

CITY OF PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH TITLE VI COMPLIANCE POLICY

The purpose of this Philadelphia Department of Public Health (“PDPH”) Title VI Compliance Policy (the “Policy”) is intended to provide procedural guidance to PDPH to ensure the prompt, effective, and efficient resolution of civil rights grievances consistent with the applicable civil rights laws. This Policy is not intended to address substantive civil rights policy or legal standards or processes outside of PDPH’s jurisdiction and responsibility to comply with the federal civil rights law described below.

At the outset, this Policy is not intended to address or replace procedures for appealing permits or otherwise offering public comments on pending permits or decisions. Nor is PDPH required to hold any permit or license due to a Title VI Complaint, unless a specific circumstance indicated that would be appropriate. This Policy is intended to provide an informal resolution process for discrete instances of alleged discrimination based on a list of given classes.

I. Notice of PDPH’s Anti-Discrimination Policy Under Title VI

Public notice of PDPH’s Anti-Discrimination Policy (“Policy”) shall be prominently posted in PDPH’s offices and on PDPH’s website homepage. PDPH will ensure that its Notice is accessible to individuals with limited-English proficiency (LEP) and individuals with disabilities, including ensuring that the Notice as posted on its website homepage is accessible to persons who are blind or have low vision. The Policy shall also be included in appropriate literature addressing environmental justice concerns.

PDPH’s Notice is set forth below:

The City of Philadelphia’s Department of Public Health (“PDPH”) does not discriminate on the basis of race, color, national origin (including limited English proficiency), disability, sex, age, religion, or sexual orientation in the administration of its programs and activities in accordance with applicable laws and regulations.

PDPH’s Environmental Justice Coordinator is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (Non-Discrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination laws).

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If you have any questions about this notice or any of PDPH’s non-discrimination programs, policies, or procedures, you may contact:

Attn: Environmental Justice Coordinator
Philadelphia Department of Public Health
1101 Market Street, 13th Floor
Philadelphia, PA 19107

Phone: 215-685-9433
Email: EJcomplaints@phila.gov

If you believe that you have been discriminated against with respect to a PDPH program or activity, you may contact the Environmental Justice Coordinator identified above or visit our website at <https://www.phila.gov/services/mental-physical-health/report-a-health-or-safety-concern/report-an-environmental-justice-concern/> to learn how and where to file a complaint of discrimination.

PDPH does not intimidate or retaliate against any individual or group because they have exercised their rights to participate in or oppose actions protected/prohibited by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with such rights.

Upon request, PDPH will make available language assistance for individuals with Limited English Proficiency.

II. Anti-Discrimination Policy Coordinator

PDPH shall appoint an employee to act as the coordinator for all Title VI complaints. At no point shall this position be empty or lapsed. The duties of the Anti-Discrimination Policy Coordinator (“Coordinator”) will be as follows, and may be amended as needed:

- Ensures information regarding PDPH’s Anti-Discrimination Policy is available internally and externally;
- Ensures that the Policy is publicly available on PDPH’s website and in associated brochures and written materials;
- Ensures that policies and procedures for the receipt and processing of complaints under the Policy are maintained and followed;
- Ensures that complaints received are appropriately tracked and reviewed;
- Ensure that records and investigative files for complaints received are maintained for a minimum of three (3) years;
- Trains PDPH staff on PDPH’s Policy in cooperation with the Law Department;
- Provides, in consultation with the Law Department, written updates to complainants on the progress of investigations; and
- Periodically reviews the efficacy of PDPH’s Policy.

III. Grievance Procedure

In compliance with 40 C.F.R. Part 7, PDPH shall follow the below established grievance procedure to ensure prompt and fair resolution of complaints alleging violations of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 13 of Federal Water Pollution Control Act of 1972, and Title IX of the Education Amendments of 1972 OR federal non-discrimination statutes, and where applicable, the Environmental Protection Agency’s (EPA) implementing regulations at 40 C.F.R. Parts 5 and 7 (collectively, EPA Administered Federal Non-discrimination law) and/or PDPH’s Anti-Discrimination Policy in the administration of PDPH programs and activities.

The grievance procedure provides an informal process for filing a timely complaint to the proper authority and describes the process that will be used to investigate and resolve the complaint. However, these procedures do not apply to administrative actions that are being pursued in another forum, i.e., appeals before the Board of License and Inspection Review or cases before the Court of Common Pleas – PDPH should continue to follow its existing procedures for any matters that are being litigated in front of BLIR or in court at the state or federal level.

