

Reclamation Manual

Directives and Standards

Subject:	Public Civil Rights Complaints
Purpose:	To communicate the Bureau of Reclamation's process for all Public Civil Rights (PCR) complaints of alleged discrimination that are filed against Reclamation, a managing partner, a recipient or sub-recipient, and those State and local entity programs covered by the American with Disabilities Act of 1990 (ADA), as amended, whether or not they receive Federal financial assistance, and for all Federally-conducted programs. The benefits of this Directive and Standard (D&S) are: (1) to ensure programs, services, and activities conducted by or on behalf of and/or funded by Reclamation are carried out in a nondiscriminatory manner; (2) complaints are investigated in a consistent and judicious manner and/or according to the Department of the Interior or other required procedures; and (3) to achieve resolution through voluntary compliance when a violation becomes known.
Authority:	Title VI of the Civil Rights Act of 1964 (Pub. L. 815; 20 USC 236 et seq.), as amended; 28 Code of Federal Regulations (CFR) part 42, subpart F; 43 CFR part 17; Departmental Manual (DM) 205 DM 17; and Department Civil Rights Directive 2011-01 (see Appendix A for additional authorities)
Approving Official:	Director, Policy and Administration
Contact:	Civil Rights Division (CRD), 84-59000

1. **Introduction.** Reclamation must ensure that no person is subjected to discrimination based on race, color, national origin, sex, disability, religion, and sexual orientation and status as a parent, (as they apply), or reprisal in any Federally-assisted or Federally-conducted program. Reclamation must respond to all PCR complaints filed against Reclamation; a managing partner; a recipient or sub-recipient conducting a program, service, or activity on behalf of Reclamation; and for Title II complaints filed against State or local entities for which Reclamation has been assigned. Reclamation will work towards voluntary compliance when violations become known.
2. **Applicability.**
 - A. This D&S applies to Reclamation employees [managing partners, recipient and sub-recipients] involved in managing a Reclamation program, service, or activity.

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- B. This D&S does not address Title VII equal employment opportunity (EEO) discrimination complaint procedures, which is the process used by Federal employees alleging employment-related discrimination issues.¹
3. **Definitions.** The following definitions apply to this D&S:
- A. **Accessible To and Usable By.** A building or facility (or portion thereof) that can be approached, entered, and used independently by persons with disabilities, whether the impairment is mobility, sensory, or cognitive in nature, or a combination thereof.
 - B. **Age.** How old a person is or the number of years from the date of a person's birth. Age is the basis that a person can file an age complaint under the Age Discrimination Act of 1975, as amended (Age Discrimination Act).
 - C. **Age Discrimination Act.** Prohibits discrimination based on age in program or activities receiving Federal financial assistance.
 - D. **Alternative Dispute Resolution (ADR).** A collective term for methods of settling complaints with (or without) the help of a third party (e.g., fact finding, facilitation, and mediation).
 - E. **ADA.** Law ensuring nondiscrimination on the basis of disability in programs, activities, buildings and facilities by private entities, public accommodations, and State and local governments.
 - F. **Applicant.** A person, a group of people, or an agency that seeks some form of eligibility or assistance.
 - G. **Architectural and Transportation Barriers Compliance Board (Access Board).** A board established by Section 502 of the Rehabilitation Act of 1973, as amended, with the authority to enforce the Architectural Barriers Act of 1968 (ABA) in all Federally-funded buildings and facilities, and to research and promulgate guidelines for both ABA and the ADA.
 - H. **ABA.** Law requiring that any facility on Federal property, or any facility leased, rented, built, or modified with Federal funds be accessible to and usable by persons with disabilities.
 - I. **Basis.** As to PCR complaints, alleged discrimination based on race, color, national origin, sex, disability, religion, sexual orientation, status as a parent, (as they apply) and reprisal.

¹See 29 CFR 1614, subpart A, Equal Employment Opportunity Commission (EEOC) Management Directive 110, and the Department's Complaint Processing Handbook.

