



Rhode Island Department of Transportation Procedures for the Processing and Disposition of Discrimination Complaints

Purpose and Applicability

The purpose of this document is to establish a procedure for the processing and disposition of discrimination complaints filed directly with the Rhode Island Department of Transportation (RIDOT) under Title VI of the Civil Rights Act of 1964 (Title VI) and related nondiscrimination authorities, including the Americans with Disabilities Act (ADA).

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, nor prohibit complainants from filing complaints with other state or federal agencies, nor deny complainants the right to seek private counsel to address acts of alleged discrimination.

The procedures described in this document apply to RIDOT, its sub-recipients, contractors, and subcontractors in their administration of federally-funded programs and activities.

Definitions

Complainant – a person who files a complaint with the Rhode Island Department of Transportation.

Complaint – written 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 disabled complainant.

Discrimination – that act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, gender, age or disability, has been otherwise 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) and the Federal Rail Administration (FRA), that fund transportation programs or activities.

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

Filing of Complaints

A. Persons eligible to file

Any person who believes that RIDOT, a RIDOT sub-recipient or a RIDOT contractor has engaged in discrimination, against that person or a specific class of persons, may submit a written complaint to:

Rhode Island Department of Transportation
2 Capitol Hill, Room 109
Providence, RI 02903
ATTN: Title VI Coordinator and/or ADA Coordinator
Fax: (401) 222-6168

B. Time Limits for Filing

Pursuant to 49 C.F.R. § 21.11(b), any person who believes that RIDOT, a RIDOT sub-recipient or a RIDOT contractor has engaged in discrimination must file a complaint within 180 days after the last date of the alleged discrimination. Complainants who file a complaint beyond 180 days of the last date of the alleged discrimination must request a waiver from the Office of Civil Rights at the Operating Administration.

C. Form of Complaints

A complainant may complete and submit a signed Title VI/Nondiscrimination Complaint Form provided by the Rhode Island Department of Transportation.¹ Alternatively, a complainant may submit correspondence² that:

1. explains the alleged discrimination or violation;
2. provides contact information for the complainant (if the complaint is filed electronically, RIDOT should request the sender's full name, telephone number and mailing address, if not provided);
3. identifies the person or group injured by the alleged discrimination, as well as the person, agency, organization, or institution alleged to have discriminated;
4. states the basis for the alleged discrimination (e.g., race, sex, age, disability, etc.); and
5. provides sufficient information to understand the facts that led the complainant to believe that discrimination has occurred, as well as the date of the alleged discrimination.

Any complainant requiring technical assistance with filing a complaint may contact RIDOT's Title VI/ADA Coordinator at (401) 222-3260.

Processing Complaints

The Operating Administrations each have an Office of Civil Rights that is responsible for all phases of the Title VI complaint process, including accepting, rejecting and investigating complaints; making and issuing compliance findings; and obtaining voluntary compliance.

A. Responsibility of RIDOT

RIDOT will process discrimination complaints filed directly with RIDOT according to the procedure described below.

¹ A copy of RIDOT's Title VI Complaint Form is included as Attachment 1.

² RIDOT will receive complaints in alternative formats from persons with disabilities.

1. Complaints against RIDOT

Where RIDOT receives a complaint alleging that RIDOT has discriminated against a complainant in its programs or activities on the basis of race, color, national origin, gender, age or disability, RIDOT shall forward the complaint to the Office of Civil Rights at the appropriate Operating Administration.

2. Complaints against RIDOT sub-recipients or contractors

Where RIDOT receives a complaint alleging that a RIDOT sub-recipient or contractor has discriminated against a complainant in its programs or activities on the basis of race, color, national origin, gender, age or disability, RIDOT shall review, log and forward the complaint to the appropriate Operating Administration within 60 days of receipt.

