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Title VI Complaint Procedures

Purpose and Applicability

The purpose of this document is to establish procedures for the processing and disposition of both discrimination complaints filed directly with the Massachusetts Department of Transportation (MassDOT) or the Massachusetts Bay Transportation Authority (MBTA), and discrimination complaints that MassDOT/MBTA have the delegated authority to process under Title VI of the Civil Rights Act of 1964 (Title VI) and related state and federal nondiscrimination authorities, including the Americans with Disabilities Act (ADA).

- The processing of discrimination complaints will follow the steps outlined below and are further detailed throughout this document.
- Step 1: Complainant submits their complaint.
- Step 2: MassDOT/MBTA issues the complainant an acknowledgment letter.
- Step 3: Complaint is assigned to, and reviewed by, an investigator.
- Step 4: Investigator conducts interviews of complainants, witnesses, and the respondent.
- Step 5: Investigator reviews the evidence and testimonies to determine whether a violation has occurred.
- Step 6: Complainant and Respondent are issued a letter of resolution or a letter of finding and offered appeal rights.
- Step 7: Once the appeal period has expired, the investigation is closed.

The procedures describe an administrative process aimed at identifying and eliminating discrimination in federally funded programs and activities. The procedures do not provide an avenue for relief for complainants seeking individual remedies, including punitive damages or compensatory remuneration; they do not prohibit complainants from filing complaints with other state or federal agencies; nor do they deny complainants the right to seek private counsel to address acts of alleged discrimination.

The procedures described in this document apply to MassDOT/MBTA and their subrecipients, contractors, and subcontractors in their administration of federally funded programs and activities.

As part of their efforts to comply with Title VI, subrecipients of federal financial assistance through MassDOT/MBTA are encouraged to adopt these complaint procedures. In so doing, these subrecipients acknowledge their obligation to afford members of the public with an opportunity to file complaints alleging violations of nondiscrimination policies in place across their organization and in their programs, services, and activities. In accordance with federal guidance, subrecipients of transit-related funds understand they have the authority to process Title VI complaints and will inform their recipients, MassDOT/MBTA, of complaints received and the outcome of investigations as the matters are resolved.

Subrecipients of highway-related funds further understand they do not have the authority to investigate Title VI violation claims filed against their organization (where their organization is the respondent or party alleged to have violated Title VI). All such claims will be forwarded to the MassDOT/MBTA Office of Diversity and Civil Rights (ODCR) to determine the appropriate investigative authority. Highway-funding subrecipients retain the right to consider Title VI violation allegations as a matter of Assurance and/or internal policy compliance but are precluded from making determinations as to possible violations of Title VI. MassDOT/MBTA encourages all subrecipients to communicate with ODCR's Title VI Specialists, the Director of Title VI and Accessibility, and/or the Director of Investigations when/if Title VI complaints are received to ensure proper handling.

Definitions

Complainant – A person who files a complaint with MassDOT/MBTA.

Complaint – Written, verbal or electronic statement concerning an allegation of discrimination that contains a request for the receiving office to take action. Where a complaint is filed by a person with a disability, the term complaint encompasses alternative formats to accommodate the complainant's disability.

Discrimination – That act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, or bases covered by other nondiscrimination authorities, such as gender, age, or disability, has been subjected to unequal treatment or disparate impact under any program or activity receiving federal assistance.

Operating Administrations – Agencies of the U.S. Department of Transportation, including the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Rail Administration (FRA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMSCA), that fund transportation programs or activities.

Respondent – The person, agency, institution, or organization alleged to have engaged in discrimination.

Filing of Complaints

This section details MassDOT/MBTA's procedures for processing Title VI discrimination complaints (on the basis of race, color, or national origin, including language) and complaints alleging discrimination on the basis of additional federal nondiscrimination provisions (on the basis of age, sex, and disability). Federal law and regulations governing Title VI of the Civil Rights Act of 1964 (Title VI) places the overall coordination authority for the investigation of civil rights complaints in the United States Department of Justice, which works collaboratively with federal agencies that carry out this responsibility. In the transportation sector, this investigative authority rests with the US Department of Transportation (US DOT) and its agencies for the different modes of transportation, including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). In coordination with USDOT requirements, FHWA and FTA have established regulations and guidance that require recipients and subrecipients of federal financial assistance to establish procedures for processing Title VI complaints filed with these organizations.

The procedures described below, modeled on recommended complaint procedures promulgated by the US Department of Justice (US DOJ), are designed to provide a fair opportunity to have complaints addressed that respect due process for both complainants and respondents. In addition to the formal complaint resolution process detailed herein, MassDOT/MBTA shall take affirmative steps to pursue informal resolution of any and all Title VI complaints, when possible.

The Complaint Process

1. Who can file a complaint?

ANY member of the public, along with all MassDOT/MBTA customers, applicants, contractors, or subrecipients who believe that they themselves, a third party, or a class of persons were mistreated or treated unfairly because of their race, color, or national origin

(including limited English proficiency) in violation of Title VI of the Civil Rights Act of 1964, related federal and state laws and orders, or MassDOT/MBTA's Anti-Discrimination/Harassment Prevention (ADHP) Policy. Retaliation against a member of the public on the basis of race, color, or national origin is also prohibited under Title VI and the ADHP Policy.

