

# Department of Environmental Conservation Procedures for Filing and Processing a Complaint Alleging a Violation of Federal Nondiscrimination Laws

## Purpose

The Department of Environmental Conservation (DEC) is committed to ensuring that no person is excluded from participation in, denied the benefits of, or discriminated against under its projects, programs, or activities based on race, color, national origin (including Limited English Proficiency), sex, disability, or age, as provided in the following federal nondiscrimination laws. The procedures herein are designed to provide due process for complainants and respondents relating to allegations of discrimination. DEC will review these procedures on an annual basis (for both in-print and online materials), and revise as necessary, to ensure prompt and fair resolution of discrimination complaints.

The applicable federal nondiscrimination statutes are:

- **Title VI of the Civil Rights Act of 1964**, 42 U.S.C. 2000d, provides: 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.
- **Section 504 of the Rehabilitation Act of 1973**, 42 U.S.C. 794, et seq., provides: No otherwise qualified individual with a disability in the United States shall, solely by reason of his or her 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.
- **Age Discrimination Act of 1975**, 42 U.S.C. 6101, provides: 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 1987/1988**, P.L. 100-209, provides: Clarification of the original intent of Congress in Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. The Act restores the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.
- **Title II of the Americans with Disabilities Act of 1990**, 42 U.S.C. 12131, et seq., provides: No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or local government.
- **Title IX of the Education Amendments of 1972**, 20 U. S. C. 1681, et seq., provides: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
- **Section 13 of the Federal Water Pollution Control Act Amendments of 1972**, Pub. L. 92-500, §13, Oct. 18, 1972, 86 Stat. 903, provides that: No person in the United States 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 financial assistance under this Act, the Federal Water Pollution Control Act, or the Environmental Financing Act.

## **Complaint Policy and Procedure**

It is the Policy of the Department of Environmental Conservation to never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by Title VI of the Civil Rights Act of 1964 (Title VI) and related federal nondiscrimination laws, Section 504 of the Rehabilitation Act of 1973 (Section 504), or Title II of the Americans with Disabilities Act of 1990 (ADA).

## **Complaint Process**

If someone believes they have suffered from discrimination based on race, color, national origin (including Limited English Proficiency), disability, sex, or age with respect to a DEC program, activity, service, or benefit, they may contact the DEC Nondiscrimination Coordinator.

The DEC Nondiscrimination Coordinator is responsible to ensure compliance with the DEC's Nondiscrimination Policy, oversee compliance with federal nondiscrimination laws and regulations, and ensure public awareness of and access to the complaint process. The Nondiscrimination Coordinator may assist the complainant in reaching an informal resolution by working with the agency to address the issue(s) raised. If the parties resolve the issue(s) informally, Office of General Counsel will prepare a resolution agreement on behalf of the agency. The Nondiscrimination Coordinator will keep a log for complaints containing the name and address of the complainant, nature of the complaint and date of alleged discrimination, date of submission, resolution result, and closure date. DEC will not consider the following items a complaint (unless the item contains a signed cover letter or complaint form specifically alleging a violation of federal nondiscrimination laws):

- An anonymous complaint that is too vague to obtain required information
- Inquiries seeking advice or information
- Courtesy copies of court pleadings
- Courtesy copies of complaints addressed to other local, State or Federal agencies
- Newspaper articles
- Courtesy copies of internal grievances

Any person may file a written discrimination complaint under federal nondiscrimination laws. A written discrimination complaint must be filed within 180 calendar days of the date the alleged discrimination occurred. In addition, intimidation of or retaliation against a complainant are prohibited, and claims of intimidation and retaliation will be handled promptly and fairly pursuant to these Procedures in the same manner as other claims of discrimination.

