

DISCRIMINATION COMPLAINT PROCEDURES

Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, or national origin. Subsequent laws and Presidential Executive Orders added disability, sex, age, income status and limited English proficiency to the criteria for which discrimination is prohibited, in programs and activities receiving federal financial assistance.

The Commonwealth Regional Council adopts the following discrimination complaint procedures for complaints relating to federally assisted transportation-related programs or activities.

- A. Filing a discrimination complaint:** Any person who believes that he or she, or any class of individuals, or in connection with any disadvantaged business enterprise, has been or is being subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1990, Section 504 of the Vocational Rehabilitation Act of 1973, and/or the Civil Rights Restoration Act of 1987, as amended, has the right to file a complaint.

Any individual wishing to file a discrimination complaint must be given the option to file the complaint with the Commonwealth Regional Council, or directly with the Virginia Department of Transportation (VDOT), FHWA, USDOT and U.S. Department of Justice. Complaints may be filed with all agencies simultaneously.

No individual or agency shall refuse service, discharge, or retaliate in any manner against any persons because that individual has filed a discrimination complaint, instituted any proceeding related to a discrimination complaint, testified or is about to testify in any proceeding or investigation related to a discrimination complaint, or has provided information or assisted in an investigation.

- B. Complaint filing timeframe:** A discrimination complaint must be filed within 180 calendar days of either:
- The alleged act of discrimination.
 - Date when the person(s) became aware of the alleged discrimination.
 - Date on which the conduct was discontinued, if there has been a continuing course of conduct.

The Commonwealth Regional Council or their designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

- C. Contents of a complaint:** A discrimination complaint must be written. The document must contain the following information.
- The complainant's name and address, or other means by which the complainant may be contacted.
 - Identification of individual(s) or organization(s) responsible for the alleged discrimination.

- A description of the complainant's allegations, which must include enough detail to determine if the Commonwealth Regional Council has jurisdiction over the complaint and if the complaint was filed timely.
- Specific prohibited bases of alleged discrimination (i.e., race, color, gender, etc.).
- Apparent merit of the complaint.
- The complainant's signature or signature of his/her authorized representative.

In the event that a person makes a verbal complaint of discrimination to an officer or employee of the Commonwealth Regional Council, the Coordinator may assist the complainant (if asked) in reducing the complaint to writing and then submit the written version of the complaint to the person for signature.

D. Complaints against the Commonwealth Regional Council: Any complaints received against the Commonwealth Regional Council should immediately be forwarded to VDOT for investigation. The Commonwealth Regional Council shall not investigate any complaint in which it has been named in the complaint. The contact information for VDOT's Title VI program is:

Virginia Department of Transportation
 Civil Rights Division Administrator / Title VI Program Coordinator
 1401 East Broad Street
 Richmond, VA 23219

E. Notice of Receipt: All complaints shall be referred to the Commonwealth Regional Council's Coordinator for review and action. Within 10 days of receipt of the discrimination complaint, the Coordinator shall issue an initial written Notice of Receipt that:

- Acknowledges receipt of the discrimination complaint.
- Advises the complainant of his/her right to seek representation by an attorney or other individual of his or her choice in the discrimination complaint process.
- Contains a list of each issue raised in the discrimination complaint.
- Advises the complainant of the timeframes for processing the discrimination complaint and providing a determination.
- Advises the complainant of other avenues of redress of their complaint, including the VDOT, FHWA, USDOT and USDOJ.
- Includes an invitation to mediation as described in paragraph 1 under item H below.

F. Notification of the Virginia Department of Transportation of a complaint: The Commonwealth Regional Council shall advise VDOT within 10 business days of receipt of the complaint. Generally, the following information will be included in every notification to VDOT.

- Name, address, and phone number of the complainant.
- Name(s) and address(es) of alleged discriminating official(s).
- Basis of complaint (i.e., race, color, national origin or gender).
- Date of alleged discriminatory act(s).

- Date complaint received by the Commonwealth Regional Council.
- A statement of the complaint.
- Other agencies (state, local, or federal) where the complaint has been filed.
- An explanation of the actions the Commonwealth Regional Council has taken or proposed to resolve the issue identified in the complaint.

G. Processing a complaint and timeframe: The total time allowed for processing the discrimination complaint is 90 calendar days from the date the complaint was filed. There is no extension available at this level. This timeframe includes 60 calendar days at the Commonwealth Regional Council level and 30 days for review at the state level, if needed.

If the complainant elects to file a complaint with both the Commonwealth Regional Council and VDOT, the complainant shall be informed that Commonwealth Regional Council has 90 calendar days to process the discrimination complaint and VDOT shall not investigate the complaint until the 90-calendar day period has expired.

Immediately after issuance of the notice of receipt to the complainant (step four), the Commonwealth Regional Council's Coordinator shall either begin the fact-finding or investigation of the discrimination complaint, or arrange to have an investigation conducted.

Based on the information obtained during that investigation, the Coordinator shall render a recommendation for action in a Report of Findings to the head of the Commonwealth Regional Council.

H. Alternative dispute resolution/mediation process: The complainant must be given an invitation to participate in mediation to resolve the complaint by informal means. The Commonwealth Regional Council's Coordinator shall include an invitation to mediation with the Notice of Receipt, offering the opportunity to use the alternative dispute resolution/mediation process.

