

Questions and Answers for Complaints Alleging Violations of Title VI of the Civil Rights Act of 1964



Federal Highway Administration

Office of Civil Rights

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Question 1: What are the Laws, Regulations, and Guidance that govern administrative complaints under Title VI of the Civil Rights Act of 1964?

The Federal Highway Administration (FHWA) Title VI Program is governed by several authorities. First, [Title VI of the Civil Rights Act of 1964 \(42 U.S.C. 2000d\)](#) provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The U.S. Department of Justice (DOJ), as the Federal government’s coordinating agency for Title VI, implemented its Title VI program in 28 CFR Part 42 and issued complaint-related guidance in two main documents: the [Title VI Legal Manual](#) and the [Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes](#).

The U.S. Department of Transportation (DOT) implemented its Title VI program in [49 CFR Part 21](#). Specific provisions regarding the investigation of complaints are found at 49 CFR § 21.11. The FHWA follows the DOT regulations and USDOJ Title VI Manuals. Further, FHWA’s regulations at 23 CFR §200.9(b)(3) direct State Departments of Transportation (State DOTs) to develop procedures for processing Title VI complaints filed with State DOTs against their Federal-aid highway Subrecipients. The FHWA’s complaint investigation procedures are contained in its [Procedures Manual for Processing External Complaints of Discrimination](#).

Question 2: What are the procedures for filing a Title VI complaint?

Question 2a: Who can file? Any person who believes they—or with a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of a Federal-aid Recipient may file a Title VI complaint.

Question 2b: Where can one file? Complaints may be filed with a Recipient State DOT, Subrecipient (e.g., city, Metropolitan Planning Organization), FHWA Division Offices, the FHWA Headquarters Office of Civil Rights, the USDOT Departmental Office of Civil Rights, or the USDOJ.

Question 2c: When must one file? According to USDOT regulations, 49 CFR §21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the investigating agency.

Question 2d: What should a complaint look like? Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the agency and provide the allegations by telephone, and the agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain at least the following information:

- A written explanation of what has happened;

- A way to contact the complainant;
- The basis of the complaint (e.g., race, color, national origin);
- The identification of a specific person/people and the respondent (e.g., agency/organization) alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s). Please indicate if the alleged discrimination is on-going.

Question 2e: How are complaints routed? Division Offices do not investigate Title VI complaints. Likewise, State DOTs (like all Recipients, including Subrecipients) do not investigate complaints filed against themselves. If a complaint is filed against a State DOT, then it will be forwarded to the FHWA Division Office, which will forward the complaint to the FHWA Headquarters Office of Civil Rights (HCR) for processing and potential investigation. If a complaint is filed against a Subrecipient to the State DOT, then the State DOT may process and investigate the complaint, or the State DOT may refer it to HCR for investigation. If a FHWA Division Office receives a complaint against a State DOT or a Subrecipient, then it will refer the complaint to HCR for processing and investigation. Complaints may be sent to:

Postal Mail	Federal Highway Administration U.S. Department of Transportation Office of Civil Rights 1200 New Jersey Avenue, SE 8th Floor E81-105 Washington, DC 20590
Email	CivilRights.FHWA@dot.gov
Fax	202-366-1599
Questions?	202-366-0693

Question 3: How do Agencies process complaints they receive?

Whenever possible, the investigative agency (Agency) will first send the complainant an acknowledgement letter, stating that it is in receipt of the complaint. Next, the Agency will determine whether the complaint should be accepted, referred, or dismissed. There is no statutory or regulatory timeframe for making this decision, and it is highly fact-sensitive.

Question 4: What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

1. Accept: if a complaint is filed within 180 days (or the Agency grants the complainant a waiver) (49 CFR §21.11(b)), contains sufficient information to allege a prima facie case under Title VI, and concerns matters under the Agency's jurisdiction, then the Agency will send the complainant, the respondent, and the FHWA Division a written notice that it has accepted the complaint for investigation.
2. Preliminary review: if it is unclear whether the complaint alleges a prima facie case, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent.
3. Procedural Dismissal: if a complaint is not filed within 180 days (and FHWA does not grant a waiver of the filing deadline), is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division a notice that it is dismissing the complaint.
4. Referral\Dismissal: if the complaint is procedurally sufficient but the Agency (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the public entity, then the Agency will either dismiss the complaint or refer it to another agency that does have jurisdiction. If the Agency dismisses, it will send the complainant, respondent, and FHWA Division a copy of the dismissal notice. For referrals, the Agency will send a referral notice with a copy of the complaint to its Title VI counterparts at the proper agency and a copy to the USDOT Departmental Office of Civil Rights.