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- J. **Beneficiary.** An individual and/or entity, a State, and/or local political subdivision of any State, or a public or private agency, an institution, or an organization that directly or indirectly receive benefits through a program or activity receiving Federal financial assistance from Reclamation.
- K. **Complainant.** Any person, or group of persons, who file(s) a complaint that alleges discrimination in a program, service, or activity conducted by Reclamation or against a State or local entities receiving Federal financial assistance from Reclamation.
- L. **Complete Complaint**². A signed document with allegation(s) of discrimination filed within 180 calendar days from the date the incident occurred, (barring extenuating circumstances), and which provides complainant's contact information, identifies the respondent, and provides the allegation(s) of violation(s), including when they occurred.
- M. **Constructed Element.** An architectural or mechanical component of a building, facility, space, or site that is fixed and intended for use by employees or visitors and supports participation in a program or activity.
- N. **Contact.** Documentation of: (1) a person from the public raising a non-discriminatory issue and the issue is addressed outside the investigative process for PCR complaints; (2) jurisdiction complaints received from another agency that were not under the authority or jurisdiction of Reclamation; or (3) request for technical assistance. This list is not all inclusive.
- O. **Disability.** With respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment. This means that the individual has been subjected to an action prohibited by the ADA as amended because of an actual or perceived impairment that is not both "transitory and minor."
- P. **Facility.** All or any portion of a building, structure, site improvement, constructed element, and pedestrian or vehicular way located on a site.
- Q. **Federal Financial Assistance.** Includes, but is not limited to: (1) grants and loans of Federal funds; (2) grants and donations of Federal property and interests in property; (3) details of Federal personnel; (4) sales or leases or permission to use Federal property; (5) cooperative matching funds and reimbursable agreements; and

²According to the Department of Justice (DOJ) *Investigative Procedures Manual for Investigating and Resolution of Complaints Alleging Violations of Title VI and other Nondiscrimination Statutes*, the term "Complete Complaint" originated with the Adams Order in 1977 (see *Adams v. Califano*, 430 F Supp. 118, US District Court DC 1977), which placed certain requirements on the U.S. Department of Education in its civil rights compliance activities. The term is used in the investigative process because it helps convey the concept of what investigators will need to know about a complaint before they can make a number of basic, yet important, decisions.

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(6) research information delivery with population impact. Federal financial assistance includes more than the direct provision of money. Refer to 43 CFR subpart 17.12(e) for complete definition.

- R. **Federally Conducted.** Programs and services directly conducted by or for Reclamation or through partnerships on behalf of Reclamation, for the benefit, education, aid, and enjoyment of the public.
- S. **Issue.** As to PCR complaints, the specific practice, policy, program, activity, or service involved in the alleged discrimination.
- T. **Jurisdiction.** Authority given to Reclamation to investigate a complaint when the following criteria is met: (1) alleged discrimination on a basis prohibited by one of the statutes that Reclamation is responsible for enforcing; (2) discrimination is occurring in a program, service, or activity that receives Federal financial assistance from Reclamation or in a Federally-conducted program, service, or activity; (3) the issue(s) addressed by the complainant must be covered by one of the statutes Reclamation is responsible for enforcing; and (4) the complaint is timely filed, unless the requirement is waived and is not affected by any regulatory exemptions or exceptions.
- U. **Known Violation.** Not complying with relevant legal authorities, accessibility standards and/or civil rights laws, or other management agreements that a respondent (managing partner, recipient, or sub-recipient) knows are required in order to conduct work on behalf of Reclamation and/or receive Federal financial assistance from Reclamation.³
- V. **Managing Partners.** A Federal entity, non-Federal public entity, or Indian Tribe that manages recreation and other agreed-upon cultural, natural, and environmental resources through a management agreement with Reclamation at Reclamation water project areas.
- W. **Program, Service, or Activity.** Any program, service, or activity that receives Federal financial assistance that is provided by or on behalf of Reclamation. At times “program” is used synonymously with “activity;” however, “activity” is more commonly used to describe various participatory elements of a program. See 43 CFR subpart 17.12(e) for a complete definition.
- X. **Recipient.** Any State or political subdivision thereof, any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization or other entity, or any person to whom Federal financial assistance is extended directly or through another recipient, and that operates a program, service, or activity that receives such assistance, including any successor, assignee, transferee, or sub-recipient.

