

Massachusetts Department of Public Utilities

Notice of Non-Discrimination, Title VI Grievance Plan

The Department of Public Utilities (“DPU”) does not discriminate on the basis of sex, race, color, religion, creed, national origin (including limited English proficiency), gender identity, income, class, disability, age, sexual orientation, ethnicity, genetic information, ancestry, or status as a veteran in administration of its programs or activities. DPU does not retaliate against or intimidate any individual because they have exercised their rights to participate in actions protected by applicable federal and state civil rights and non-discrimination laws and regulations; oppose actions prohibited by applicable federal and state civil rights and non-discrimination laws and regulations, or for the purpose of interfering with such rights. DPU is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by federal or state law, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

If you believe that you have been discriminated against with respect to a DPU program or activity, or if you have any questions about this notice or any of DPU’s non-discrimination programs, policies or procedures, you may contact the non-discrimination coordinator identified below to learn how and where to file a complaint of discrimination. Our procedure for handling such complaints may be found below.

Andrea Rivera Casul
Non-Discrimination Coordinator
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Boston MA 02114
Phone: 857-274-6194

Email: andrea.r.casul@mass.gov

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I. Introduction

It is the policy of the Department of Public Utilities (“DPU”) that no person shall be denied benefits or subjected to discrimination, intimidation, or retaliation in any DPU program, service, or activity on the basis of that person’s sex, race, color, religion, creed, national origin (including limited English proficiency), gender identity, income, class, disability, age, sexual orientation, ethnicity, genetic information, ancestry, or status as a veteran. DPU also requires its contractors to comply with this policy.

DPU seeks to assure full compliance with this policy and encourages any person who believes that DPU, in any of its programs or activities, or any of its employees or contractors have violated this policy to report that violation as set forth in this grievance procedure. DPU takes such allegations seriously and commits to resolving grievances in a fair, equitable and prompt manner.

This document is intended to serve as a guide to DPU staff who are tasked with implementing this procedure as well as a guide to members of the public who wish to submit a grievance and DPU contractors who are asked to respond to a grievance. This procedure is not intended to create any legal rights other than those established through the grievance procedures required by 40 CFR 7.90 and 40 CFR 5.135(b), namely that complainants are entitled to prompt and fair resolution of complaints and that DPU must identify a non-discrimination coordinator.

II. Filing a Grievance

A. Who may submit a grievance?

Anyone who believes that he/she/they or any other person or any specific class of persons has been subjected to discrimination by DPU or one of its employees or contractors that is prohibited by federal or state non-discrimination law may submit a grievance to DPU. Please note that any grievances may become a public record, subject to disclosure under the Massachusetts Public Records Law.

The grievance must be submitted within 180 calendar days of the date(s) of occurrence of the alleged discriminatory action or date of discovery or the last instance of an alleged continuing occurrence. This deadline is waivable for good cause.

B. What information should I put in my grievance?

Grievances shall describe as completely as possible the facts and circumstances surrounding the alleged discrimination. They should also include the following information:

1. The name, address, and phone number of the person who experienced the alleged discriminatory act;
2. If the complainant is represented by an attorney or other authorized representative, the name, address and phone number(s) of that attorney or authorized representative;
3. The date of the alleged discriminatory act or the date when the complainant became aware of the alleged discriminatory act, or the date of the last occurrence;
4. The name(s), address(es) and title of the alleged discriminating officials or entities;
5. The names and contact information of any witnesses, including DPU employees or contractors with direct knowledge of the alleged discriminatory act.

Please complete DPU grievance form here: ([link here](#))

Please sign and date the grievance.

C. How/Where do I submit a grievance?

Grievances should be submitted to DPU non-discrimination coordinator: Andrea Rivera Casul. You can submit a grievance using any of the following methods:

By electronic mail:

andrea.r.casul@mass.gov

By regular mail, hand delivery or overnight delivery service:

Andrea Rivera Casul
Non-Discrimination Coordinator
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Boston, MA 02114

By telephone (please note that your grievance will be reduced to writing by the non-discrimination coordinator): 857-274-6194.

D. What if I need help submitting a grievance?

If you need assistance filing a grievance because of blindness, low vision or other disability, limited English proficiency or any other barrier to accessing the grievance procedure, please contact Andrea Rivera Casul, Non-Discrimination Coordinator by electronic mail at andrea.r.casul@mass.gov or telephone at 857-274-6194. DPU may be able to provide you with translation or interpretation services or other accommodations.

