

03 TITLE VI COMPLAINT PROCEDURE

INTRODUCTION

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin (including limited English proficiency) for programs and activities receiving federal financial assistance. The Massachusetts Department of Transportation (MassDOT) maintains a procedure for the disposition of Title VI complaints. The procedure described below is also available on MassDOT's Title VI webpage, in hardcopy in the Office of Diversity and Civil Rights (ODCR) and throughout the agency, on request. The complaint procedure is referenced in MassDOT's Title VI Notice to Beneficiaries along with instructions on how to request additional information and/or file a complaint. As part of the Notice, those instructions are available in the top ten languages throughout the Commonwealth, and MassDOT will translate the procedure into additional languages upon request. The content of the complaint forms utilized during the complaint process is available for review below. A copy of the form itself is available in Appendix 03-A. Currently-available translated versions of the form can be found in Appendix 03-B. A flowchart depicting this complaint procedure is available in Appendix 03-C.

Any person who believes him/herself or any specific class of persons, to be subjected to discrimination prohibited by Title VI (race, color, national origin (including limited English proficiency)) may him/herself or his/her representative file a written complaint with MassDOT. A complaint must be filed no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by MassDOT.

COMPLAINT FORM

Office of Diversity and Civil Rights Title VI Complaint Form

Title VI of the 1964 Civil Rights Act requires that "No 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." **If you feel you**

have been discriminated against in transit services, please provide the following information in order to assist us in processing your complaint.

Name: _____

Address: _____

Telephone Numbers:

(Home) _____ (Work) _____ (Cell) _____

Email

Address: _____

Do you need documents related to processing this complaint in an Accessible Format?

Large Print _____ Audio tape _____ TDD _____ Other: _____

Please indicate why you believe the alleged discrimination occurred:

_____ Race

_____ Color

_____ Gender

_____ National Origin

_____ Income

_____ Disability

_____ Other: _____

Are you filing this complaint on your own behalf?

Yes ____ No ____

If not, please supply the name and relationship of the person for whom you are complaining:

Please explain why you have filed for a third party.

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.

Yes ____ No ____

Have you previously filed a Title VI complaint with MassDOT?

Yes ____ No ____

Have you filed this complaint with any of the following agencies?

____ Transit Provider

____ U.S. Department of Transportation

____ Department of Justice

____ Equal Employment Opportunity Commission

____ Other: _____

Have you filed a lawsuit regarding this complaint?

Yes ____ No ____

If yes, please provide a copy of the complaint form.

[Note: However, if your case has gone to court on the same issues, we defer to the decision of the court.]

Name of organization or agency complaint is against:

Contact person: _____ Title: _____

Telephone number: _____

Please describe your complaint. You should include specific details such as names, dates, times, route numbers, witnesses, and any other information that would assist us in our investigation of your allegations. Please also provide any other documentation that is relevant to this complaint.

May we release your identity to the transit provider?

Yes ____ No ____

Please sign here:

Date:

[Note - We cannot accept your complaint without a signature.]

Please send your completed form to: Title VI Program Coordinator, MassDOT
Office of Diversity and Civil Rights, 10 Park Plaza, Suite 3800, Boston, MA 02116
or MassDOT.civilrights@state.ma.us

COMPLAINT PROCEDURE FOR COMPLAINTS FILED WITH MASSDOT AGAINST A SUBRECIPIENT

Complaints submitted to MassDOT in which a MassDOT subrecipient is named as the Respondent will be processed by the Investigations Unit in ODCR, as designated to perform this function by MassDOT's Title VI Coordinator. MassDOT may forward such complaints to the FTA Office of Civil Rights, where necessary for consultation, jurisdictional determinations, or investigation. As articulated in the memorandum attached as Appendix 03-D, MassDOT will "check-in" with FTA upon receipt of disability-based discrimination complaints against MassDOT subrecipients of FTA funds. The structure of MassDOT's Title VI complaint procedure, described below, is based on the investigations manual for Title VI complaints developed by the U.S. Department of Justice's Civil Rights Division, attached in Appendix 03-E.