The Office of Internal Investigations (OII) will ensure the prompt and fair resolution of written complaints which allege violations of federal nondiscrimination laws. OII will conduct an impartial and objective investigation, collect factual information, and prepare a fact-finding report based upon information obtained from the investigation. In considering the allegations and information obtained during the agency's investigation, OII will determine whether it is more likely than not that the allegations are true; this is the preponderance of the evidence standard. Following the investigation, OII will advise the Nondiscrimination Coordinator and the complainant of the results of the investigation and whether discrimination is found. The Nondiscrimination Coordinator will discuss recommended corrective action with the agency. The complainant can appeal the determination to the Deputy Commissioner for Equity & Justice. The OII will keep a log for written complaints containing the name and address of the complainant, nature of the complaint and date of alleged discrimination, date of submission, resolution result, and closure date.

## **Complaint Procedure**

### **A. Submittal of Written Complaint:**

Written complaints must be signed by the complainant or the complainant's representative and filed within 180 days of the last date of the alleged discrimination unless the time for filing is extended. An extension may be granted under any of the following circumstances:

- a. The complainant could not reasonably be expected to know the act was discriminatory within the 180-day period, and the complaint was filed within 60 days after the complainant became aware of the alleged discrimination;
- b. The complainant was unable to file a complaint because of incapacitating illness or other incapacitating circumstances during the 180-day period, and the complaint was filed within 60 days after the period of incapacitation ended;
- c. The complainant filed a complaint alleging the same discriminatory conduct within the 180-day period with another Federal, State, or local civil rights enforcement agency, and filed a complaint with DEC within 60 days after the other agency had completed its investigation or notified the complainant that it would take no further action;
- d. The complainant filed, within the 180-day period, an internal grievance alleging the same discriminatory conduct that is the subject of the DEC complaint, and the complaint is filed no later than 60 days after the internal grievance is concluded;
- e. Unique circumstances generated by DEC action have adversely affected the complainant;
- f. The discriminatory act is of a continuing nature; or
- g. Some complaints will be referred to DEC by other agencies. In the event the referring agency has possessed the complaint for an inordinately long period of time and the complainant filed his or her complaint with that agency within the 180-day timeframe DEC will automatically grant an extension. In these cases, staff does not need to notify the complainant of the extension.

Complainants are encouraged to complete the DEC's Federal Civil Rights Violation Complaint Form (online or fillable.pdf) to ensure that all required information about the allegations is included. For additional languages, email [language@dec.ny.gov](mailto:language@dec.ny.gov) or call 518-402-8044.

### **B. Initial review of a written complaint**

Once OII receives a written complaint, within 15 business days, an investigator will review it to determine if:

- it qualifies as a federal nondiscrimination complaint and will be investigated; or
- it does not qualify as a nondiscrimination complaint and will be closed; or
- the complaint is incomplete and additional information is necessary.

The complainant will be contacted in writing or by telephone to obtain the additional information. The complainant will be given 15 calendar days to respond to the request for additional information.

OII will also check if the written complaint was submitted within 180 days, and that it does not duplicate a previous complaint against DEC made by the same person filed with either DEC or another agency.

If it becomes clear that DEC lacks jurisdiction over a complaint, the complaint will be referred to the appropriate agency. A referral letter will be sent to the agency along with the complaint and other documents. A letter will also be sent to the complainant stating that the complaint has been referred to another agency and that DEC has closed the complaint.

If the investigator determines that the complaint is not covered by the DEC's policy, the person who filed the complaint will be notified within 15 business days that the case will not be investigated as a federal discrimination complaint. DEC may also close the complaint if additional information is not received, or if the person who filed the complaint does not cooperate with the investigation or indicates that they no longer wish to pursue the case.

### **C. Investigation of a written complaint**

If the investigator determines that a complaint qualifies as a federal discrimination complaint, they will notify the person who filed the complaint that it has been accepted for investigation.

The investigator will commence an investigation, which may include interviews with the complainant, individuals responsible for the service, benefit, activity, or program referenced in the complaint, appropriate witnesses, or other relevant DEC personnel and contractors. The interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will maintain a chronological contact sheet in the case file throughout the investigation.