E. Is there any place other than DPU where I can send a grievance?

Depending on the nature of your grievance, there may be a federal agency that would review your grievance. DPU receives funding from federal agencies that both prohibit discrimination from recipients of federal funds and have procedures to review allegations that those recipients are failing to comply with federal non-discrimination law. Federal laws prohibit discrimination based on race, color, national origin (including limited English proficiency), sex, age and disability. Federal agencies cannot review complaints that DPU has violated state non-discrimination laws, which cover additional types of discrimination.

For a list of federal agencies that are currently providing funding to DPU and may consider a grievance, please contact Andrea Rivera Casul, Non-Discrimination Coordinator by electronic mail at andrea.r.casul@mass.gov.

III. Processing a Grievance

A. Intake

Responsible DPU Employee:

Non-Discrimination Coordinator

Deadline for Completion:

10 business days from receipt

The non-discrimination coordinator must log all grievances and promptly acknowledge receipt of a grievance to the complainant. If the acknowledgement is not by letter or electronic mail, the acknowledgment must be documented and provided to the complainant.

The non-discrimination coordinator must evaluate all grievances and determine whether a grievance can be resolved informally. Informal resolution of a grievance requires the agreement of the complainant and must be completed within 10 business days from receipt.

If a grievance cannot be resolved informally, the non-discrimination coordinator must advance the grievance to the General Counsel, notify the Chief of Staff and update the non-discrimination complaint log within 10 business days from receipt.

B. Screening

Responsible DPU Employee:

General Counsel

Deadline for Completion:

10 business days from receipt

Upon receipt of a grievance from the non-discrimination coordinator, the General Counsel will screen the grievance for the following minimum requirements.

1. The grievance contains all information required by section II.B above and is signed and dated.
2. The subject of the grievance is DPU or one of its employees or contractors.
3. Taking all facts alleged in the grievance as true and drawing all reasonable inferences against the subject of the grievance, the grievance states a violation of federal or state non-discrimination law that has taken place within 180 calendar days of the date the grievance was submitted.

If the General Counsel determines that one or more minimum requirements are not met, the General Counsel will communicate that determination, in writing, to the complainant and the non-discrimination coordinator. The non-discrimination coordinator will update the non-discrimination complaint log within 10 business days from receipt of the determination from the General Counsel.

If the General Counsel determines that all minimum requirements are met, the General Counsel will forward the grievance to the Chief of Staff for assignment

and update the non-discrimination complaint log within 10 business days from receipt of the grievance from the non-discrimination coordinator.

C. Assignment

Responsible DPU Employee:

Chief of Staff

Deadline for Completion:

5 business days from receipt

The Chief of Staff must either: (1) assign the grievance for an investigation and recommendation and set a deadline for the completion of that investigation; or (2) direct that the investigation be stayed (see Section 3 below for more information on Staying an Investigation) until the resolution of a parallel proceeding such as a court case or law enforcement investigation. In either case, the Chief of Staff must act within 5 business days from receipt of the determination from the General Counsel.

1. Choosing an Investigator

In selecting an impartial investigator, the Chief of Staff should consider whether the grievance is likely to result in personnel action, whether the grievance alleges a pattern or practice of behavior, and whether the investigation is likely to require technical expertise. Permissible investigators include any DPU staff as well as staff assigned to the following departments external to DPU, with the consent of the external agency:

- EEA Human Resources
- HRD Center of Expertise
- DPU Senior Staff

2. Setting a Deadline

The Chief of Staff should consider the complexity of the grievance / investigation and the need to draft a written report and recommendation and set a deadline of not less than 30 calendar days and not more than 90 calendar days for the investigator to complete his or her report.

3. Staying an Investigation

The subject matter of a grievance may overlap with other proceedings or investigations -- administrative, civil, or criminal. If there is such an overlap, the Chief of Staff should consider whether to stay the investigation of the grievance until the resolution of the other proceeding or investigation. The Chief of Staff should consider:

- Could the investigation interfere with another agency's investigation? If so, which investigation should take precedence?
- Is the grievance about the *predicted outcome* of an ongoing administrative proceeding before DPU? If so, consider whether the investigation should wait until the administrative proceeding is complete.
- Is the grievance about the *process* being used to conduct an ongoing administrative proceeding before DPU? If so, consider how prompt resolution could improve that administrative proceeding and how a stay may result in a need to repeat all or part of that proceeding?
- Would resolution of the other proceeding provide factual information that would inform disposition of the grievance?