³Reclamation, a managing partner, a recipient or a sub-recipient can correct a known violation without undergoing an investigation by conducting an annual self-evaluation and identifying areas (deficiencies) that are to be corrected.

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- Y. **Respondent.** A Reclamation office, managing partner, recipient, sub-recipient, or State or local entity named in a PCR complaint.
- Z. **Sections 501, 504, and 508 of the Rehabilitation Act of 1973, as amended.** Referred to as Section 501, Section 504, or Section 508 respectively hereafter, prohibits discrimination based on disability in Federal employment, and in Federally-assisted and Federally-conducted programs, activities, and services.
- AA. **Self-evaluation.** Evaluating current policies, practices, and/or sites to overcome the effects of conditions that results in limited participation in a program, service, or activity by a qualified individual with a disability.
- BB. **Sub-recipient.** Any of the entities to whom a recipient or managing partner extends or passes on Federal financial assistance and who has all of the duties and responsibilities of the recipient.
- CC. **Timeliness.** PCR complaints are timely if received by Reclamation within 180 calendar days from the date of an alleged discriminatory incident. The date of discrimination for timeliness purposes is the most recent date on which the discrimination occurred, not when it began. The filing date is generally the earlier of the postmark date of the complaint or the date the complaint is received by Reclamation.
- DD. **Voluntary Compliance.** Agreeing to voluntarily correct, in a timely manner, a violation(s) identified as a result of an investigation or voluntarily correct a known violation identified as a result of a self-evaluation conducted on a policy, practice or site.
4. **Responsibilities.**
- A. **Commissioner.** The Commissioner is responsible for:
- (1) ensuring that Reclamation has procedures in place to respond to and/or investigate all PCR complaints filed by the public against Reclamation, a managing partner, or against a recipient or sub-recipient who provides a service and/or conducts work on behalf of Reclamation; and
 - (2) ensuring Reclamation follows other required procedures outlined by other Federal agencies when PCR complaints are filed outside Reclamation's authority.
- B. **Civil Rights Manager (CRM).** The CRM has full authority for compliance and enforcement of all aspects of Reclamation's PCR programs, pursuant to Reclamation Manual Delegations of Authority, including ensuring that all PCR complaints covered under various authorities are investigated in accordance with applicable laws, regulations, Department directives or other procedures. The CRM is responsible for:

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- (1) implementing this D&S and ensuring the PCR staff work in coordination with other individuals to respond to and/or investigate all PCR complaints;
- (2) ensuring the “Notice of Non-discrimination Poster” is dispersed to Washington, Denver, and the regional offices for posting on public bulletin boards;
- (3) approving or denying waivers (see Paragraph 7.B. *Waiver*);
- (4) ensuring PCR staff carry out investigations in a neutral and thorough manner and follow the required procedures outlined by other Federal agencies when complaints are outside Reclamation’s authority;
- (5) documenting and tracking contacts received concerning non-discrimination issues; and
- (6) providing an annual status report on Reclamation PCR complaints and contacts received to the Commissioner, the Director, Policy and Administration, and the regional directors.

C. Regional Directors. Regional directors are responsible for:

- (1) ensuring the “Notice of Non-discrimination Poster” is posted on public bulletin boards in the regional and area offices as well as those of managing partners, recipients, and sub-recipients (see Paragraph 5. *Public Notice of Non-discrimination* and Appendix B);
- (2) immediately notifying the CRM when a PCR complaint is received in their respective region by an applicant, beneficiary, recipient, sub-recipient or the public;
- (3) notifying and enlisting the technical assistance of the area managers, regional accessibility coordinators (RACs), and/or Section 508 coordinators with the investigation when informed that a PCR complaint is filed within the region, as necessary and depending on the type of complaint filed; and
- (4) working with the PCR staff and all respondents (i.e., Reclamation managers, managing partners, recipients, or sub-recipients) to resolve issues through voluntary compliance when a violation becomes known.

