



Discrimination Complaint Procedure

Any person who believes that they have been subjected to discrimination under Title VI, on the basis of race, color, or national origin has a right to file a complaint. In addition, NHDES also prohibits discrimination based on age, sex, marital status, religion, gender identity or gender expression, income, disability, sexual orientation, citizenship status, status as a veteran, or any other legally prohibited basis.

Background

Any individual or class of individuals who believe they have been discriminated against may file a written complaint. Accommodations will be made for those who cannot provide a complaint in writing or receive written notice.

Intimidation or retaliation by NHDES staff towards the complainant is strictly prohibited. Prompt action will be taken to address this concern.¹ Such claims will be handled promptly and fairly following the complaint process below.

This procedure covers the process of discrimination complaints filed and received by the NHDES Civil Rights Coordinator (Coordinator) or designee. Once the complaint is received, it will be processed according to the procedures discussed below.

Confidentiality

NHDES values the confidentiality of those who report complaints of discrimination. The content of a filed complaint will remain confidential. All information related to a complaint must be treated as private information by NHDES staff. NHDES staff are prohibited from sharing information about complaints with unauthorized parties. It is the responsibility of NHDES staff to maintain the integrity of complaint proceedings.

¹ [40 C.F.R. §7.100.](#)

Contact Information

Civil Rights Coordinator
Thane Joyal
NH Department of Environmental Services
P. O. Box 95; 29 Hazen Drive
Concord, NH 03302-0095
Telephone: (603) 271-3137
Email: thane.joyal@des.nh.gov or nondiscrimination@des.nh.gov

An individual who believes they have been subjected to discrimination may also file a discrimination complaint with any of the following agencies:

NH Commission for Human Rights

2 Industrial Park Drive, Bldg. One
Concord, NH 03301
Telephone: [\(603\) 271-2767](tel:6032712767)
Fax: (603) 271-6339
Email: humanrights@hrc.nh.gov

NH Department of Justice

Civil Rights Unit
30 Capital St.
Concord, NH 03301
[\(603\) 271-3650](tel:6032713650)
Email: doj.civilrights@doj.nh.gov

US Environmental Protection Agency

Office of External Civil Rights
Mail Code 230A
1200 Pennsylvania Ave, NW
Washington, DC 20460
[\(202\) 564-3316](tel:2025643316)
Email: title_vi_complaints@epa.gov

US Department of Justice

Civil Rights Division
Federal Coordination and
Compliance Section
950 Pennsylvania Avenue,
N.W.
4CON, 7th Floor
Washington, D.C. 20530
Title VI Hotline: [1-888-TITLE-06 \(1-888-848-5306\)](tel:1888TITLE06)

US EPA, Regional I, Regional Administrator

5 Post Office Square, Suite 100
Boston, MA 02109-3912
[\(617\) 918-1111](tel:6179181111)
Email: r1web.mail@epa.gov

Complaint Procedure

Filing a Complaint

The complaint must be filed within 180 days of the alleged occurrence² and must be in writing using the NHDES Discrimination Complaint Form (Attached in Appendix #2). The Form must be signed by the individual filing the complaint or by their representative.

If the complainant is unable to provide a written statement, they may make a verbal discrimination complaint. The complainant must either record their complaint and send the recording to the Coordinator or give the Coordinator permission to record the complaint. The Coordinator or designated

² 40 C.F.R. §7.120 (NHDES may consider an exception to this time frame if the complaint is egregious in nature).

staff will transcribe the oral complaint into writing. The complainant will be given a copy to sign. This signed copy will act as the complainant's written discrimination complaint.

Complaint Resolution Process

Claims of discrimination will be promptly and fairly reviewed as described below under the section titled, "Formal Complaint Proceedings."³ Written notice will be provided to the complainant on the findings of the investigation as soon as available. This notice will include whether there was a finding of discrimination. The notice will also include a description of the investigative process that was followed.

Accommodations will be provided if a complainant cannot receive written notice throughout the complaint process.

These complaint procedures do not impede the Complainant's right to file complaints with other State and Federal agencies.

Formal Complaint Proceedings

Formal complaints will initially be reviewed by the Coordinator, who will provide written acknowledgment of the complaint within 10 business days by first-class mail. The written acknowledgment will be sent to the address provided on the complaint form.

The Coordinator may determine additional information is required. In this event, the complainant will be notified in writing of the information needed. The complainant will have 60 days to provide the requested information.

Once the additional information is received, if any, the Coordinator will determine if the complaint will be investigated. This will be determined within 15 business days of receiving the requested information, if any. The complaint will be assessed using the preponderance of evidence standard. This means that, based on the information provided, it is more likely than not the complaint warrants an investigation. The Coordinator will notify the complainant in writing of the decision within five business days.

1. If the decision is to not investigate the complaint, the notification shall specify the reason(s) for the decision; or
2. If the complaint is to be investigated, the notification shall state the grounds for the investigation and inform the parties that full cooperation will be required.

If it is determined that a complete investigation will be conducted, a report of the investigation will be drafted. This report will be submitted to the Assistant Commissioner within 75 days. The report will include a description of the complaint and summaries of all persons interviewed. The report will also include the findings and recommendations of the investigation.

1. If the Assistant Commissioner agrees with the findings and recommendations, the Coordinator will mail a letter to the complainant. The letter will detail the Assistant Commissioner's determination. The letter will be mailed within 10 business days from the determination.
2. If the Assistant Commissioner does not agree with the findings and recommendations, they may make appropriate changes to the proposed recommendations. The Assistant Commissioner

³ [40 C.F.R. §7.90](#)

must notify the Coordinator of these recommendations. This notification must be made within 10 business days.

3. If the Coordinator agrees with the Assistant Commissioner's determination, the Coordinator will notify the complainant in writing. This notice will be sent within five business days. This notice will include the findings of the investigation and all other determinations.

If the Assistant Commissioner and Coordinator cannot resolve the complaint, all materials will be submitted to the Commissioner. After review, the Commissioner will recommend an appropriate resolution. The Commissioner has up to 30 days to submit the resolution. The Commissioner will then notify the Coordinator of the decision. The Coordinator must notify the complainant in writing of the Commissioner's determination. The Coordinator must issue this notification within 5 business days.

Mediation

At any time during the complaint review process, the complainant may request mediation. Both parties must consent to the mediation. This mediation will be facilitated by a third party that is agreed upon by the parties at no cost to the complainant.

At any point, the complainant may withdraw from the mediation process and return to either the formal or informal complaint process.

Informal Complaint Proceedings

The parties are encouraged to consider how they might be willing to resolve the matter through informal means, as appropriate. Either party may take informal measures as necessary to resolve the complaint.

Complaint Dismissal

A complaint may be dismissed under the following circumstances:

- A. The complainant dismisses or withdraws the complaint.
- B. The complainant does not respond to correspondence requesting additional information within the timeframes requested.
- C. The complainant cannot be located.
- D. A complaint may be dismissed after a review if it has been determined there is not a substantive claim of discrimination.

Record Keeping

Complaints will be recorded by NHDES. The nature of the complaint will be recorded, as well as other pertinent information. This may include but is not limited to: the demographics of the complainant; the date the complaint was filed; and the dates of investigation. Records of complaints may be requested by the Environmental Protection Agency (EPA).⁴ If requested, this information will be forwarded to the EPA. To maintain confidentiality, no personal identifying information of the complainant will be disclosed in the record.

⁴ [40 C.F.R. §7.85.](#)