The Chief of Staff must inform the following individuals in writing of the person or division assigned to conduct an investigation and the deadline for that investigation: (a) the complainant; (b) the subject; and (c) the non-discrimination coordinator. If the investigation of the grievance is stayed, the Chief of Staff must inform following individuals in writing of the nature of the other proceeding or investigation, without disclosing any confidential information: (a) the complainant; and (b) the non-discrimination coordinator.

D. Investigation and Recommendation

Responsible DPU Employee: To be assigned by Chief of Staff

Deadline for Completion: To be determined by Chief of Staff

The assigned investigator is responsible for conducting a thorough and unbiased investigation that will lead to a prompt, fair and equitable resolution of the grievance and, if appropriate, formulating a recommendation. Even if an investigation results in a finding of no violation of law, the investigator should

consider whether a recommendation to improve DPU's practices is appropriate based on information gathered during the investigation.

All DPU staff are directed to: (1) cooperate in an investigation undertaken under this grievance procedure, (2) answer truthfully any questions posed by the investigator, (3) provide the investigator with access to any DPU documents, books, records or other data requested by the investigator, (4) provide the investigator with access to any DPU premises for purposes of inspection; and (5) provide the investigator with technical assistance as directed by the Chief of Staff.

An investigation should include interviews of the complainant, any witnesses identified by the complainant, relevant staff of the subject of the investigation (DPU or its contractor) and any witnesses identified by the subject of the investigation. An investigation should also include review of relevant documents, inspection of relevant premises and, if necessary, consultation with technical experts, including legal advisors.

At the conclusion of the investigation, the investigator is responsible for drafting a report and recommendation. The report must include relevant factual findings that are supported by a preponderance of the evidence. The report may also include either required actions by the subject or DPU, recommended actions for the subject or DPU to consider. If the report reaches a conclusion as to whether a violation of state or federal non-discrimination law occurred, the report must include the reasons for that conclusion. If the conclusion is that such a violation occurred, the report must include at least one required action designed to remedy the violation, seek, or take disciplinary action against an employee and/or mitigate the risk of future violations:

Upon completion of the draft report and recommendation, the investigator must submit the draft report to the Chief of Staff and notify the non-discrimination coordinator of that submission. The non-discrimination coordinator must update the non-discrimination complaint log.

E. Adoption or Rejection of Report and Recommendation

Responsible DPU Employee:

Chief of Staff

Deadline for Completion:

30 business days from receipt

The Chief of Staff will review every draft report and recommendation prepared under this grievance procedure. Within 5 business days of receipt, the Chief of

Staff must solicit comments from the complainant and the subject and provide them with either: (1) the draft report and recommendation; or (2) a summary of the draft report and recommendation. The deadline for comments shall be 10 business days, unless the Chief of Staff extends the deadline for good cause. Within 30 business days from receipt or 15 business days from the end of the comment period, whichever is later, the Chief of Staff must decide whether to accept the report and recommendation as written or with modifications. The Chief of Staff must communicate that decision, in writing, to the complainant, the subject, and the non-discrimination coordinator. The non-discrimination coordinator must update the non-discrimination complaint log to reflect that the complaint has been disposed and indicate if any action was required or recommended. The Chief of Staff will promptly provide written notice about the outcome of the investigation, including whether discrimination is found and the description of the investigation process.

IV. Miscellaneous

A. Intimidation and Retaliation Prohibited

No DPU employee or contractor may intimidate or retaliate against any person for exercising his or her rights under any federal or state non-discrimination law or for making use of this grievance procedure. An allegation of retaliation will be handled promptly and fairly pursuant to this grievance procedure in the same fashion as a substantive violation of non-discrimination.

B. Computation and Extension of Time

If the final day on which an event is to take place is a date on which DPU's offices are closed, the event must take place on the next day that DPU's offices are open.