D. Managers. Managers are responsible for:

- (1) immediately notifying the applicable director (i.e., Washington, Denver, or regional director) and the CRM when a PCR complaint is received in their respective office from an applicant, beneficiary, recipient or sub-recipient;

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- (2) notifying the CRM, PCR staff and the RACs of an ABA or Section 504 written or verbal PCR complaint; and
- (3) working in concert with the PCR staff, RACs, and all respondents (i.e., managing partners, recipients, or sub-recipients) to resolve issues through voluntary compliance when a violation becomes known.

E. **PCR Staff.** The PCR staff, which are located in the CRD and serve as primary investigators, is responsible for:

- (1) responding to and/or investigating all PCR complaints, including but not limited to those complaints regarding public accessibility to Federally-funded or Federally-conducted programs and activities (but excluding all employment-related claims processed under 29 CFR 1614) under Titles II and VI of the Civil Rights Act of 1964, and/or, Sections 504 and 508, in accordance with all applicable laws, regulations, and Departmental directives;
- (2) following the requirements outlined in this D&S in carrying out PCR complaint investigations in a neutral and thorough manner;
- (3) receiving, reviewing, determining jurisdiction, accepting or dismissing, and closing PCR complaints;
- (4) investigating all PCR complaints over which Reclamation has authority and/or jurisdiction, and working with the appropriate individuals to resolve PCR complaints upon discovery of a violation;
- (5) notifying the regional director that a PCR complaint has been filed within their respective region, requesting assistance from appropriate staff, (i.e., managers, RACs and 508 coordinators, among others), and keeping them apprised of the investigation as it proceeds;
- (6) waiving the 180-day filing requirement upon concurrence of the CRM;
- (7) monitoring the status of PCR complaints, including the agreed-upon actions, contacting the respondent as needed to ensure they are complying with such actions within the established timeframes, and/or revisiting the actions when circumstances beyond the respondents' control have changed;
- (8) referring PCR complaints to the Department Office of Civil Rights (OCR) for enforcement when respondent refuses to voluntarily comply with agreed-upon actions, and after several attempts are made to solicit compliance;
- (9) notifying the Access Board upon receipt of an ABA complaint and assisting with the investigation and resolution, if requested by the Access Board;

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- (10) referring Age Discrimination Act complaints to the Department OCR;
- (11) referring all employment-related disability-based complaints brought under Section 501, to Reclamation or regional EEO manager for processing in accordance with 29 CFR 1614 subpart A, EEOC Management Directive 110, and the Departmental Complaint Processing Handbook;
- (12) keeping a log of Reclamation and Delegated PCR complaints and tracking the disposition of each complaint;
- (13) documenting and completing *Contact Sheet, Form No. 7-2653* (see Appendix C) and tracking all contacts;
- (14) ensuring PCR complaint files are stored securely (in both hard copy and electronic formats) in accordance with applicable Federal statutes and regulations and pertaining to the retention of sensitive and confidential Federal records; and
- (15) destroying PCR complaint records according to the appropriate records disposition schedule (see Paragraph 13, *Records Disposition*).

F. **RACs.** RACs are responsible for:

- (1) providing *Complaint Form, Form No. 7-2654* (see Appendix E) to applicants, beneficiaries, or members of the public when a complaint is received and referring the complainant to the PCR staff member for technical assistance;
- (2) assisting in the investigation of PCR complaints brought under Section 504, Federally-conducted program, services, and activities to include gathering all pertinent information from area offices' and/or managing partners; conducting site visits to the questioned area; talking to respondents on behalf of the PCR staff; and providing a written report to the PCR staff which documents the RACs findings;
- (3) providing advice or guidance when requested by the Section 501 of the disability coordinator or servicing human resources office for reasonable accommodation complaints related to public access, and referring any and all disability employment complaints, including reasonable accommodation, brought by employees and applicants for employment to EEO managers;
- (4) notifying the PCR staff, regional director, and/or managers if an ABA complaint is received;
- (5) coordinating with recreational staff when a complaint involves a regional Recreation Access Pass;

