

BERKSHIRE MPO TITLE VI COMPLAINT PROCEDURES

Purpose and Applicability

The purpose of this document is to establish procedures for the processing and disposition of both discrimination complaints filed directly with the Berkshire Metropolitan Planning Organization (MPO) and discrimination complaints that the Massachusetts Department of Transportation (MassDOT) has the delegated authority to process under Title VI of the Civil Rights Act of 1964 (Title VI) and related state and federal nondiscrimination authorities, including the Americans with Disabilities Act (ADA). The procedures described in this document are based on MassDOT's complaint procedures and apply to the Berkshire MPO as a subrecipient as well as its contractors, and subcontractors in the administration of federally funded programs and activities. This includes the Berkshire Metropolitan Planning Organization.

Definitions

Complainant – A person who files a complaint regarding the MPO.

Complaint – A written, verbal, 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 complainant's disability.

Discrimination – That act or inaction, whether intentional or unintentional, through which a person in the United States, solely because of race, color, national origin, or bases covered by other nondiscrimination authorities, such as gender, age, or disability, has been subjected to unequal treatment or disparate impact under any program or activity receiving federal assistance.

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

Complaint Procedures

The procedures described below outline 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; they do not prohibit complainants from filing complaints with other state or federal agencies; nor do they deny complainants the right to seek private counsel to address acts of alleged discrimination.

These procedures, modeled on recommended complaint procedures promulgated by the US Department of Justice (USDOJ), are designed to provide a fair opportunity to have complaints addressed that respect due process for both complainants and respondents. In addition to the formal complaint resolution process detailed herein, the Berkshire MPO shall take affirmative steps to pursue informal resolution of any and all Title VI complaints, when possible.

The processing of discrimination complaints will follow the steps outlined below:

- Step 1:** Complainant submits the complaint.
- Step 2:** MPO issues the complainant an acknowledgment letter.
- Step 3:** Complaint is assigned to, and reviewed by the Title VI Coordinator
- Step 4:** Title VI Coordinator conducts interviews of complainant, witnesses, and the respondent.
- Step 5:** Title VI Coordinator reviews the evidence and testimonies to determine whether a violation has occurred.
- Step 6:** Complainant and respondent are issued a letter of resolution or a letter of finding and offered appeal rights.
- Step 7:** Once the appeal period has expired, the investigation is closed.

As part of its efforts to comply with Title VI, the MPO, as a subrecipient of federal financial assistance distributed through MassDOT, has adopted these complaint procedures. In so doing, the MPO acknowledges its obligation to afford members of the public an opportunity to file complaints alleging violations of nondiscrimination policies in effect in the organization and applying to its programs, services, and activities. In accordance with federal guidance, the MPO, as a subrecipient of transit-related funds, understands that it has the authority to process Title VI complaints and must inform MassDOT of complaints received and the outcome of investigations as the matters are resolved.

As a subrecipient of highway-related funds, the MPO understands that it does not have the authority to investigate Title VI violation claims filed against the MPO (where the MPO is the respondent or party alleged to have violated Title VI). All such claims will be forwarded to the MassDOT Office of Diversity and Civil Rights (ODCR) to determine the appropriate investigative authority. Subrecipients of highway funding retain the right to consider Title VI violation allegations as a matter of assurance and/or internal policy compliance but are precluded from making determinations as to possible violations of Title VI. It is the MPO's policy to communicate with ODCR's Title VI Specialists, the

Director of Title VI and Accessibility, and/or the Director of Investigations when Title VI complaints are received to ensure proper handling.

Federal law and regulations governing Title VI of the Civil Rights Act of 1964 places the overall coordination authority for the investigation of civil rights complaints with the USDOJ, which works collaboratively with federal agencies that carry out this responsibility. In the transportation sector, this investigative authority rests with the USDOT and its agencies, the FHWA and FTA. In coordination with USDOT requirements, FHWA and FTA have established regulations and guidance that require recipients and subrecipients of federal financial assistance to establish procedures for processing Title VI complaints filed with these organizations.