This grievance procedure is not a legal action or an official human resources (HR) complaint. If PDPH ultimately decides that the complaint is baseless, the complainant does not have a right to appeal that decision. If PDPH finds that a discriminatory action occurred, PDPH would decide and take appropriate action, but that action would not have legal binding precedent.

Filing a Title VI Complaint with PDPH does not preclude a complainant from later filing a lawsuit or seeking official intervention from HR or any other authority, if relevant/applicable.

The following procedures outline: (A) who may file a complaint; (B) the filing requirements for the complaint itself; (C) processing a complaint for acceptance or rejection.

A. Who may file a complaint?

A complaint may be filed by an individual, or the authorized representative of that individual, who believes that they have been subject to discrimination or retaliation in violation of this policy. An authorized representative could include an attorney or a community organization, even though this procedure is not a legal action and is non-appealable. The procedures are the same regardless of whether an individual files by themselves or with the assistance of an authorized representative.

1. Complaints Filed by Organizations

Organizations may file complaints under this policy as an authorized representative of an individual or individuals. This is because the complaint is intended as an informal means of resolving discrete harm suffered by an individual or individuals, not a non-profit, corporation, or other organization.

2. Multiple Complaints about the Same Issue or by the Same Complainant

If PDPH receives multiple complaints by one or more than one person that raise substantially identical allegations against the same entity, these complaints may be treated as one case. This includes instances in which an advocacy group or other organization encourages its members to file a complaint under this Policy.

If, during its investigation, PDPH receives additional complaints that raise substantially the same allegations, PDPH shall review the complaint to determine whether it should be incorporated into the existing case or treated as a separate complaint.

Additionally, new allegations raised by the same person against the same entity after PDPH has already begun an investigation shall be reviewed on a case-by-case basis to determine whether the new allegations should be incorporated into the existing case or dealt with separately.

B. Filing Requirements

For PDPH to accept a complaint under this Policy, PDPH must first determine whether the complaint was filed correctly. To correctly submit a complaint to PDPH, the complaint must be in writing,¹ cannot be anonymous, and must use the provided Complaint Form or its equivalent.

The following will not be considered a complaint:

- Oral allegations that are not reduced to writing;
- Anonymous correspondence;
- Courtesy copies of correspondence or a complaint filed with or otherwise submitted to another person or other entity, including EPA or a court;
- Inquiries that seek advice or information but do not seek action or intervention from the agency; or
- Correspondence expressing general, non-specific concerns regarding general issues of discrimination (i.e. allegations that “permits are sexist” would be a general concern not addressed by this Policy).

Complaints may not be filed anonymously and must include the complainant’s name and contact information, as well as the complainant’s signature or the signature of the complainant’s representative.

¹ A written complaint need not be written in English. PDPH will take necessary steps to ensure that persons who have limited English proficiency can meaningfully participate in this Policy.

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Completed complaint forms may be submitted electronically to EJcomplaints@phila.gov or via mail at:

Attn: Environmental Justice Coordinator
Philadelphia Department of Public Health
1101 Market Street, 13th Floor
Philadelphia, PA 19107

C. Processing a Complaint for Acceptance or Rejection

After determining that a complaint was correctly filed, the Coordinator must then decide the following: (1) whether the complaint is administratively complete or if additional follow-up is needed; and (2) whether the administratively complete complaint meets jurisdictional requirements and presents an issue of merit that PDPH should investigate.

1. **Receipt of Complaint & Determination of Administrative Completeness.**

Within ten (10) business days of receipt of the complaint, the Coordinator will review the complaint for administrative completeness² and provide the complainant with written notice that either: (1) the complaint has been received and deemed administratively complete or (2) the complaint has been received but is administratively incomplete because additional information is needed.³

When a complaint is deemed administratively incomplete, the written notice to the complainant should acknowledge receipt, identify the missing information, and state a reasonable deadline (i.e. thirty (30) days) for the complainant to provide the missing information. Additional time should be provided if reasonably merited and timely requested.

Within ten (10) business days of receiving such additional information, the Coordinator will provide written notice to the complainant that the complaint is administratively complete. If, after a reasonable attempt to secure missing information, the complaint is not sufficiently complete to begin an investigation of the alleged conduct or incident, the Coordinator may close the case.

² A complaint is administratively complete when it provides enough information to identify the date and location of the alleged discrimination, as well as the individual(s) involved, and all necessary fields of the complaint form are filled out.

³ It is up to the reasonable discretion of the Coordinator if enough basic information has been provided, but the Coordinator should take care to have a consistent approach to what “reasonable discretion” means. The purpose here is to make a good faith effort to get a complete complaint, not to reject complaints for missing information.

