

## FORMAL TITLE VI COMPLAINT PROCEDURE

The North Dakota Department of Transportation's Title VI Policy, as outlined in its Title VI and Nondiscrimination Program, assures that no person or groups of persons shall, on the grounds of race, color, sex, age, national origin, and handicap or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs, services, or activities administered by the department, its recipients, subrecipients, and contractors. In addition, Executive Order 12898 (Environmental Justice) prohibits discrimination based on income status.

The department uses the following detailed, internal procedures for prompt processing and resolution of all Title VI complaints received directly by any of its divisions or districts having responsibilities under Title VI and the related nondiscrimination statutes. These procedures include but are not limited to:

1. Any person or groups of persons who believe they have been aggrieved by an unlawful discriminatory practice under Title VI may individually, or through a legally authorized representative, make and sign a complaint and file the complaint with the North Dakota Department of Transportation Title VI Liaison Officer. Allegations received do not have to use the key words "complaint," "civil rights," "discrimination," or their near equivalents. It is sufficient if such allegations imply any form of unequal treatment in one or more of the department's programs for it to be considered and processed as an allegation of a discriminatory practice.
2. The complaint must be filed, in writing, no later than 180 calendar days after the date of the alleged discrimination. The department's Title VI Complaint Form (SFN 51795) must be used.
3. Upon receipt of a Title VI complaint, the Title VI Liaison Officer immediately advises the department Director of the complaint. The Director confers with the appropriate Deputy Director, appropriate Office Director, and the Title VI Liaison Officer to determine a course of action. Possible courses of action may include but are not limited to:
  - a. Title VI complaints filed against the department are referred to the Federal Highway Administration (FHWA) Division Office for processing.
  - b. Title VI complaints filed against department recipients and subrecipients (e.g., contractors, subcontractors, material and equipment suppliers, lessors, vendors, consultants, fee appraisers, universities, etc.) are processed and resolved by the department through:

- (1) Remedial action by department management.
  - (2) Formal investigation by a team of department investigators.
  - (3) Formal investigation by an outside investigator.
  - (4) Informal hearing with all parties to the complaint present.
- c. The Director reviews and determines the appropriate action regarding every complaint. The department will not proceed with or continue a complaint investigation if:
- (1) The complaint is, on its face, without merit.
  - (2) The same allegations and issues of the complaint have been addressed in a recently closed investigation or by previous federal court decisions.
  - (3) The complainant's or injured party's refusal to cooperate (including refusal to give permission to disclose his or her identity) has made it impossible to investigate further.
- d. If an investigation is to be initiated, the Director designates a specific Deputy Director to whom the investigation team will report in order to facilitate communication with the Director. The Deputy Director and Office Director confer with the Title VI Liaison Officer and Legal Counsel to establish guidelines for the investigation team. The Title VI Liaison Officer is instructed to appoint a team leader and an on-call team member to conduct the investigation. The team leader apprises the Deputy Director of the team's progress throughout the investigation.
- e. The team leader determines the timeframe in which the investigation should be completed based on the date the complaint was filed. The entire investigation process, including the submission of a final disposition report to the FHWA Division Office, is to be carried out in a period not to exceed sixty (60) calendar days from the date the original complaint was received by the department.
- f. Generally, the Title VI Liaison Officer acknowledges receipt of the allegation(s) within ten (10) working days. A notification letter is sent to the complainant of the action taken or proposed action to be taken to process the allegation(s), and the complainant is advised of other avenues of appeal available to them if they do not agree with the decision. The notification letter contains:

- (1) The basis for the complaint.
  - (2) A brief statement of the allegation(s) over which the department has jurisdiction.
  - (3) A brief statement of the department's jurisdiction over the recipient to investigate the complaint; and
  - (4) An indication of when the parties will be contacted.
- g. Depending on the nature of the complaint, the complainant may go to the following:
- (1) Federal Highway Administration (FHWA)
  - (2) U. S. Department of Justice (USDOJ)
- h. The filing of complaints with any of the above agencies must be within the appropriate jurisdictional timeframe. Each agency must be contacted by the complainant for the specific appeal procedure to be followed.
4. The Title VI Liaison Officer also notifies the FHWA Division Office within ten (10) calendar days of receipt of the allegations. Generally, the following information is included in the notification to FHWA:
- a. Name, address, and phone number of the complainant.
  - b. Name(s) and address(es) of persons alleged to have been involved in the act.
  - c. Basis of alleged discrimination (i.e., race, color, sex, age, national origin, handicap, or disability).
  - d. Date of alleged discriminatory act(s).
  - e. Date complaint was received by the department.
  - f. A brief statement concerning the nature of the complaint.
  - g. Other agencies (federal, state, or local) with which the complaint has been filed.
  - h. An explanation of the actions the department has taken or proposes to take to resolve the issues raised in the complaint.

5. The investigation team leader notifies the director/engineer of the division/district in which the problem occurred that a complaint has been received. The team leader identifies the members of the investigation team and accepts relevant comments from the division/district director/engineer.
6. The investigation team conducts an in-depth, personal interview with the complainant(s). Information gathered in this interview includes: identification of each complainant by race, color, sex, age, national origin, and handicap or disability; name of the complainant; a complete statement concerning the nature of the complaint, including names, dates, places, and incidents involved in the complaint; the date the complaint was filed; and any other pertinent information the investigation team feels is relevant to the complaint. The interviews are recorded either on audio tape or by a team member taking notes. The team arranges for the complainant to read, make necessary changes to, and sign the interview transcripts or interview notes.
7. Following the interviews, the team leader develops a final report based on the facts. The report contains the investigation team's findings and conclusions concerning each issue raised in the complaint and may include recommendations for corrective action. The report is completed with the coordination and consultation of the department's General Counsel. The report is the last document prepared as part of the investigation. Any other actions taken as a result of the investigation team's findings and conclusions are the responsibility of department management.
8. Normally, the complainant receives a letter from the Director detailing the findings, conclusions, and any corrective action taken. All issues in the complaint are addressed.
9. The Director forwards the final report to the FHWA Division Office. Included with the report is a copy of the complaint, copies of all documentation pertaining to the complaint, the date the complaint was filed, the date the investigation was completed, the disposition and date of the disposition, and any other pertinent information.
10. If the complaint cannot be resolved by the department to the satisfaction of all parties concerned, the party not satisfied is advised of his or her right to appeal pursuant to Title 49, Code of Federal Regulations, Part 21. The appeal must be filed, in writing, with the Secretary, U. S. Department of Transportation, 400 Seventh Street, Southwest, Washington, D.C. 20590 no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary. A complaint may be filed

with the Secretary, U. S. Department of Transportation, before, during, or after the complaint has been filed with the North Dakota Department of Transportation.

### **INFORMAL TITLE VI COMPLAINT PROCEDURE**

1. Title VI complaints may be resolved by informal means. When informal means are used, the complainant is informed of their right to file a formal written complaint. Such informal attempts and their results are summarized by the program area official or program area manager or designee and forwarded to the Title VI Liaison Officer.
2. Any complaint received in writing is considered to be a formal complaint and is handled under the formal complaint procedure outlined above.
3. The Title VI Liaison Officer periodically informs the FHWA Division Office of the status of all complaints.
4. When a complaint has been directly filed with another federal or state agency, the Title VI Liaison Officer is to be informed by the agency where the complaint has been filed and is to coordinate any action needed by the department to resolve the complaint.