In most cases, the investigator will complete their investigation within 90 calendar days after receipt of a completed Complaint Form. If more time is required, OII shall notify the complainant in writing of the delay and the estimated time for completion.

### **D. Determination and Right to Appeal**

Upon completion of the investigation, OII will provide a written determination to the complainant about the investigation and its outcome as to whether discrimination is found or not found.

If the complainant disagrees with the determination, they may request reconsideration by submitting a written request for appeal within 30 calendar days following receipt of the determination. The appeal request should be addressed to the Nondiscrimination Coordinator or the Deputy Commissioner for Equity & Justice. The appeal request should be sufficiently detailed to contain any items the complainant feels were not fully understood or reviewed in the initial investigation.

A request for appeal will trigger an automatic reconsideration of all investigation material and any additional information provided in the appeal request. The appeal will be followed by a final determination issued by the Deputy Commissioner for Equity & Justice in conjunction with the Office of General Counsel.

### **E. Dismissal of Complaint**

Notwithstanding the foregoing procedures, OII may dismiss a written complaint at any time for the following reasons:

1. The complaint is untimely filed;
2. The complainant fails to respond to requests for additional information needed to process the complaint;
3. The complainant cannot be located after reasonable attempts;
4. There is no statutory or alleged basis for the complaint, DEC lacks jurisdiction in the matter, or the complainant does not allege any harm with regard to current programs or statutes;
5. The complaint has been investigated by another agency and the resolution of the complaint meets regulatory standards for the associated federal agency; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet required standards;

6. The DEC obtains credible information at any time indicating that the allegations raised by the complainant have been resolved or are moot and there are no class-wide allegations or implications. In such a case, DEC will attempt to ascertain the apparent resolution. If DEC determines that there are no current allegations appropriate for further complaint resolution, the complaint will be closed;
7. The complainant decides to withdraw the complaint. If the complaint included class allegations, the DEC may close out the entire complaint, pursue resolution of the class allegations, or use the information to target future compliance review activity;
8. The same complaint allegations have been filed with another Federal, State, or local agency, or through a respondent's internal grievance procedures, including due process proceedings, and DEC anticipates that the respondent will provide the complainant with a comparable resolution process under comparable legal standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet required standards;
9. The DEC refers a complaint to another agency that also has jurisdiction but may be better suited to conduct the investigation;
10. A complaint, because of its scope, may require extraordinary resources. In such instances, DEC may consider treating such a complaint as a compliance review by the Nondiscrimination Coordinator. Similarly, a compliance review may be the most effective means of addressing multiple individual complaints against the same respondent; if DEC selects this option, it should discuss the decision with the complainant(s), close the complaint, and initiate the review as soon as possible. The DEC should provide the complainant(s) with a copy of the resolution documents upon completion of the compliance review.



Department of  
Environmental  
Conservation

## Department of Environmental Conservation Federal Civil Rights Violation Complaint Form

### Complainant Contact Information

Full Name:

Address:

City:

State:

Zip:

Email:

Telephone:

### Your claim of discrimination under Federal Civil Rights Laws is being made against:

Entity Name:

Location of incident:

Date(s) discrimination occurred:

Is the discrimination continuing? ☐ Yes ☐ No

### Your claim of discrimination is based upon (place an "X" to all that apply)

☐ Age

☐ National Origin

☐ Color

☐ Disability

☐ Race

☐ Religion

☐ Sex

☐ Limited English Language Proficiency

☐ Retaliation

☐ Other

**Please describe the alleged discriminatory conduct and the reasons the conduct is discriminatory. Please include the names of witnesses, if any, and attach supporting documentation, if available. Attach additional pages, if necessary.**

### Witnesses who may have heard or seen what happened (attach additional pages, if necessary):

Name:

Mailing Address:

Phone Number:

Email:

Name:

Mailing Address:

Phone Number:

Email:

### Have you filed a claim regarding this complaint with a federal, state, or local government agency?

☐ No

☐ Yes, Agency/Office:

