



## TITLE VI DISCRIMINATION COMPLAINT PROCEDURES

### **Processing Procedures for External Complaints of Discrimination**

**Purpose.** The purpose of the discrimination complaint procedures is to describe the process by which aggrieved persons may raise complaints of discrimination regarding BACTS' programs, activities and services as required under Title VI of the Civil Rights Act of 1964 and related statutes.

**Responsibility.** The Title VI Coordinator has overall responsibility for the discrimination complaint process and procedures. It is the Title VI Coordinator's responsibility to conduct an impartial and objective investigation, collect factual information, prepare a report based upon the information obtained from the investigation, and forward the written complaint and supporting documentation to the MaineDOT Civil Rights Office.

These procedures do not preclude the responsible staff from attempting to resolve any verbal or non-written concerns or complaints that it is aware of. In all situations, the BACTS employees must contact the BACTS Title VI Coordinator immediately upon receipt of a discrimination complaint.

**Applicability.** The complaint procedures apply to the beneficiaries of the BACTS programs, activities and services including, but not limited to, the public, contractors, subcontractors, consultants and other sub-recipients of federal and state funds.

**Eligibility.** Any person who believes that s/he has been excluded from participation in, denied benefits or services of any program or activity administered by BACTS or its sub-recipients, consultants, and contractors on the basis of race, color, national origin, limited English proficiency, gender, age, income, or disability may bring forth a complaint of discrimination under Title VI of the Civil Rights Act of 1964, EO 12989 - Environmental Justice, EO 13166 - Limited English Proficiency.

**Availability.** The complainant shall make him or herself reasonably available to any designated investigator, to ensure completion of the investigation within the timeframes set forth.

**Time Limitation.** Per 49 CFR §21.11(b), a complaint must be filed no later than 180 days after the date of the last instance of the alleged discrimination, unless the time for filing is extended by the Secretary.

**Filing Options.** Complaints of discrimination related to the Federal-aid Highway program may be filed with:

- o Bangor Area Comprehensive Transportation System
- o Maine Department of Transportation
- o Federal Highway Administration Division Office
- o Federal Highway Headquarters Office of Civil Rights
- o U.S. Department of Transportation Departmental Office of Civil Rights
- o The U.S. Department of Justice

**Form of Complaints.** A complaint shall be submitted in writing and signed by the individual or his/her representative (the Complainant), and may be filed by postal mail, in person, or via email. In cases where the Complainant is unable, or incapable, of providing a written statement, the Title VI Coordinator will ensure the complainant is assisted in transcribing a verbal complaint into a written complaint. However, the written complaint must be reviewed and signed by the Complainant and/or the Complainant's representative. The discrimination complaint form can be accessed on the BACTS website at <https://bactsmo.org/wp-content/uploads/2020/09/Complaint-Form1.pdf>.

The complaint should contain the following information:

- A written explanation of the alleged discriminatory actions;

- Complainant's contact information, including, if available, full name, postal address, phone number, and email address;
- The basis of the complaint (i.e., race, color, national origin, disability);
- Identification of specific person(s) and respondents (i.e., agencies/organization/contractor) alleged to have discriminated;
- Sufficient information to understand the facts that led the Complainant(s) to believe that discrimination occurred in a program or activity that received federal financial assistance; and
- The date(s) of the alleged discriminatory acts(s) and whether the alleged discrimination is ongoing.

Investigations. BACTS does not investigate complaints filed against itself. FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency.

- All complaints shall ultimately be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against State DOTs or Subrecipients of federal financial assistance. BACTS is a subrecipient of MaineDOT federal financial assistance.
- Within 10 calendar days of receipt of a written complaint, the BACTS Title VI Coordinator shall document the complaint and forward the written complaint and supporting documentation to the MaineDOT Civil Rights Director.
- The MaineDOT Civil Rights Director will then forward the complaint to the Maine FHWA Division Office Civil Rights Program Manager, who will forward the complaint to FHWA Headquarter Office of Civil Rights (HCR).
- When the FHWA HCR decides whether to accept, dismiss, or transfer the complaint, they will notify the Complainant, the FHWA Maine Division Office, MaineDOT, and BACTS.

Outcomes for Processing a Complaint. There are four potential outcomes for processing complaints:

1. Accept: if a complaint is filed timely, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the Complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
2. Preliminary review: if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss the claim; or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
3. Procedural Dismissal: if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
4. Referral\Dismissal: if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter; or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

The HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient (which BACTS is a subrecipient of MaineDOT), HCR may either conduct the investigation itself, or it may delegate the investigation to the primary Recipient State DOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the Complainant and respondent, but the State DOT will conduct all data requests, interviews, and analysis. In this case MaineDOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI.

Timeframe for Investigation. There is no regulatory timeframe for FHWA to complete investigations. However, FHWA strives to complete all tasks 180 days from date of acceptance. For complaints that have been delegated to MaineDOT by FHWA, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).