- a. For discrimination complaints regarding the Federal-aid highway program, RIDOT shall review and log the complaint, conduct a preliminary investigation of the allegations, and forward the complaint and preliminary investigation summary to the Rhode Island Division Office of FHWA for resolution and issuance of the final agency decision.
- b. For discrimination complaints regarding FTA sponsored grant programs, RIDOT shall review, log and forward the complaint to the FTA Office of Civil Rights for resolution and issuance of the final agency decision. RIDOT may also conduct a preliminary investigation of the allegations.
- c. For discrimination complaints regarding FRA sponsored grant programs, RIDOT shall review, log and forward the complaint to the FRA Office of Civil Rights for resolution and issuance of the final agency decision. RIDOT may also conduct a preliminary investigation of the allegations.
- d. Where RIDOT receives a complaint alleging that a sub-recipient or contractor has engaged in employment discrimination against a complainant, RIDOT will refer such complaints to the U.S. Equal Employment Opportunity Commission or Rhode Island Commission for Human Rights.
- e. Where RIDOT's Title VI Coordinator receives a complaint alleging that a RIDOT contractor has violated one or more nondiscrimination provisions of Form FHWA-1273, RIDOT's Title VI Coordinator will refer such complaints to RIDOT's Contractor Compliance Office for investigation and resolution pursuant to RIDOT's Contractor Compliance Manual.

B. Receipt, Review and Handling of Complaint

Upon receipt of correspondence concerning alleged discrimination, RIDOT's Title VI Coordinator will proceed according to the following process:

1. The Title VI Coordinator will date stamp and review the correspondence to confirm that it is a complaint within the meaning of these procedures.³

³ The following are not complaints within the meaning of these procedures: anonymous complaints, requests for advice or information, courtesy copies of letters or complaints filed with other agencies, and oral assertions. However, RIDOT will receive complaints in alternative formats from persons with disabilities.

2. The Title VI Coordinator will record the complaint in RIDOT's Title VI Log⁴ and assess whether (a) additional information is required, (b) the complaint is timely filed, and (c) jurisdiction exists over the subject matter of the complaint.
3. The Title VI Coordinator will handle all complaints in a confidential manner and will not disclose complainant's identity to a respondent unless (a) disclosure is necessary in order to conduct a preliminary investigation, and (b) complainant has submitted a Complainant Consent/Release Form⁵ authorizing disclosure.

C. Acknowledge Receipt of Complaint

After reviewing and recording the complaint, RIDOT's Title VI Coordinator will acknowledge receipt of complainant's correspondence and notify complainant of the right to file the complaint directly with the Office of Civil Rights at the Operating Administration.

1. Requests for additional information
Where RIDOT requires additional information to identify more precisely the nature of the discrimination complaint or the nexus to RIDOT's federally-funded programs and activities, RIDOT will request that the complainant provide such information within 15 days of the date of RIDOT correspondence acknowledging receipt of the complaint.
2. Complainant Consent/Release Form
RIDOT will provide a Complainant Consent/Release Form and request that complainant complete and return the form within 15 days of the date of RIDOT correspondence acknowledging receipt of the complaint.
3. Right to request a waiver of timeliness requirement
Where a complainant files a complaint beyond 180 days of the last date of the alleged discrimination, RIDOT will notify the complainant of the right to request a waiver from the Office of Civil Rights at the Operating Administration.
4. Referral to appropriate agency
 - a. Where a complaint alleges that RIDOT has discriminated against a complainant in RIDOT's programs or activities on the basis of race, color, national origin, gender, age or disability, RIDOT shall forward the complaint to the Office of Civil Rights at the appropriate Operating Administration and notify complainant of such referral.
 - b. Where the allegations in a complaint do not involve discrimination relating to RIDOT's federally-funded programs or activities, RIDOT will refer the complaint to the appropriate agency and notify complainant of such referral.
 - c. Where RIDOT receives a complaint alleging that a sub-recipient or contractor has engaged in employment discrimination against a complainant, RIDOT will refer the complaint to the U.S. Equal Employment Opportunity Commission or Rhode Island Commission for Human Rights.

⁴ A sample copy of RIDOT's Title VI Log is included as Attachment 2.

⁵ A copy of the Complainant Consent/Release Form is included as Attachment 1.

D. Assess Jurisdiction and Identify Issues

Upon receipt of a complaint, Complainant Consent/Release Form and, if necessary, any additional information needed to identify more precisely the nature of the alleged discrimination or the nexus to RIDOT's federally-funded programs and activities, RIDOT will assess whether it has jurisdiction over the subject matter of the complaint. RIDOT will also identify the specific practice, procedure, policy, or service involved in the alleged discrimination.

1. Referral to appropriate agency

Where a complaint alleges matters that are outside of RIDOT's jurisdiction, RIDOT will make a good-faith effort to refer the complaint to the appropriate agency and notify complainant accordingly.