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- (6) tracking contacts received from applicants, beneficiaries, or other members of the public on *Contact Sheet, Form No. 7-2653* (see Appendix C) and transmitting said form to the PCR staff;
- (7) communicating with the complainant only by telephone or other electronic means (e.g., e-mail) only as specifically required by PCR staff due to the RACs subject matter expertise and with the appropriate PCR staff being involved; and
- (8) ensuring recipients and managing partners meet their responsibilities which consist of:
 - (a) abiding by the civil rights laws and regulations as outlined in the signed assurance statement and/or lease agreement if accepting assistance from Reclamation; cooperating with Reclamation's regional and PCR staff during an investigation of a PCR complaint; and working directly with the PCR staff to resolve known violations through voluntary compliance;
 - (b) providing subject matter expertise, access to materials, documents, photographs, or other pertinent information necessary to complete the investigation;
 - (c) ensuring that the sub-recipients follow the same responsibilities as outlined in Paragraph 4.F.8.(a)-(c); and
 - (d) notifying the RAC of an ABA or Section 504 written or verbal PCR complaint.

G. 508 Coordinators. 508 coordinators are responsible for:

- (1) providing *Complaint Form, Form No. 7-2654* (see Appendix E) to applicants, beneficiaries, or members of the public when a complaint is received and referring the complainant to the PCR staff member for technical assistance therein;
- (2) assisting in the investigation of PCR complaints brought under Section 508, Federally-conducted program, services, and activities to include gathering all pertinent information from area offices' and/or managing partners; conducting site visits to the questioned area(s), talking to respondents on behalf of the PCR staff, and providing a written report to the PCR which documents the 508 coordinators findings;
- (3) providing advice or guidance when requested by the 501 disability coordinator or servicing human resources office for reasonable accommodation complaints related to public access, and referring any and all disability employment complaints, including reasonable accommodation, brought by employees and applicants for employment to EEO managers;

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- (4) notifying the PCR staff, regional director and/or managers if an ABA complaint is received;
- (5) coordinating with recreational staff when a complaint involves a regional Recreation Access Pass;
- (6) tracking contacts received from applicants, beneficiaries, or other members of the public on *Contact Sheet, Form No. 7-2653* (see Appendix C) and transmitting said form the PCR staff; and
- (7) communicating with the complainant only by telephone or other electronic means (e.g., e-mail) only as specifically required by PCR staff due to the 508 coordinators subject matter expertise and with the appropriate PCR staff being involved.

H. EEO Managers. EEO managers are responsible for:

- (1) providing the *Complaint Form, Form No 7-2654* (see Appendix E) to the public when notified that the person is filing a PCR complaint and referring person to the CRM; and
- (2) processing Section 501 disability-based employment complaints⁴ received from applicants for employment per 29 CFR part 1614, EEOC MD-110, and the Department's Complaint Processing Handbook.

5. **Public Notice of Non-discrimination.** Public notice is a requirement of Reclamation, managing partners, recipients, and sub-recipients to whom Reclamation extends Federal financial assistance. Reclamation offices and partners conducting programs on behalf of Reclamation will post, in a prominent location, a statement of nondiscrimination that includes information on where to file a complaint (see Appendix B). If a written or verbal complaint is received by Reclamation regarding a Federally-assisted and/or a Federally-conducted or partner-managed program or facility, the individual will be advised that they have the right to file an official complaint with Reclamation's CRM, PO Box 25007, Denver CO 80225 or the Director, Department OCR, 1849 C Street, NW, Washington, DC, 20240.

6. **Complaint Intake.**

- A. Members of the public, applicants, and beneficiaries who believe they have been discriminated against by Reclamation or a managing partner, recipient or sub-recipient receiving Federal financial assistance from Reclamation, may file a PCR complaint (Federally assisted), or a PCR complaint on programs operated by Reclamation or a

⁴ The majority of PCR complaints (Title II and Title VI) deal with individuals with disabilities not having access to programs, services and activities. Whereas disability-based employment complaints deal with applicants for employment and federal government employees filing a disability (mental/physical) complaint under Title VII regulations. The definition of "applicants" under Title VI differs from "applicants for employment" under Title VII.

