

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 Transportation (USDOT) 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 USDOT regulations. 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.

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

Question 2a: Who can file? Any person who believes they—or 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 primary Recipient of Federal financial assistance (e.g. State DOT) or Subrecipient (e.g., a city, county, Metropolitan Planning Organization, etc., that receives Federal financial assistance through a primary Recipient) may file a Title VI complaint.

Question 2b: Where can one file? Complaints related to the Federal-aid highway program may be filed with a Recipient State DOT, FHWA Division Office, the FHWA Headquarters Office of Civil Rights (HCR), 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 processing 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 receiving agency and provide the allegations by telephone, and the agency should 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 the following information:

- A written explanation of the alleged discriminatory actions;
- The complainant’s contact information, including, if available: full name, postal address, phone number, and email address;
- The basis of the complaint (e.g., race, color, national origin);

- The names of specific persons and respondents (e.g., agencies/organizations) 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) and whether the alleged discrimination is on-going.

Question 2e: How are complaints routed? First, FHWA notes that FHWA Division Offices do not investigate Title VI complaints. Likewise, Recipients, such as State DOTs, and Subrecipients do not investigate complaints filed against themselves. **Finally, FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.**

With this understanding, complaints should be routed in the following ways:

- All complaints should be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against State DOTs or Subrecipients of Federal financial assistance.
- Complaints should be forwarded from the initial receiving agency through the Federal-aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with a Subrecipient City, that receiving agency should forward the complaint to the State DOT, which should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR. If a complaint is filed with a State DOT, then the State DOT should forward the complaint to the State's FHWA Division Office, which should forward the complaint to HCR.
- State DOTs and Subrecipients must log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, State DOT, and Subrecipient (where applicable).

Complaints may also be sent to HCR directly at:

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: What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

1. **Accept:** if a complaint is timely filed (see Question 2c, above), contains sufficient information to support a claim under Title VI, and concerns matters under FHWA’s jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
2. **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
3. **Procedural Dismissal:** if a complaint is not timely filed (see Question 2c, above), is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
4. **Referral\Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

The HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient, HCR may either conduct the investigation itself, or it may delegate the investigation to the primary Recipient State DOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the complainant and respondent, but the State DOT will conduct all data requests, interviews, and analysis.

The State DOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI

Question 4: 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 that have been delegated an investigation from FHWA, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

Question 5: How do Investigating Agencies gather information?

There are no regulatory requirements for how information is gathered, but State DOTs and Subrecipients are required to keep detailed records on how they comply with Title VI and to provide USDOT with access to documents and persons with relevant information. 49 CFR §21.9. Typically, the respondent will receive at least one Request for Information and Position Statement (RFI) to gather documents, and additional requests if necessary. Concurrently, the HCR or State DOT investigator will schedule interviews with relevant parties and conduct site visits as necessary.

Question 6: Once FHWA starts an investigation, what are the potential outcomes?

First, at any time during the investigation, either FHWA or the respondent may initiate informal negotiations to resolve the issues. The FHWA always strives to resolve Title VI complaints informally, if possible.

In the absence of such negotiations, HCR (or an investigator State DOT) will draft a Report of Investigation, which should contain all relevant data and findings, with legal conclusions and potentially include recommendations for action. **FHWA is responsible for the final disposition of all complaints, including initiation and conduct of informal negotiations and the issuance of Letters of Finding (LOFs).**

There are five potential outcomes for concluding an investigation:

1. The FHWA makes a finding of no violation and the case will be closed with no further action. The FHWA will issue an LOF stating in sufficient detail the reasons for the determination of no violation.

2. If, by a preponderance of the evidence, FHWA determines the respondent has failed to comply with its Title VI requirements or threatens to fail to comply by action or inaction, then FHWA will inform the respondent and the matter will be resolved by informal means whenever possible.
 - If FHWA informally resolves the matter with the respondent by agreement, then FHWA will hold the complaint in abeyance until the respondent completes its corrective actions. If the corrective actions are completed to the FHWA's satisfaction, then the complaint will be dismissed with no further action.
 - If FHWA cannot informally resolve the matter or the respondent does not complete agreed upon corrective actions, then FHWA may issue a LOF stating that the Recipient is in noncompliance with its Title VI obligations.
3. If FHWA issues a LOF of noncompliance to the respondent, the LOF will request that the respondent provide to FHWA, within 90 days, an action plan that implements the recommendations in the LOF.
4. If FHWA 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, FHWA will assess whether the respondent has sufficiently corrected the deficiencies.
5. If FHWA does not approve the action plan, or the respondent is nonresponsive/uncooperative, then FHWA may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or any other means authorized by law such as 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 of Transportation 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).

All LOFs issued by FHWA are administratively final.

DEFINITIONS

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)) means 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.