



The Regional Planning Commission of Greater Birmingham (RPCGB)

Title VI: Complaint Procedures for Processing External Complaints of Discrimination or Retaliation and Informal Resolution

Introduction

Title VI of the Civil Rights act of 1964, as amended Discrimination Complaint Procedure is intended to provide aggrieved individuals a process to bring forth Title VI complaints of discrimination regarding programs, activities and services administered by the RPCGB or its sub recipients and funded through appropriate federal agencies.

Purpose

To describe the procedures used by the RPCGB for processing complaints of discrimination filed under Title VI of The Civil Rights Act of 1964, as amended, while ensuring due process for complaints and respondents. The process does not preclude the responsible staff of the RPCGB from attempting to informally resolve complaints. Intimidation or retaliation of any kind is prohibited by law. This process does not deny the right of a complainant to file formal complaints with other federal agencies or to seek private counsel for complaints alleging discrimination.

Applicability

Title VI states “No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, or be denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance.” Title VI bars intentional discrimination as well as disparate impact discrimination (i.e. neutral policy or practice that has a disparate impact on protected groups).

Filing of Complaints

A. Persons Eligible to File

Any person who believes that he/she has been subjected to discrimination or retaliation which is prohibited based on race, color, national origin, sex, age, or disability, handicap, low income status or limited English proficiency may file a written complaint. Any person who believes that he/she has been retaliated against because of filing a complaint of discrimination is also eligible to file.

B. Time Limits for Filing

The complaint may be filed by the complainant or a representative and must be submitted in writing. A formal complaint must be filed no later than 180 days after:

1. The date of the alleged act of discrimination.
2. The date when the person(s) became aware of the alleged discrimination.
3. Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

Forms of Complaint

A. Written

Complaints should be submitted in writing and signed by the complainant or representative and include the complainant's name, address and telephone number.

B. Fax or Email

Allegations of discrimination received by fax or email will be reproduced in writing and provided to the complainant for confirmation or revision before processing.

C. Telephone

Allegations of discrimination received by telephone will be reproduced in writing and provided to the complainant for confirmation or revision before processing.

Notice of Investigatory Uses of Personal Information (NIUP)

The complainant will be provided with a sample NIUP which outlines the complainant's rights and protections during an investigation that are applicable to any Federal investigation.

Complainant Consent to Release Information (CCRI)

- A. The complainant will also be provided with a (CCRI) to release information about the complainant's identity during the course of the investigation.
- B. External agencies authorized to receive complaints.
- C. Complaints may be submitted to the appropriate federal agency.

Processing of Complaints

A. Receipt and Acceptance

Upon receipt of a complaint, the RPCGB will determine jurisdiction and whether there is a need for additional information. In order to be accepted, the complaint must meet the following criteria:

1. Whether the complaint is timely filed
2. Whether the allegations involve a covered basis, such as race, color, sex, age, national origin, disability or retaliation

3. Whether the allegations involve a federally financially funded program or activity administered by the RPCGB or a federal financially assisted program, service or activity administered by the RPCGB.

B. Acknowledgement

Upon determination that the complaint warrants an investigation, the complainant will be sent a notice by certified mail acknowledging the written complaint within ten (10) days of receiving the complaint. The notice will include the name of the investigator with his or her contact information and advise the person of his or her rights under Title VI and related statutes.

The respondent will be notified by certified mail that he or she has been named in a complaint and this notice will contain information about the rights of the respondent under Title VI and related statutes.

C. Time Limits

As required by the appropriate federal agencies, within sixty (60) days of the date that the complaint was received, the RPCGB shall conduct an investigation and forward to the appropriate federal agency a copy of the complaint together with a copy of the RPCGB report of the investigation.

In the event the RPCGB properly requests and the appropriate federal agency subsequently approves an extension of an additional sixty (60) days, the RPCGB will forward to the appropriate federal agency copies of both the complaint and the RPCGB report of the investigation within the additional sixty (60) days.

The RPCGB shall maintain a separate log designated for the appropriate federal agency Title VI complaints.

Dismissals

RPCGB will recommend, in writing, to appropriate federal agency the dismissal of complaints for the following reasons:

1. The complaint is untimely filed.
2. The complaint does not allege a basis covered by statutory authorities.
3. The complaint does not allege any harm with regard to covered programs or statutes.
4. The complainant requests the withdrawal of the complaint.
5. The complainant fails to respond to repeated requests for additional information needed to process the complaint.
6. The complainant cannot be located after reasonable attempts.
7. The complainant has failed to accept a reasonable resolution.
Note: Reasonableness to be determined by the appropriate federal agency.
8. The complainant has filed legal action in Federal District Court with the same basis and issues involved in the complaint.
9. The same complaint allegations have been filed with another federal, state or local agency.