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managing partner, recipient, or sub-recipient who conduct programs, services or activities on behalf of Reclamation (Federally conducted). See Paragraph 5. *Public Notice of Non-discrimination*.

- B. Complaints filed under the authorities listed in Appendix A will be investigated according to the respective laws, regulations, and this D&S and other Departmental directives applicable to the complaint.
- C. If Reclamation lacks jurisdiction over the complaint, the PCR staff must refer the complaint to an appropriate bureau, Federal, State, or local government agency for appropriate action and notify the complainant of Reclamation's lack of jurisdiction. If unsuccessful in identifying the appropriate agency, the PCR staff must refer the complaint to the Department OCR for their action.
- D. Reclamation will not permit a recipient or managing partner to investigate a complaint filed by an applicant or sub-recipient to which it extends Federal financial assistance.
- E. Reclamation PCR staff has the right to not investigate a complaint if the complaint is not a complete complaint and attempts have been made to gather additional information necessary for acceptance of the complaint, or it is past the 180 calendar days and no waiver has been requested or approved. PCR staff shall notify the complainant of the opportunity to request a waiver and based on the information the PCR staff receives, a waiver may be granted.
- F. Reclamation PCR staff has authority to waive timeliness requirements at their discretion for certain specific reasons (i.e., complainant was unable to file a complaint because of illness or other incapacitating circumstance). PCR staff will consider other circumstances outlined in the DOJ's *Investigative Procedures Manual for Investigating and Resolution of Complaints Alleging Violations of Title VI and other Nondiscrimination Statutes, Part III, A.5*.
- G. Based on Title VI legal principles and standards, complaints in a language other than English must be translated and responded to in the language in which it is received. The Consent and Privacy Act Release Form (see Appendix D) must also be translated or other steps taken to ensure that the complainant understands what is contained in the form and the legal implications of signing the form.
- H. Reclamation shall accept complaints from individuals with disabilities in "alternate formats," including, but are not limited to, electronic e-mail, large print (18 pt. or larger), or Braille.

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7. Filing a Complaint Directly with Reclamation.

A. **Complaints.** To be considered a “complete complaint,” the complaint must:

- (1) be filed in writing, either on paper or electronically, by mail, fax, or e-mail (see Appendix E);
- (2) include sufficient information to understand the facts that led the complainant to believe discrimination occurred and when, where, and how the discrimination took place;
- (3) identify the person or group alleging discrimination;
- (4) name the office(s) or individual(s) involved, and describe the program(s), service(s) or activity(ies) believed to have been in violation of the relevant civil rights laws or regulations;
- (5) identify the basis/es for the alleged discrimination (i.e., race, national origin, disability); and
- (6) be filed within 180 calendar days of the alleged discriminatory act.

B. **Waiver.**

- (1) A complainant can request a waiver from the 180-day filing requirement in accordance with DOJ *Investigative Procedures Manual for Investigating and Resolution of Complaints Alleging Violations of Title VI and other Nondiscrimination Statutes, Part III, A.5.*
- (2) If a complainant has not filed within 180 calendar days, the PCR staff must notify the complainant of the opportunity to request a waiver of the 180-day filing requirement. The CRM has the authority to approve the waiver.

8. Complaint Procedure Requirements.

A. **Receiving, Reviewing, Accepting and/or Dismissing the Complaint.** CRD must:

- (1) date stamp⁵ all incoming correspondence immediately upon receipt;
- (2) within 5-10 business days, send a letter to the complainant stating that the complaint has been received and is being reviewed and notify the respondent;
- (3) ensure a signed Consent and Privacy Act Form (see Appendix D) is included as part of the complaint;

⁵ The receipt date by Reclamation becomes the receipt date for other agencies.

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- (4) assign a case number consisting of Reclamation initials (i.e., BOR), fiscal year, and sequence number and create a case file (both hard copy and electronic);
- (5) determine jurisdiction to ensure the complaint meets all legal requirements;
- (6) accept or dismiss the complaint and notify the complainant and the respondent of its acceptance or dismissal; and
- (7) if accepted, develop an investigative plan and begin the investigative process.