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When a complaint is deemed administratively *complete*, the Coordinator should proceed to determining whether PDPH has jurisdiction to investigate the complaint and whether the complaint has investigatory merit.

All written notices to complainant shall be provided via First Class mail and e-mail, if an e-mail address was provided.⁴

2. Preliminary Determination of Jurisdiction and Investigatory Merit.

Within twenty (20) business days of sending a letter to the complainant that the complaint is administratively complete, the Coordinator will make a determination, in consultation with the Law Department, of (a) whether PDPH has jurisdiction and authority to pursue the matter and (b) whether an investigation is merited. The Coordinator will notify the complainant in writing of its determination as to jurisdiction and investigatory merit. If the complaint is outside of PDPH’s jurisdiction, PDPH will notify the complainant in writing of the name and contact information of the correct agency with jurisdiction, if known.

(a) Determining Jurisdiction

To determine whether PDPH has the jurisdiction to consider the complaint, PDPH shall consider whether the complaint meets the following requirements:

- i. Whether the complaint was received within 180 days of the alleged discriminatory act;
- ii. Whether the complaint identifies PDPH as the entity that committed the alleged discriminatory act⁵; and
- iii. Whether the complaint alleges a discriminatory act(s) with specificity that, if true, may violate applicable nondiscrimination regulations⁶.

PDPH may, at its sole discretion and for good cause, accept complaints filed later than 180 days of the alleged discriminatory action.

⁴ While the Coordinator does not need to go overboard, the Coordinator should consider making a follow-up phone call to the complainant, if a phone number was provided, after sending the mail to the complainant.

⁵ For example, if the complainant identifies an inspector from the License & Inspections group, instead of an inspector within PDPH, then PDPH lacks jurisdiction, because PDPH does not have the ability to investigate the conduct of a person outside of its agency. As another example, if the complainant is alleging that they were discriminated against because of something related to fracking, then PDPH does not have jurisdiction to investigate the complaint, because PDPH does not regulate fracking.

⁶ Part of this analysis includes whether the alleged discriminatory act affects a protected class as it is defined under Title VI, in addition to discrimination based on religion and/or sexual orientation. Additionally, the complaint must describe with specificity the actions that allegedly caused the discrimination that is alleged to have occurred or will occur as the result of such actions.

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If the Coordinator determines that the complaint meets the jurisdictional requirements, then the Coordinator should proceed to Section III.C.2.b. to analyze whether the complaint, as stated, merits investigation.

If the Coordinator determines that the complaint does *not* meet the three jurisdictional requirements, then the Coordinator should close the file and provide written notice to the complainant explaining that PDPH does not have jurisdiction to investigate the complaint and cite the specific jurisdictional issue(s).

(b) Determining Whether an Investigation is Merited

After determining that the complaint is within PDPH’s jurisdiction, the coordinator should generally proceed to an investigation unless the complaint falls into one of the four identified situations listed here:

- i. It clearly appears on its face to be frivolous or trivial;
- ii. Within the time allotted for making the determination of jurisdiction and investigative merit, PDPH voluntarily concedes noncompliance and agrees to take appropriate remedial action or reaches an informal resolution with the complainant;
- iii. Within the allotted time for making a determination of jurisdiction and investigative merit, the complainant withdraws the complaint; and/or
- iv. It is not timely and good cause does not exist for waiving the timing requirement under the Policy.

(c) Other Grounds for Rejecting a Complaint

While PDPH will generally only reject a complaint if the complaint fails to satisfy jurisdictional requirements or meets one of the four reasons enumerated above to determine no investigative merit exists, PDPH may, using its discretion, also reject a complaint based on other factors, including, but not limited to:

- The allegation is not ripe for review because it is speculative in nature and anticipates future events that may or may not unfold as outlined in the complaint, so a meaningful review of the allegation cannot be conducted at the time PDPH receives the complaint. In this instance, the complaint should be rejected without prejudice.
- The allegations are moot because PDPH obtains credible information indicating that the allegations raised by the complaint have been resolved and there are no systemic allegations. PDPH should take reasonable measures to ascertain the details of the resolution to ensure that no outstanding allegations remain prior to rejecting the complaint.

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- The same civil rights allegations have been filed, are currently pending, and/or are already resolved by another Federal⁷, State, or local agency, and PDPH anticipates that the agency will provide the complainant with a comparable resolution process.
- The same civil rights allegations have been filed by the complainant against PDPH in a state or federal court, or through a local board. The complainant should be advised that they may re-file the complaint within 30 days following termination of the court proceeding if there has been no decision on the merits or settlement of the complaint. In this instance, a dismissal with prejudice is considered a decision on the merits.