E. Recommend Dismissal

RIDOT will contact the Office of Civil Rights for the Operating Administration and recommend dismissal in the following circumstances:

1. The complainant withdraws the complaint;
2. The complainant fails to respond to repeated requests for information needed to process the complaint, or otherwise fails to cooperate in the investigation;
3. The complaint is so weak, insubstantial, or lacking in detail that it is without merit, or so replete with incoherent or unreadable statements that RIDOT cannot consider the complaint, on the whole, to be grounded in fact; or
4. RIDOT cannot locate the complainant after making reasonable attempts to contact him or her.

Preliminary Investigations

The Operating Administrations have sole authority for accepting Title VI complaints. Nevertheless, RIDOT may conduct a preliminary investigation of discrimination complaints filed directly with RIDOT as described below.

A. Preliminary Investigation Plan

After assessing jurisdiction and identifying the specific practice, procedure, policy, or service involved in the alleged discrimination complaint, RIDOT's Title VI Coordinator may assign the preliminary investigation to an investigator, who will prepare a Preliminary Investigation Plan. The Preliminary Investigation Plan highlights the issues raised in the complaint and serves as a guide for completing the preliminary investigation. The Preliminary Investigation Plan includes the following elements:

1. Complainant name and contact information.
2. Respondent name and contact information.
3. Date filed.
4. Date of last discrimination.
5. Complaint allegations.
6. Potential violations (applicable laws).
7. Basis/bases.

8. Background/Information on file.
9. Information needed.
10. Sources of information needed.

B. Notifications and Requests for Information

RIDOT will notify the complainant and respondent that RIDOT is investigating matters raised in the complaint. The notification letter will state the following:

1. The basis/bases for the complaint.
2. Allegations over which RIDOT has jurisdiction.
3. RIDOT's jurisdiction over the respondent.
4. An admonition that respondent shall not intimidate, threaten, coerce, retaliate, or discriminate against anyone involved in the investigation of the complaint, including the complainant, witnesses and sources of information regarding matters alleged or related to the complaint.
5. A request that the respondent submit a position statement to RIDOT responding to the allegations within 15 days of the date of RIDOT's notification letter.
6. A request for additional information relevant to matters raised in the complaint, if appropriate, to be submitted to RIDOT within 15 days of the date of RIDOT's notification letter.

C. Interviews, Data Collection and On-site Visits

After preparing a Preliminary Investigation Plan, RIDOT will gather information needed to complete the preliminary investigation by conducting interviews and on-site visits, if necessary, and collecting relevant data, if available.

D. Preliminary Investigation Summary

No later than 60 days after receiving a complaint, RIDOT will transmit the complaint and preliminary investigation summary to the Rhode Island Division Office of FHWA. The Preliminary Investigation Summary will discuss the issues raised in the complaint, describe the information obtained during the preliminary investigation, and explain how RIDOT obtained and evaluated that information. The Preliminary Investigation Summary will also analyze each allegation and provide RIDOT's recommendations.

The Preliminary Investigation Summary shall follow the following format:

1. Introduction
2. Allegations
3. Applicable laws/regulations
4. Bases
5. Evaluation/Investigation: Methodology
6. Analysis of each allegation
7. Recommendations

Nondiscrimination Authorities

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d – 2000d-4

42 U.S.C. § 2000d states: “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.”

Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §§ 3601 – 3619 (Fair Housing Act)

42 U.S.C. § 3601 declares that “[i]t is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.”

Federal-Aid Highway Act of 1973, 23 U.S.C. §§ 140, 324

23 U.S.C. § 324 provides:

No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title. This provision will be enforced through agency provisions and rules similar to those already established . . . under title VI of the Civil Rights Act of 1964.

Section 504 of the Rehabilitation Act of 1973

29 U.S.C. § 794 provides: “No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

The Age Discrimination Act of 1975, 29 U.S.C. §§ 6101 – 6107

42 U.S.C. § 6102 states, in relevant part, that “no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.”

The Civil Rights Restoration Act of 1987, 100 Pub. L. No. 100-259, 102 Stat. 28 (1988)

Enacted in response to Grove City College v. Bell, 465 U.S. 555 (1984), the Civil Rights Restoration Act restores the broad scope of coverage of various nondiscrimination statutes and clarifies that statutory prohibitions against discrimination extend to all programs and activities of an entity receiving Federal financial assistance, regardless of whether those programs and activities are federally-funded.