The Chief of Staff may extend any deadline established by this procedure for good cause. The Chief of Staff must promptly communicate the fact and reasons for any extension to the non-discrimination coordinator, subject and complainant.

C. Alternative Dispute Resolution

With the agreement of the complainant and the subject, the Chief of Staff may (but need not) refer any grievance to alternative dispute resolution ("ADR") facilitated by a mediator. A mediator may be an employee of DPU, an employee of another state agency, or a third party. If a third party is utilized, the subject and complainant are responsible for any costs of ADR. Discussions with the mediator

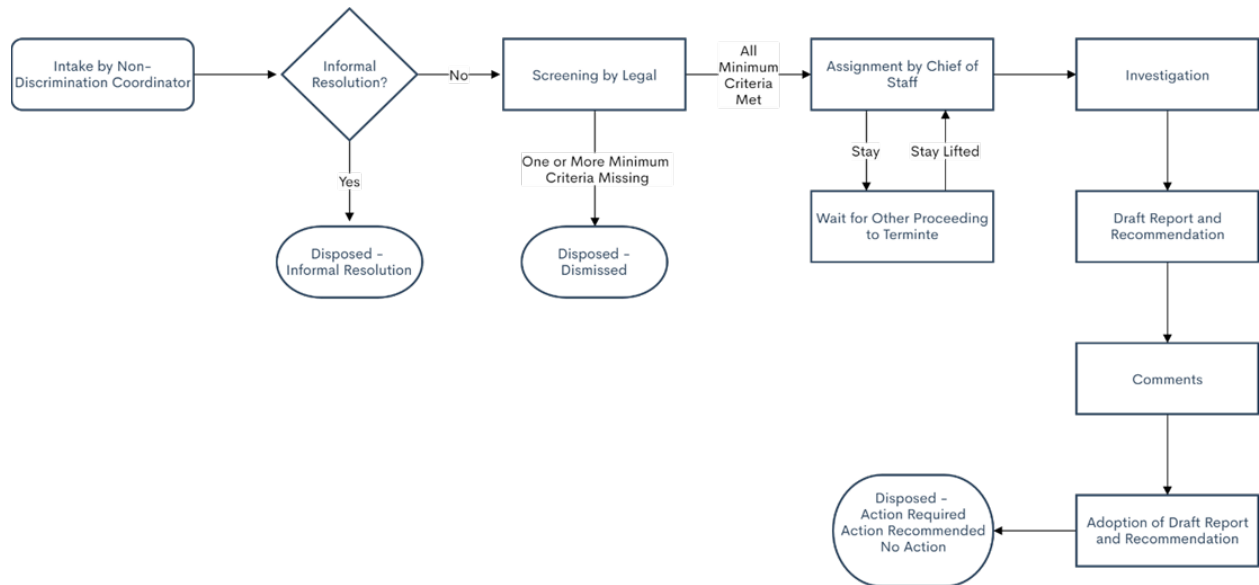
are voluntary and confidential, subject to any required disclosures under the public records law, and will not be used by an investigator in conducting an investigation under this policy. During the ADR process, any investigation should be stayed. If the ADR process is successful, an investigation may be disposed of at the direction of the Chief of Staff and the non-discrimination coordinator must update the log to reflect the disposition of the grievance through ADR.

D. Role of the non-Discrimination Coordinator

The Non-Discrimination Coordinator performs the following functions:

- Provides information internally and externally regarding rights of access to programs, services, and activities without regard to a person's sex, race, color, religion, creed, national origin (including limited English proficiency), gender identity, income, disability, age, sexual orientation, ethnicity, genetic information, ancestry, or status as a veteran.
- Provides notice internally and externally of DPU's grievance procedure and the ability to file a discrimination grievance.
- Assists members of the public with filing grievances
- Serves as a single point of contact for complainants under the grievance procedure and keeps complainants apprised of the status of investigations.
- Maintains the non-discrimination complaint log for DPU.
- When appropriate, resolves grievances informally.
- Reviews, with appropriate personnel, within 30 calendar days of the start of each fiscal year and within 30 days of the start of each calendar year, all grievances in the complaint log in order to identify any patterns or systemic issues. Assists in addressing any patterns or system issues that are identified.

Grievance Procedure Process Chart



In the event a grievance was received orally, the non-discrimination coordinator should sign and date the grievance.