Questions and Answers

1. Who can file a complaint?

Any member of the public, along with all MPO customers, applicants, contractors, or subrecipients who believe that they themselves, a third party, or a class of persons were mistreated or treated unfairly because of their race, color, or national origin (including limited English proficiency), may file a complaint claiming violation of Title VI of the Civil Rights Act of 1964, related federal and state laws and orders.

2. How do I file a complaint?

A complaint may be filed with the following:

Berkshire MPO Title VI Coordinator
1 Fenn Street, Suite 201
Pittsfield, MA 01201
Phone: (413) 442-1521
Email: info@berkshireplannig.org

Written complaints may also be filed with the Federal Highway Administration:

The Federal Highway Administration
Federal Highway Administration
U.S. Department of Transportation Office of
Civil Rights 1200 New Jersey Avenue, SE
8th Floor E81-105 Washington, DC 20590

Email: CivilRights.FHWA@dot.gov

Phone: (202) 366-0693

3. *What do I need to include in a complaint?*

A Title VI/Nondiscrimination Complaint form is available electronically on the Berkshire MPO webpage [title VI website](#), or in hardcopy at the offices of the MPO. Alternatively, a complainant may submit correspondence in an alternative format that should include the following information:

- Your name, signature and, current contact information (i.e., telephone number, email address, and postal mailing address)
- The name and badge number (if known and applicable) of the alleged perpetrator
- A description of how, when, and where the alleged prohibited conduct occurred
- A detailed description of why you believe you were treated differently
- Names and contact information of any witnesses
- Any other information you believe is relevant to your complaint

In cases where the complainant is unable to provide a written statement, a verbal complaint may be made to the Title VI Coordinator.

Complainants will be interviewed by the Title VI Coordinator. If necessary, the Title VI Coordinator will assist the person in converting the verbal complaint to writing. All complaints should be signed by the complainant.

Anonymous complaints may be filed in the same manner. Anonymous complaints shall be investigated in the same manner as any other complaint.

Complaints will be accepted in any recognized language. Multilingual complaint forms are available.

4. *How long do I have to file a complaint?*

A complaint alleging violation of Title VI should be filed no later than one hundred and eighty (180) days from the date of the alleged violation.

Complaints alleging violations of state or federal law must be filed within the time frames established by statute, regulation, or case law—in certain instances, no later than to three hundred (300) days from the date of the alleged violation.

5. How will my complaint be handled?

When a complaint is received, it is assigned to the Title VI Coordinator. The Title VI Coordinator will take the following steps:

Step 1: Acknowledge receipt of the complaint and provide jurisdictional determination within ten (10) business days of receipt of the complaint. The Chair of the Berkshire MPO shall also be notified of the Title VI complaint.

Step 2: If the Title VI Coordinator determines that any complaint does not have the potential to establish a civil rights violation, then the Title VI Coordinator shall notify the complainant in writing of its finding and the matter shall be closed.

Step 3: If the Title VI Coordinator determines that a complaint does have the potential to establish a civil rights violation, the Title VI Coordinator will conduct a thorough investigation of the allegations contained in the complaint in accordance with the MassDOT Internal Complaint Procedures.

6. How will I be notified of the findings and recommendations?

At the conclusion of the investigation, the Title VI Coordinator will transmit to the complainant and the respondent one of the following three letters based on the findings:

- A letter of resolution that explains the steps the respondent has taken or will take to comply with Title VI.
- A letter of finding that is issued when the respondent 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.
- A letter of finding that is issued when the respondent is found to be in noncompliance. This letter will include each violation referenced as to the applicable regulations, a brief description of findings/recommendations, the consequences of failure to achieve voluntary compliance, and an offer of assistance in devising a remedial plan for compliance, if appropriate.

7. Can I appeal a finding?

If a complainant or respondent does not agree with the findings of the Title VI Coordinator, then he/she/they may appeal to MassDOT's Assistant Secretary and Chief Diversity Officer. The appealing party must provide any **new information that was not readily available during the course of the original investigation that would lead MassDOT to**

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reconsider its determinations. The request for an appeal and any new information must be submitted within thirty (30) 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 by informing the appealing party that the original letter of resolution or finding remains in force.