D. Complaint Investigation

Upon acceptance of a complaint as administratively complete and determining that the complaint is within PDPH's jurisdiction and has merit, the complaint will be promptly and formally investigated. PDPH may solicit additional information from the complainant as needed. If additional information is requested and not received in a reasonable and timely manner, the case may be closed. Within one hundred and twenty (120) days of accepting a written complaint, PDPH will respond in writing to the complainant with a resolution. The resolution of the complaint is not legally binding and is an informal process with no right of appeal. The resolution is not a final action of PDPH.

Processing a complaint includes a full investigation by the Coordinator, which involves collecting and reviewing any relevant documentation as well as interviewing the relevant parties⁸. The coordinator should keep records of the contents of the interview, either by recording the interview itself or by creating a memo summarizing the conversation.

It is important that the procedure for conducting the investigation be standardized and repeatable. The records of the investigations may be reviewed by EPA.

The outcomes of these investigations will likely be broad. If the Coordinator concludes that it is more likely than not that a discriminatory act occurred, then the Coordinator will, with input from relevant departments like HR or the Law Department, determine what an appropriate outcome would be⁹. The Coordinator may recommend that a formal HR action be taken. The conclusions will be case-specific.

⁷ Such as EPA.

⁸ PDPH must develop guidance on how to best memorialize such evidence if such guidance does not already exist. HR may be able to provide recommendations or procedures for memorializing such interviews.

⁹ For example, if the Coordinator investigates and concludes that it is more likely than not that an inspector engaged in discrete discriminatory behavior, then the Coordinator may recommend some kind of training or discipline, depending on what PDPH's HR procedures dictate. If the Coordinator were to determine that

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The outcomes of these investigations are not legally binding and any recommendation affecting a PDPH employee is not considered an official HR action or determination. The Coordinator is not empowered to discipline employees or require actions from any department. The Coordinator will provide non-legally binding, non-appealable recommendations to informally resolve the complaint.

E. Alternative to Filing a Complaint with PDPH

In lieu of filing a complaint with PDPH, complaints may also be filed in accordance with 40 C.F.R. Part 7 with the U.S. EPA addressed to the Office of External Civil Rights Compliance:

Mail information to:

U.S. Environmental Protection Agency
Office of External Civil Rights Compliance
Mail code 2310A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Email information to:

Title_VI_Complaints@epa.gov

Or fax: (202) 565-0196

For any other inquiries, please write to EPA's Office of External Civil Rights Compliance at the above address or call (202) 564-3316.

IV. Standard of Review.

In investigating complaints filed under the Policy, PDPH will utilize the “preponderance of the evidence” standard, which requires that for a finding of discrimination, the evidence and testimony must show that it is more likely than not (i.e. more than 50% likely) that PDPH caused harm due to a discriminatory action. Using this standard, PDPH will determine either (1) there is insufficient evidence to support a conclusion of noncompliance or (2) the preponderance of evidence supports a conclusion of noncompliance.

Following such determination, PDPH will issue a letter explaining the decision and PDPH’s reasoning.

it is more likely than not that an engineer engaged in discrimination while denying a permit, then the Coordinator may recommend that the permit be reviewed by another engineer and recommend training or discipline, as applicable and per PDPH’s HR procedures.

V. Recordkeeping Under Title VI

The Coordinator will be responsible for required recordkeeping and retention under this policy. EPA requires, pursuant to 40 C.F.R. § 7.85, that the following compliance information be collected, maintained, and made available to EPA upon request:

- A brief description of any lawsuits pending against the recipient that allege discrimination which this part prohibits;
- Racial/ethnic, national origin, age, sex and handicap data, or EPA Form 4700-4, information submitted with grant applications;
- A log of discrimination complaints which identifies the complaint, the date it was filed, the date the recipient's investigation was completed, the disposition, and the date of disposition; and
- Reports of any compliance reviews conducted by any other agencies.

Additionally, the Coordinator must retain and maintain complete investigative files and any associated records for all complaints filed with PDPH for a minimum of three (3) years from the date of filing.

VI. Retaliation.

PDPH employees shall not retaliate, intimidate, threaten, coerce, or discriminate against an individual or group for the purposes of interfering with any right or privilege granted pursuant to Title VI, or because an individual has filed a complaint or has testified, assisted, or participated in any way in an investigation under the Policy, nor will PDPH tolerate such actions. Retaliation is a serious violation of this policy and must be reported to the Coordinator immediately.

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