1. Complaint Intake. (15 working days).
 - a. Input data into a complaint log to catalogue the race, color or national origin or other protected class of the complainant; the identity of the respondent; the nature of the complaint; the date of the complaint; a summary of the allegations; and actions taken by MassDOT or the subrecipient in response to the complaint. (Note: at the close of the investigative process, the complaint log will need to be updated with the outcome of the investigation).
 - b. Determine whether complaint is within the jurisdiction of MassDOT.
 - c. All complaints must be in writing and signed by the complainant or his/her representative. Complaints shall state, as fully as possible, the facts and circumstances surrounding the alleged discrimination. Complainants, or their representatives, can request assistance from the Office of Diversity and Civil Rights to provide the complaint in writing.
 - d. Respond to complainant in writing, confirming receipt of complaint and describing steps to be taken and other relevant information.
 - i. In the case of third-party complaints, the complainant will remain the recipient of the confirmation of receipt of their complaint. In addition, the alleged victim(s) of discrimination, if

identifiable, will be notified that an ODCR investigator may seek a discussion with them in processing the complaint, if needed, and provide general information regarding Title VI protections and complaint procedures.

- e. The respondent will be notified by MassDOT that he/she has been named in a complaint. The letter will indicate the Investigator's name and inform the respondent that he/she will be contacted for a discussion.

2. Establish Merit of Complaint/Conduct Investigation. (30 working days).

- a. Determine basis of complaint, and identify issues.
- b. Assign ODCR investigator to conduct the investigation/review the file. The investigator may want to keep the MassDOT General Counsel's office informed of certain complaint activities, given the nature of the complaint, as needed.
- c. Establish file containing the following:
 - i. Jurisdictional information;
 - ii. Identification of basis and issues;
 - iii. Identification of the applicable legal theories;
 - iv. Conclusions drawn from the analysis of the data or other evidence already gathered;
 - v. Description of the documentary, testimonial, and statistical evidence required to complete the investigation and the best sources and means of obtaining each type of evidence;
 - vi. Anticipated sequence of case activities, including onsite visits if needed;
 - vii. Anticipated timeframes for obtaining and analyzing evidence (if appropriate); and
 - viii. Statement of likely or enunciated recipient defenses and a description of the evidence required to test their validity.

- d. Identify parties to be interviewed and conduct interviews (e.g., complainant(s), respondent(s), staff, and witnesses).
 - e. Review subrecipient's records and if necessary, its facilities.
 - f. Request any additional information from relevant parties.
- 3. Evaluation and Assessment of Evidence/Investigative Report. (30 working days).
 - a. Evaluate evidence gathered.
 - b. Develop Investigative Report (IR) that will:
 - i. Organize and present the factual information collected during the investigation.
 - ii. Identify the location in the case file of the specific supportive documentation from which each statement, allegation, conclusion, or determination was drawn.
 - iii. Present an analysis of the information to determine the relevance of the facts to the allegations.
 - iv. Draw conclusions based on the analysis.
 - v. Recommend corrective and/or remedial action, as appropriate.
 - c. The IR should contain the following sections:
 - i. Introduction;
 - ii. Allegation(s);
 - iii. Methodology;
 - iv. Findings of Fact;
 - v. Analysis;
 - vi. Determination(s) and Corrective/Remedial Action(s)

LETTERS OF FINDING AND RESOLUTION

Once the investigation has been conducted and the IR written, the Title VI Coordinator will forward a copy of the complaint and a copy of the IR within thirty (30) days to the FTA Office of Civil Rights. MassDOT will transmit to the complainant and the respondent one of the following three letters based on its findings:

- a. A letter of resolution that explains the steps the subrecipient has taken or will take to come into compliance with Title VI.
- b. A letter of finding that is issued when the subrecipient 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 subrecipient is found to be in noncompliance. This letter will include each violation referenced as to the applicable regulations, a brief description of proposed remedies, notices of the time limit on the conciliation process, the consequences of failure to achieve voluntary compliance, and an offer of assistance to the subrecipient in devising a remedial plan for compliance, if appropriate.

Letters of finding and resolution will offer the complainant and the subrecipient the opportunity to provide additional information that would lead MassDOT to reconsider its determinations. Parties named in the complaint should provide this additional information within sixty (60) days of the date the letter of finding was transmitted. After reviewing this information, MassDOT will respond either by issuing a revised letter of resolution or finding to the appealing party, or by informing the appealing party that the original letter of resolution or finding remains in force.

COMPLAINTS FILED AGAINST MASSDOT

Complaints filed with MassDOT in which MassDOT is named as the respondent will be forwarded to FTA Office of Civil Rights for processing. The allegation(s) will be analyzed by FTA and the complainant will be notified by FTA of the status of the complaint. The FTA's Region I Civil Rights Officer may conduct an independent evaluation regarding affected MassDOT policy and may direct actions to be taken within MassDOT to address any policy deficiencies.