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 – 12134

42 U.S.C. § 12132 provides, in relevant part, that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

Exec. Order No. 12,898, 59 Fed. Reg. 7629 (1994), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.*

Exec. Order No. 13,166, 65 Fed. Reg. 50,121 (2000), *Improving Access to Services for Persons with Limited English Proficiency.*

23 C.F.R. Part 200: Title VI Program and Related Statutes—Implementation and Review Procedures.

49 C.F.R. Part 21: Nondiscrimination in Federally-assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964.

External Civil Rights Programs Division, U.S. Dep’t of Transp., Order No. 100.18, External Civil Rights Complaint Processing Manual (2007).

Federal Transit Administration, U.S. Dep’t of Transp., Circular No. 4702.1A, Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients (2007).

R.I. Governor’s Commission on Disabilities Rules and Regulations
Chapter D Grievance Procedures Regarding Complaints Alleging Discrimination by a State Agency on the Basis of Disability

Federal Highway Administration, U.S. Dep’t of Transp., External Complaint Processing Procedures (20xx).

Attachment 1



**TITLE VI/NONDISCRIMINATION
COMPLAINT FORM**

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d

Complainant:

Name: _____

Address: _____

_____ Zip Code _____

Telephone No.: (Home) _____ (Cell) _____ (Work) _____

Person(s) discriminated against, if different from above:

Name: _____

Address: _____

_____ Zip Code _____

Telephone No.: (Home) _____ (Cell) _____ (Work) _____

Please describe your relationship to this person(s).

Agency, institution, or organization that discriminated:

Name: _____

Any individual if known: _____

Address: _____

_____ Zip _____

Telephone No.: _____

Does your complaint concern discrimination in the delivery of services or in other discriminatory actions of the agency, institution, or organization? If so, please indicate below the base(s) on which you believe these discriminatory actions were taken:

___ Race: _____

___ Color: _____

___ National Origin: _____

___ Sex: _____

___ Age: _____

___ Disability: _____

If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:

Name: _____

Address: _____

_____ Zip _____

Telephone No.: _____

To the best of your recollection, on what date(s) did the alleged discrimination take place?

Earliest date of discrimination: _____

Most recent date of discrimination: _____

Please explain as clearly as possible what happened, why you believe it happened, and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. (Please use additional sheets if necessary.)

If you believe that you have been retaliated against for complaining about discrimination or cooperating in an investigation of alleged discrimination, please explain the circumstances and what actions you took which you believe were the basis for the alleged retaliation.

Please list below any persons (witnesses, fellow employees, supervisors, or others), if known, whom RIDOT may contact for additional information to support or clarify your complaint.

Please provide any other information that you think is relevant to your discrimination complaint.

What remedy are you seeking for the alleged discrimination?

Please sign and date the complaint below. (Please note that RIDOT cannot process the complaint without a signature.)

Signature

Date



**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 am aware that under Section 9-1-28.1 of the Rhode Island General Laws, I have a right to privacy. As a complainant, I understand that in the course of an investigation it may become necessary for the Rhode Island Department of Transportation (RIDOT) to reveal my identity to persons at the organization(s) under investigation, or to refer a copy of my complaint to another investigatory agency. I am also aware of RIDOT's obligations to honor requests under the Access to Public Records Act. I understand that it may be necessary for RIDOT to disclose information, including personally identifying details that RIDOT has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by federal regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes.

CONSENT/RELEASE

CONSENT GIVEN – I have read and understand the above information and authorize RIDOT to reveal my identity to persons at the organization(s) under investigation, or to refer my complaint to another investigatory agency. I hereby authorize the Rhode Island Department of Transportation (RIDOT) 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 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 RIDOT to reveal my identity to persons at the organization(s) under investigation, or to review, receive copies of, or discuss material and information about me pertinent to the investigation of my complaint. I understand that this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

Signature

Date

Attachment 2

Title VI Complaint Log
2011

No.	Complainant	Race	Color	National Origin	Sex	Age	Disability	Nature of Complaint	Date Filed	Recipient	Investigation Completion Date	Disposition	Disposition Date
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													
13													