2. How do I file a complaint?

A complaint may be filed with the following:

MassDOT/MBTA Title VI Specialists

Office of Diversity and Civil Rights – Title VI Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Phone: (857) 368-8580 or 7-1-1 for Relay Service

Email: MassDOT.CivilRights@state.ma.us or MBTAcivilrights@mbta.com

MassDOT/MBTA, Assistant Secretary and Chief Diversity Officer

Office of Diversity and Civil Rights – Investigations Unit

10 Park Plaza, Suite 3800

Boston, MA 02116

Phone: (857) 368-8580

Email: odcrcomplaints@dot.state.ma.us

MBTA Customer Call Center: (617) 222-3200

The Call Center staff will seek to obtain basic information about the matter from the caller, and details of the call will be forwarded to the Office of Diversity and Civil Rights for processing according to these procedures.

U.S. Department of Transportation

Office of Civil Rights

1200 New Jersey Avenue, SE

Washington, DC 20590

Website: civilrights.justice.gov/

Please note:

- When FTA receives a Title VI complaint regarding MassDOT/MBTA, a subrecipient, or a contractor, the FTA may request the matter be investigated by MassDOT/MBTA.

- If a Title VI complaint is filed with MassDOT that alleges a violation by MassDOT's Highway Division, then it will be forwarded to the local FHWA Division Office which will then forward the complaint to the FHWA Headquarters Office of Civil Rights (HCR) for processing.
- If a Title VI complaint is received by MassDOT that is filed against a subrecipient of the MassDOT Highway Division, then MassDOT may process and investigate the complaint or may refer to HCR for investigation.
- If FMCSA receives a complaint filed against MassDOT, FMCSA will forward the complaint to MassDOT for a written response. This allows MassDOT to either resolve the complaint or to provide a written response to the allegations. The written response is used to determine what steps FMCSA will take to process the complaint.

3. What do I need to include in a complaint?

A Title VI/Nondiscrimination Complaint form is available electronically on the [MassDOT Title VI website](#), the [MBTA Title VI website](#), or in hardcopy at the MassDOT/MBTA Office of Diversity and Civil Rights. Alternatively, a complainant may submit correspondence in an alternative format that should include:

- Your name, signature and, current contact information (i.e., telephone number, email address and postal mailing address);
 - The name and badge number (if known and applicable) of the alleged perpetrator;
 - A description of how, when, and where the alleged prohibited conduct occurred;
 - A detailed description of why you believe you were treated differently;
 - Names and contact information of any witnesses; and
 - Any other information you believe is relevant to your complaint.
- A. In cases where the complainant is unable to provide a written statement, a verbal complaint may be made to the Office of Diversity & Civil Rights (ODCR). Complainants will be interviewed by a Civil Rights Investigator (CRI). If necessary, the CRI will assist the person in converting the verbal complaint to writing. All complaints should be signed by the complainant.
 - B. Anonymous complaints may be filed in the same manner. Anonymous complaints shall be investigated in the same manner as any other complaint.
 - C. Complaints will be accepted in any recognized language. Multi-lingual complaint forms are available.

4. How long do I have to file a complaint?

- A. A complaint alleging violation of Title VI and/or MassDOT/MBTA's ADHP policy should be filed no later than one hundred and eighty (180) days from the date of the alleged violation.
- B. Complaints alleging violations of state or federal law must be filed within the time frames established by statute, regulation, or case law – in certain instances up to three hundred (300) days from the date of the alleged violation.

5. How will my complaint be handled?

When a complaint is received, it is assigned to a Civil Rights Investigator (CRI). The CRI will:

- A. Determine Jurisdiction: ODCR has jurisdiction if the complaint:
 - 1) involves a statement or conduct that violates:
 - i. MassDOT/MBTA's legal obligation and commitment to prevent discrimination, harassment, or retaliation on the basis of a protected characteristic with regard to any aspect of the Agency's service to the public;
 - ii. or
The commitment made by subrecipients and contractors working with MassDOT/MBTA to adhere to MassDOT/MBTA policies;

AND

 - 2) is timely filed.
- B. Acknowledge receipt of the complaint and provide jurisdictional determination within ten (10) business days of receipt of the complaint.
 - 1) If the CRI determines that any complaint does not have the potential to establish a civil rights violation, then the CRI shall notify the complainant and Title VI Specialist in writing of its finding and the matter shall be closed.
- C. Conduct a thorough investigation of the allegations contained in the complaint in accordance with the MassDOT/MBTA Internal Complaint Procedures.

6. Findings and Recommendations?

At the conclusion of the investigation, the CRI will transmit to the complainant and the respondent one of the following three letters based on the findings:

- A. A letter of resolution that explains the steps the respondent has taken or will take to comply with Title VI.
- B. A letter of finding that is issued when the respondent is found to be in compliance with Title VI. This letter will include an explanation of why the respondent was found to be in compliance and provide notification of the complainant's appeal rights.
- C. A letter of finding that is issued when the respondent is found to be in noncompliance.

This letter will include each violation referenced as to the applicable regulations, a brief description of findings/recommendations, the consequences of failure to achieve voluntary compliance, and an offer of assistance in devising a remedial plan for compliance, if appropriate.

7. Can I appeal a Finding?

If a complainant or respondent does not agree with the findings of the CRI then he/she/they may appeal to the Assistant Secretary and Chief Diversity Officer. The appealing party must provide any **new information that was not readily available during the course of the original investigation that would lead MassDOT/MBTA to reconsider its determinations.** The request for an appeal and any new information must be submitted within thirty (30) days of the date the letter of finding was transmitted. After reviewing this information, MassDOT/MBTA will respond either by issuing a revised letter of resolution or by informing the appealing party that the original letter of resolution or finding remains in force.