Date:

**Additional agencies?** ☐ No

☐ Yes, Agency/Office:

Date:

☐ Yes, Agency/Office:

Date:

☐ Yes, Agency/Office:

Date:

☐ Yes, Agency/Office:

Date:

**In the space below, provide any other details regarding your complaint that you would like considered.**

**Completed forms may be submitted to:**

[Internal.Investigations@dec.ny.gov](mailto:Internal.Investigations@dec.ny.gov)

or

Department of Environmental Conservation

Office of Internal Investigations

625 Broadway

Albany NY

12233-1060

**The New York State Department of Environmental Conservation prohibits retaliation or intimidation against anyone because that individual has acted to secure rights protected by law.**

**Please contact the DEC Nondiscrimination Coordinator if you feel you were intimidated while filing this complaint or if you later experience perceived retaliation in relation to filing this complaint.**

**DEC Nondiscrimination Coordinator**

**625 Broadway**

**Albany, NY 12220**

**Email: [federal.rights@dec.ny.gov](mailto:federal.rights@dec.ny.gov)**

**(518) 402-8044**

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**Translation Available. Don't see your language? Ask!**

<b>English</b>	To have this document translated into a language you can understand, contact the person below. There is no charge for the translation.
<b>Español Spanish</b>	Si necesita la traducción de este documento a un idioma que pueda entender, comuníquese con la persona indicada abajo. La traducción es gratis.
<b>简体字 Simplified Chinese</b>	如需將此文件翻譯成您能理解的語言版本，請聯絡下方人員。本次翻譯不收取費用。
<b>Русский Russian</b>	Чтобы получить перевод этого документа на понятный вам язык, свяжитесь с представителем, данные которого указаны ниже. Плата за эту услугу не взимается.
<b>אידיש Yiddish</b>	צו האבן די דאקומענט איבערגעזעצט אין א שפראך וואס איר קענט פארשטיין, פארבינדט זיך מיט די פערזאן אונטן. די איבערזעצונג איז פון אפצאל.
<b>বাঙালি Bengali</b>	এই নথিটি আপনি বুঝতে পারেন এমন একটি ভাষায় অনুবাদ করতে, নিম্নলিখিত ব্যক্তির সাথে যোগাযোগ করুন। অনুবাদের জন্য কোন চার্জ দিতে হবে না।
<b>한국어 Korean</b>	이 언어를 본인이 이해할 수 있는 언어로 받아보려면 아래 담당자에게 문의하십시오. 번역료는 없습니다.
<b>Kreyòl Ayisyen Haitian Creole</b>	Pou yo ka tradwi dokiman sa nan yon lang ou ka konprann, kontakte moun ki anba a. Ou p'ap peye anyen pou tradiksyon an.
<b>Italiano Italian</b>	Per ottenere la traduzione di questo documento in un'altra lingua, contatti la persona indicata qui di seguito. La traduzione è gratuita.
<b>العربية Arabic</b>	لترجمة هذا المستند إلى لغة يمكنك فهمها، تواصل مع الشخص أدناه. لا يتم تطبيق رسوم مقابل الترجمة.
<b>Język Polski Polish</b>	Aby uzyskać tłumaczenie tego dokumentu na język, który jest dla Ciebie zrozumiały, skontaktuj się z poniższą osobą. Za tłumaczenie nie jest pobierana żadna opłata.
<b>Français French</b>	Pour faire traduire ce document dans une langue que vous comprenez, contactez la personne indiquée ci-dessous. La traduction est gratuite.
<b>اردو Urdu</b>	اس دستاویز کا ترجمہ آپ کو سمجھ میں آ سکنے والی زبان میں کروانے کے لیے، ذیل کے فرد سے رابطہ کریں۔ ترجمہ کے لیے کوئی چارج نہیں ہے۔



**NYSDEC**  
**Bureau of Public Outreach**  
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 Albany, NY 12233  
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