Final Agency Decisions (FAD)

The DOJ takes the position that a Title VI finding of violation or no violation is a federal decision and cannot be delegated. The RPCGB will conduct an investigation of complaints filed against sub recipients funded by a federal agency. Within sixty (60) days or approved extension of an additional sixty (60) days, the RPCGB shall forward the report of the investigation to the appropriate federal agency for final agency decisions and dismissals. The RPCGB shall maintain a separate log designed for federal agencies' complaints.

Informal Resolution

Federal agencies recommend the use of mediation as a preferred alternative for the resolution of the complaint. It is in the best interest of all parties involved that issues raised in a complaint of discrimination be resolved informally. At each stage of the process the investigator will make every effort to pursue a resolution of the complaint.

Investigation of Complaints

Complaints in which the RPCGB is named as the respondent shall be forwarded to the appropriate federal agency for proper disposition in accordance to their process.

The RPCGB will investigate complaints filed against sub recipients funded by federal agencies. The RPCGB will designate an investigator or investigation team to prepare an investigation plan, conduct the investigation and recommend a decision.

The investigator or an investigation team designated to conduct an external complaint of discrimination obtain written statements from witnesses and copies of records and other evidence needed to ascertain the validity of allegations raised in complaint. Witnesses are required to cooperate. Any failure to cooperate must be documented to allow appropriate action to be initiated. Within sixty (60) days of the completion of the investigation, investigators shall analyze the evidence, coordinate with disinterested program.

The RPCGB and their sub recipients funded by federal agencies shall maintain records of external complaints, filed with them, identifying each complaint by race, color, sex, age, religion, national origin, disability, handicap, low income status or limited English proficiency. The record shall contain:

1. The complaint
2. The Agency with which the complaint was filed
3. The date the complaint was filed
4. The investigative plan
5. The investigative report
6. The complaint disposition
7. The complaint disposition
8. Other pertinent information

Scope of Investigation

Unless the evidence clearly shows the need to expand the issue, investigations shall be confined to the issues and facts relevant to the allegations in the complaint.

It shall be the policy of The Regional Planning Commission of Greater Birmingham (RPCGB) to post Title VI Procedures for Processing External Complaints of Discrimination or Retaliation and Informal Resolution.



**Regional Planning Commission of
Greater Birmingham (RPCGB)**

Title VI: External Complaint Form

Personal Information:

Name:	
Address:	
Home Phone:	Cell Phone:
Email Address:	

Type of Discrimination: Race, Color, National Origin, Age, Religion, Disability, Sex/Gender

Race of Complainant:

How were you discriminated against? Please explain your complaint as clearly as possible. Attach supporting documents if available.

List the date and place of the alleged discriminatory action(s). Please include the earliest date of discrimination and the most recent date(s) of discrimination.

List the name(s) of individuals(s) responsible for the discriminatory action(s).

List the name(s) of person(s) who may be contacted for additional information to support or clarify your complaint.

What action(s) have you or your representative done to attempt to resolve this complaint?

- Filed with the Federal Highway Administration _____
- Filed with the U.S. Department of Transportation _____
- Filed with another Federal agency _____
- Filed in Federal Court _____
- Other action _____

Please provide any additional information you feel would be helpful in this manner.

Briefly explain what action you are seeking.

Complainant's Signature _____

Date _____

Title VI: Notice About Investigatory Uses of Personal Information (NIUP)

Notice of Complainant and Interviewee Rights and Privileges

Complainants and individuals who cooperate in an investigation, proceeding or hearing conducted by any Federal agency are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

- A recipient may not force its employees to be represented by the recipient's counsel nor may it intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the recipient the content of an interview. An employee does, however, have the right to representation during an interview with a Federal agency. The representative may be the recipient's counsel, the employee's private counsel or anyone else the interviewee authorizes to be present.
- The laws and regulations which govern a Federal agency's compliance and enforcement authority provide that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual because he/she has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing conducted under a Federal agency's jurisdiction, or has asserted rights protected by statutes a Federal agency enforces.
- Information obtained from the complainant or other individual which is maintained in a Federal agency's investigative files may be exempt from disclosure under the Privacy Act or under the Freedom of Information Act if release of such information would constitute an unwarranted invasion of personal privacy.

There are two laws governing personal information submitted to any Federal agency. The two laws are the Privacy Act of 1974 5 U.S.C. § 552a and the Freedom of Information Act 5 U.S.C. § 552.

Title VI: Notice of Investigatory Uses of Personal Information (NIUP)

Complainant Consent/Release Form

Name _____

Address _____

Complaint number(s) (if known) _____

Please read the information below, check the appropriate box and sign this form.

I have read the Notice of Investigatory Uses of Personal Information. As a complainant, I understand that in the course of an investigation it may become necessary for the Federal agency to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of the Federal agency to honor requests under the Freedom of Information Act. I understand that it may be necessary for the Federal agency to disclose information, including personally identifying details, which it has gathered as part of its investigation of my complaint.

CONSENT/RELEASE

CONSENT- I have read and understand the above information and authorize the Federal agency to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Federal agency to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

CONSENT DENIED- I have read and understand the above information and do not want the Federal agency to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

Signature _____

Date _____