Question 5: What are the timeframes for investigations?

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance.

For State DOTs, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days from receipt.

Question 6: How do Investigating Agencies gather information?

There are no regulatory requirements for how Agencies gather information, but Recipients are required to keep detailed records on how they comply with Title VI and to provide Investigating Agencies with access to documents and persons with relevant information. 49 CFR §21.9. In addition, Agencies should follow the USDOJ's Complaint Investigation Procedures Manual, which contains comprehensive guidance on how to conduct investigations. Typically, Agencies will first send the Respondent a Request for Information and Position Statement (RFI) to gather initial documents. Concurrently, Agencies will request documents and information from the complainant, schedule interviews with relevant parties, and conduct site visits as necessary.

Question 7: Once an Agency starts an investigation, what are the potential outcomes?

First, at any time during the investigation, the Agency or the Respondent may initiate informal negotiations to resolve the Complainant's issues. The FHWA always strives to resolve Title VI complaints informally.

In the absence of such negotiations, Agencies will draft an Investigative Report (IR). The IR will contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. Note that if the Agency is a State DOT investigating its Subrecipient, then the Agency will send the completed IR to the FHWA Division Office, and HCR will determine the proper course of action as described below. There are five potential outcomes for concluding an investigation:

1. The Agency makes a finding of no violation.
2. If, by a preponderance of evidence, the Agency determines the Respondent has failed to comply with Title VI requirements, or threatens to fail to comply by action or inaction, then the Agency will inform the Respondent and the matter will be resolved by informal means whenever possible.
 - If the Agency informally resolves the matter with the Respondent by agreement, then it will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the Agency's satisfaction, then the complaint will be dismissed with the matter resolved.
 - If the Agency cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then the Agency may issue a formal Letter of Finding (LOF), stating that the recipient is in noncompliance with its Title VI obligations.
3. If the Agency issues a LOF to the respondent, the LOF will request that the respondent provide to the Agency, within 90 days, an action plan that implements the recommendations in the LOF.
4. If the Agency approves the action plan, then the respondent will be given a reasonable amount of time to implement the plan. At the end of the implementation period, the Agency will assess whether the respondent has sufficiently corrected the deficiencies.
5. If the Agency does not approve the action plan, or the respondent is nonresponsive/uncooperative, then the Agency may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or referral to USDOJ for enforcement.
 - If USDOT seeks to suspend or terminate funds, it must provide the Respondent with an opportunity for a hearing on the record. If the Secretary determines that the Respondent has not complied with Title VI and voluntary compliance cannot be secured, USDOT must notify Congress before that finding goes into effect. 49 CFR §21.13(c).

The LOFs issued by FHWA are administratively final, and LOFs issued by a State DOT against a sub-recipient are administratively final.

DEFINITIONS

Agency (capitalized) means the Recipient or Federal entity that is responsible for investigating complaints of discrimination under Title VI of the Civil Rights Act of 1964.

Complainant means the person or persons who have filed a Title VI complaint alleging discrimination by a Recipient.

Federal financial assistance and Federal-aid (49 CFR §21.23(c)) includes:

- (1) Grants and loans of Federal funds;
- (2) The grant or donation of Federal property and interests in property;
- (3) The detail of Federal personnel;
- (4) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and
- (5) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

“Program” or “activity and program” (49 CFR §21.23(e)) mean all of the operations of any of the following entities, any part of which is extended Federal financial assistance:

- (1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or
 - (ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;
- (2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or
 - (ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;
- (3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—
 - (A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or
 - (B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or
 - (ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or
- (4) Any other entity which is established by two or more of the entities described above.

Recipient (49 CFR §21.23(f)) may mean any State, territory, possession, the District of Columbia, or Puerto Rico, or any political subdivision thereof, or instrumentality thereof, any public or private agency, institution, or organization, or other entity, or any individual, in any State, territory, possession, the District of Columbia, or Puerto Rico, to whom Federal financial assistance is extended, directly or through another recipient, including any successor, assignee, or transferee thereof, but such term does not include any ultimate beneficiary.

Respondent means the Recipient against which a complaint of discrimination has been filed.