purpose of coordinating the referral of charges, each agency shall designate a senior-level point of contact responsible for the agency's investigative and enforcement matters.
3. Referrals to be made by IHRC include categories of discrimination listed in Section 1, Paragraph 2 of this document.
4. Referrals to be made by OSC include categories of discrimination listed in Section 1, Paragraph 3 of this document.
5. Where a charge that is referred falls within the jurisdiction of the referring agency, the agencies shall coordinate the investigation of the charge as set forth in Section IV.
6. All charge referrals shall be addressed to the designated point of contact and be sent to the other agency in the manner requested.

IV. COORDINATION OF INVESTIGATIONS

If the agency referring the charge has retained jurisdiction over any aspect of the charge, both agencies will coordinate their respective investigations to the maximum extent practicable, and will share, to the extent permitted under applicable law, information so as to minimize duplication of efforts. Investigators from each agency assigned to the charge may communicate directly on matters related to the charge.

V. TRAINING AND TECHNICAL ASSISTANCE

1. To the extent reasonably practicable, and at such times and places as might be mutually agreeable, each party to this Memorandum of Understanding will offer to the other such training and technical assistance to assist each party to better understand the policies, procedures, and law governing the enforcement activities of the other party.
2. IHRC may obtain telephonic technical assistance and guidance from OSC by calling 1-800-255-8155 between the hours of 9:00 a.m. - 5:00 p.m. (ET), Monday-Friday (excluding holidays), or by submitting a written request by mail, facsimile, or email.
3. OSC may obtain telephonic technical assistance and guidance from IHRC by calling (208) 334-2873 between the hours of 8:00 a.m. - 5:00 p.m. (MT), Monday - Friday (excluding holidays) or by submitting a written request by mail, facsimile, or email.

VI. NO DIMINUTION OF AGENCY AUTHORITY

Nothing in this Memorandum of Understanding diminishes either agency's authority to investigate and prosecute charges that fall within the coverage of its enabling statute.



Pamela Parks
 Administrator
 Idaho Commission on
 Human Rights



Seema Nanda
 Deputy Special Counsel
 Office of Special Counsel for Immigration-
 Related Unfair Employment Practices