B. Investigating Complaints. When investigating complaints, the PCR staff will:

- (1) investigate all PCR complaints within 180 calendar days of accepting the complaint;
- (2) follow an investigative plan based on the accepted issue;
- (3) determine if an investigation and/or an on-site investigation is needed;
- (4) use several types of evidence (i.e., direct, circumstantial, comparative, statistical) to collect pertinent information pertaining to the issue(s);
- (5) conduct interviews with the respondent (i.e., managing partner, recipient, sub-recipient, State and local personnel) involved in the complaint;
- (6) use various forms of ADR to resolve the issue(s) through voluntary means;
- (7) conduct exit interviews;
- (8) close the complaint through a Letter of Findings, Letter of Resolution, or other closure letters. (see Paragraph 8.D. *Letters of Findings, Resolutions, Concern, and Closure*);
- (9) complete an investigative report; and
- (10) complete and send the Final Disposition Response form (ADA Title II complaints only) to Department OCR for action.

C. Pre-investigative Closures. Reclamation does not need to proceed with or continue a complaint investigation if on its face, it has no merit, same allegation and issues have been addressed, parties refuse to cooperate in the complaint investigation including not disclosing his/her identity, the complaint is referred to another agency for investigation, death of the complainant, or the injured party makes it impossible to investigate the allegations.

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- D. **Letters of Findings, Resolution, Concern, and Closure.** PCR staff must close all complaints with a letter of findings, letter of resolution, letter of concern, or closure letters.
- (1) A combination of letters may be used if, for example, one issue is resolved, no violation is found in another issue, a violation is found on the last issue or the complainant withdraws his/her complaint. Refer to Civil Rights Directive 2011-01 for additional information.
 - (2) A Letter of Resolution is issued when the respondent has voluntarily taken actions to come into compliance before a letter of finding is issued. The letter of resolution must identify the agreed-upon action(s) the respondent has committed to take and the dates the action(s) will occur.
 - (3) A Letter of Finding must include standard jurisdictional information, a statement of the allegations of each issue, and the findings of fact for each issue, supported by any necessary explanation or analysis of the information on which the findings are based.
 - (4) A Letter of Concern is when following an investigation, no evidence was found to support findings of actual violations but concerns have been identified that warrant sharing with the respondent and putting on notice that there could be a potential violation in the future.
 - (5) The closure letters must address each allegation and the respondent's position. All closure letters shall state the relevant facts, the applicable regulations(s), the appropriate legal standard(s), an explanation of any issues not investigated or included in the letter, and, if applicable continue standardized retaliation, Freedom of Information Act, Privacy Act paragraphs notices and any appeal rights.
 - (6) All letters must be sent both to the complainant or the complainant's representative, and the respondent.
- E. **Appeals.** If an issue in a complaint is appealable, the appeal will be directed to the Deputy Secretary of the Department if it is a Section 504 complaint filed against Reclamation or to Federal District Court in the state where the complaint was filed if it is an ADA Title II or Title VI complaint.
- F. **Monitoring.** Complaints will be on monitoring status when the issue has been resolved and the complainant and the respondent need additional time to voluntarily comply with the agreed-upon resolution of the known violation. The PCR staff will monitor the status of the complaint, including tracking actions, and will contact the respondent as needed to ensure they are meeting the agreed-upon actions.