If the complaint selects mediation, it allows disputes to be resolved in a less adversarial manner. With mediation, a neutral party assists two opposing parties in a dispute come to an agreement to resolve their issue. The mediator does not function as a judge or arbiter, but simply helps the parties resolve the dispute themselves.

Upon receiving a request to mediate, the Commonwealth Regional Council's Coordinator shall identify or designate a mediator who must be a neutral and impartial third party. The mediator must be a person acceptable to all parties and who will assist the parties in resolving their disputes.

If the complainant chooses to participate in mediation, she or he or the designee must respond in writing within 10 calendar days of the date of the invitation. This written acceptance must be dated and signed by the complainant and must also include the relief sought.

After mediation is arranged, a written confirmation identifying the date, time, and location of the mediation conference shall be sent to both parties. If possible, the mediation process

should be completed within 30 calendar days of receipt of the discrimination complaint. This will assist in keeping within the 90-calendar day timeframe of the written Notice of Final Action if the mediation is not successful.

If resolution is reached under mediation, the agreement shall be in writing. A copy of the signed agreement shall be sent to VDOT's Title VI Program Coordinator. If an agreement is reached, but a party to it believes his/her agreement has been breached, the non-breaching party may file another complaint. If the parties do not reach resolution under mediation, the Commonwealth Regional Council's Coordinator shall continue with the investigation.

I. Notice of Final Action: A written Notice of Final Action shall be provided to the complainant within 60 days of the date the discrimination complaint was filed. It shall contain:

- A statement regarding the disposition of each issue identified in the discrimination complaint and reason for the determination.
- A copy of the mediation agreement, if the discrimination complaint was resolved by mediation.
- A notice that the complainant has the right to file a complaint with the VDOT, FHWA, USDOT or USDOJ within 30 calendar days after the Notice of Final Action, if she or he is dissatisfied with the final action on the discrimination complaint.

The Commonwealth Regional Council's Coordinator shall provide VDOT's Title VI Program Coordinator with a copy of this decision, as well as a summary of findings upon completion of the investigation. Should deficiencies be noted in the implementation of these discrimination complaint procedures by the Commonwealth Regional Council, VDOT's Title VI Program Coordinator will work in conjunction with the Commonwealth Regional Council's Coordinator to review the information and/or provide technical assistance in the discrimination complaint process, mediation process, and/or investigation.

J. Corrective action: If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or a conciliation agreement to correct the discrimination. If the respondent is nonresponsive/uncooperative, then the CRC may seek administrative sanctions, including, but not limited to, suspension or termination of Federal funds or referral to USDOJ for enforcement. If USDOT seeks to suspend or terminate funds, it must provide the Respondent with an opportunity for a hearing on the record.

K. Confidentiality: Commonwealth Regional Council and VDOT Title VI Program Coordinators are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the discrimination complaint:

- The fact that the discrimination complaint has been filed.
- The identity of the complainant(s).
- The identity of individual respondents to the allegations.

- The identity of any person(s) who furnished information relative to, or assisting in, a complaint investigation.

L. Recordkeeping: The Commonwealth Regional Council's Coordinator shall maintain a log of complaints filed that alleged discrimination. The log must include:

- The name and address of the complainant.
- Basis of discrimination complaint.
- Description of complaint.
- Date filed.
- Disposition and date.
- Any other pertinent information.

All records regarding discrimination complaints and actions taken on discrimination complaints must be maintained for a period of not less than three years from the final date of resolution of the complaint.

EXHIBIT A

DISCRIMINATION COMPLAINT FORM

Please provide the following information in order to process your complaint. Assistance is available upon request. Complete this form and mail or deliver to:

Commonwealth Regional Council, Title VI Coordinator, One Mill Street, Suite 202, P.O. Box P, Farmville, VA 23901

You can reach our office Monday-Friday from 8:30 am to 5:00 pm at (434) 392-6104, or you can email the Commonwealth Regional Council's Title VI Coordinator, Todd Fortune at tfortune@virginiashheartland.org

Complainant's Name: _____

Street Address: _____

City: State: Zip Code: _____

Telephone No. (Home): _____ Business: _____

Email Address: _____

Person discriminated against (if other than complainant):

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Telephone No.: _____

The name and address of the agency, institution, or department you believe discriminated against you.

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Date of incident resulting in discrimination: _____

Describe how you were discriminated against. What happened and who was responsible? If additional space is required, please either use the back of form or attach extra sheets to form.

This complaint involves a specific individual (s) associated with the Commonwealth Regional Council? If so, provide the name(s) of the person (s), if known.

Where the incident take place? _____

Are there any witnesses? If so, please provide their contact information:

Name: _____

Street address: _____

City: _____ State: _____

Phone: _____

Postal Code: _____

Name: _____

Street address: _____

City: _____ State: _____

Phone: _____

Postal Code: _____

Did you file this complaint with another federal, state or local agency, or in federal or state court?

Yes

No

If yes, check each complaint was filed with the agency:

Federal Agency

State Court

Federal Court

Local Agency

- () State Agency
- () Other

Please provide the contact information for the agency also filed a complaint with:

Name: _____

Street address: _____

City State: _____

Date of presentation: _____

Postal Code: _____

Sign complaint in the space below. Attach any documents that you believe support your complaint.

Signature of Applicant

Date

For internal use, only:

Enter #: _____