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- G. **Enforcement.** When Reclamation is unable to commit a respondent to voluntarily comply with the agreed-upon resolution of the known violation, Reclamation will forward the complaint to the Department OCR for enforcement, who will in turn, work with the Department's Solicitor's Office and/or DOJ, as appropriate. Reclamation will also send the complainant a closure letter informing the case is with either the Solicitors Office or DOJ.
9. **Other Complaints.**
- A. **Age Discrimination Act.** Reclamation will refer Age Discrimination Act complaints to the Department OCR for acceptance and processing. The Department will promptly refer it to the Federal Mediation and Conciliation Services for mediation. If the complaint is unresolved through mediation or is reopened because of a violation of a mediation agreement, the Department will begin an informal investigation. If the Department cannot resolve the complaint through informal means, it will develop formal findings through further investigation. Ultimately, it is the responsibility of the Department to attempt to resolve Age Discrimination Act complaints through voluntary compliance and/or enforcement.
- B. **ABA.** ABA complaints are complaints about access to a facility that may have been Federally funded. The ABA requires access to facilities designed, built, or altered with Federal dollars or leased by Federal agencies. Complaints pertaining to the ABA are filed directly with the Access Board at <http://www.access-board.gov>. Should Reclamation receive an ABA complaint, the PCR staff must notify the Access Board upon receipt. Determination will be made with the Access Board at what level Reclamation will be involved with the investigation of the complaint.
- C. **Delegated.** Pursuant to Department Civil Rights Directive 2007-02, Reclamation is delegated the authority to investigate ADA Title II complaints on behalf of the Department through delegation from the DOJ. Delegated complaints received from the Department OCR will be investigated according to Civil Rights Directive 2011-01. The Final Disposition Response form associated with delegated complaints must be completed after the complaint has been closed and sent to the Department OCR for their action.
- D. **Sections 501, 504, and 508.** Reclamation shall process complaints alleging violations of Section 501 with respect to employment according to the procedures established by the 29 CFR part 1614, EEOCs MD-110, and the Department's Complaints Processing Handbook, and refers to the respective Reclamation and/or regional EEO manager. Sections 504 and 508 complaints (Federally conducted) will be investigated pursuant to the requirements outlined in this D&S.
- E. **Retaliation.** Under civil rights laws, Reclamation, managing partners, recipients, and sub-recipients cannot retaliate against the complainant for filing a complaint. If retaliation occurs, and the complainant files a retaliations complaint, it will be investigated according to this D&S.

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- F. **Departmental Law Enforcement.** Pursuant to 446 DM 26 Appendix 2, complaints alleging civil rights violations are investigated by the Federal Bureau of Investigation and the United States Attorney's Office, Civil Rights Division. This applies to Reclamation law enforcement officers and Departmental law enforcement officers acting on behalf of Reclamation.
10. **Contacts.** Reclamation PCR staff, RACs, and 508 coordinators must document all contacts received. Contacts may include, but are not limited to, non-discrimination issues, jurisdiction complaints received from another agency that were not under the jurisdiction of Reclamation, and issues received that were not addressed in the investigative process or request for technical assistance.
11. **Complaint Tracking and Reporting Requirements.**
- A. **Reclamation Complaints.** Reclamation CRD will maintain a tracking system of all PCR complaints filed and reported quarterly to the CRM. The tracking system will include the complainant name, complaint number, authority under which the complaint is covered, basis of the complaint, date the complaint was filed, respondent name, disposition and date of disposition, and other pertinent information for reporting. Additionally, PCR staff will document and track contacts to ascertain trends.
- B. **Other Complaints.** Delegated complaints are tracked by the Department OCRs via its SharePoint site and reported to the Director OCR and DOJ, as appropriate. Age Discrimination Act complaints are tracked by the Department OCR Annual Age Report and reported to U.S. Department of Health and Human Services Office for Civil Rights.
12. **Records Retention.** PCR complaint records will be retained and disposed of pursuant to Information Management Handbook, Volume II, Records Retention Scheduled ADM.14.00 EEO Complaints.
13. **Related Reclamation Manual Releases.** Related and supporting D&S, and an overarching Policy, are available in the Civil Rights Management (CRM) sections of the Reclamation Manual. See Reclamation Manual Policy, *Public Civil Rights* (CRM P01); D&S, *Nondiscrimination on the Basis of Disability in Federally Conducted Programs, Activities, and Services (Accessibility Program)*, (CRM-03-01); and *Policy Accessibility to Electronic and Information Technology (EIT) for Individuals with Disabilities* (CRM P04) for additional information.

RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: _____

Release No. _____

Ensure all employees needing this information are provided a copy of this release.

Reclamation Manual Release Number and Subject

Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: _____

Date: _____