

## **Hawaii Department of Transportation**

### **FTA-related Department of Transportation Title VI Internal Complaint Procedures**

#### **I. HDOT Internal Complaint Procedures for Public Complaints for Federal Transit Administration (FTA) Assisted Programs and Activities**

These procedures cover external complaints for FTA assisted programs or activities based on Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* 49 CFR Part 21. These complaints cover discrimination based on race, color, or national origin.<sup>2</sup> All Title VI complaints are logged and tracked internally by the Title VI Program Specialist as part of the investigatory process.

The procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies or to seek private counsel for complaints alleging discrimination.

#### **II. Procedures**

1. Any person or persons believing they have been subjected to discrimination based on Title VI of the Civil Rights Act of 1964, Exec. Order 13166 or Exec. Order 12898 may file a written a written complaint, using the Complaint Form on the HDOT OCR website, with HDOT's Office of Civil Rights (OCR), 200 Rodgers Blvd., Honolulu, Hawai'i, 96819, HDOT-TITLEVI@hawaii.gov, facsimile: 808 831-7944. Complaints may be mailed or submitted in person. E-mailed or faxed complaints must be followed up with a hard copy with original signature. See: <https://hidot.hawaii.gov/administration/files/2016/07/TitleVI-complaint-form.pdf>
2. A formal complaint must be filed within one-hundred eighty (180) calendar days of the date of the alleged act of discrimination or the date when the alleged discrimination became known to the complainant(s), or where there has been a continuing course of conduct, the date of the latest instance of the conduct. 49 CFR 21.11(b).
3. The complaint must meet the following requirements:
  - a. Complaint shall be in writing and signed by the complainant(s).
  - b. Provide the date of the alleged act of discrimination; date when the complainant(s) became aware of the alleged discrimination; or the latest date of the discriminatory action.
  - c. Provide a detailed description of the issues including names and job title of those individuals perceived as parties in the discrimination.
  - d. Complaints must be written and submitted by mail or in person to OCR. If emailed or faxed, the complaint must be received later in hard copy with original signature.
  - e. Complaints may be written by someone else at the direction of the complainant. However, the final complaint shall be provided to the

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<sup>2</sup> Alleged complaints may also have tied-in concerns regarding language access (Exec. Order 13166) and environmental justice (Exec. Order 12898) that require investigation pursuant to the coverage provided by Title VI.

- complainant(s) for confirmation and signature before actual submission.
- f. Upon receipt of the complaint, OCR shall determine its jurisdiction, acceptability or need for additional information before in initiating its own investigation. In cases where the complaint is related to highways or airports, activities within HDOT's jurisdiction, the case will be investigated pursuant to FHWA or FAA requirements, as applicable.
  - g. Acceptance of a complaint will be determined by:
    - Whether the complaint is timely filed.
    - Whether the allegations involved a covered basis such as race, color national origin, language access, or environmental justice.
    - Whether the allegations involve a program or activity of a federal aid recipient, subrecipient or contractor.
    - Whether the complaint is beyond the administrative authority of HDOT.
  - h. A complaint may be dismissed for the following reasons:
    - The complainant requests the withdrawal of the complaint.
    - The complainant fails to respond to repeated requests for additional information necessary to process the complaint, or otherwise fails or refuses to cooperate in the investigation.
    - The complainant cannot be located after reasonable attempts to contact such person(s).
  - i. OCR has sole authority for accepting complaints for investigation. Within ten (10) business days of receipt of the complaint, OCR will acknowledge its receipt to the parties as well as the course of action on the complaint. The course of action may include acceptance of the complaint for investigation, request for additional information or rejection of the complaint. The complaint will receive a case number and be logged into the OCR's complaint records identifying its basis, and the alleged discrimination.
  - j. All such complaints shall also be referred to the Federal Transit Administration for review.
4. In cases where HDOT assumes investigation of the complaint, OCR will provide the respondent the opportunity to respond to the allegations in writing. The respondent will have ten (10) calendar days from the date of OCR's written notification of acceptance of the complaint to furnish his/her response to the allegations.
  5. Within ninety (90) calendar days of the acceptance of the complaint, the HDOT investigator will prepare a draft investigative report. The report shall include a narrative description of the incident, identification of persons interviewed, findings and recommendations for disposition.
  6. The draft investigative report shall be reviewed and finalized by the OCR Coordinator, and HDOT Director.
  7. The report shall be provided to the parties, and a copy sent to the FTA and to the Department of the Attorney General.
  8. Any complainant dissatisfied with the decision of HDOT will be notified of further appeal rights to the following authorities:

- a. The complainant may seek appeal via administrative hearing via internal HDOT process. This appeal process is governed by §91, Hawaii Revised Statutes.
- b. The complainant may also file a separate complaint via the FTA Office of Civil Rights, via the contact information below:

Federal Transit Administration  
Office of Civil Rights  
Attention: Complaint Team  
East Building, 5th Floor-TCR  
1200 New Jersey Avenue, SE  
Washington, DC 20590  
Phone: (202) 366-4043

- c. The complainant may also file a separate complaint via the U.S. Department of Transportation Departmental Office of Civil Rights as detailed at the following link: <https://www.transportation.gov/civil-rights/complaint-resolution/public-complaint-process>.
- d. The complainant may also wish to file a separate complaint via the Hawaii Civil Rights Commission. More information about this process can be found here: <http://labor.hawaii.gov/hcrc/> and the complaint form for doing so may be found here: <https://labor.hawaii.gov/hcrc/files/2020/11/Intake-Form-PA-AS-10-23-2020-SCRW-10-30-fillable-form-sample-tm-11-20-better-boxes-working-form.pdf>.
- e. The complainant may also wish to contact the U.S. Commission on Civil Rights for more information about where to find out additional avenues for appeal or complaint, which they can do so at the following link: <https://www.usccr.gov/filing/>.

<b>State of Hawaii Department of Transportation Complaint of Discrimination (External)</b>		
Complainant(s) Name:		Complainant(s) Address:
Complainant(s) Phone Number:		
Complainant's Representative's Name, Address, Phone Number and Relationship (e.g. friend, attorney, parent, etc.):		
Name and Address of Agency, Institution, or Department Whom You Allege Discriminated Against You:		
Names of the Individual(s) Whom You Allege Discriminated Against You (If Known):		
Discrimination Because Of:	<input type="checkbox"/> Race	Date of Alleged Discrimination:
	<input type="checkbox"/> Color <input type="checkbox"/> National Origin	
Please list the name(s) and phone number(s) of any person, if known, that the Department of Transportation could contact for additional information to support or clarify your allegation(s):		
Please explain as clearly as possible <b>how, why, when</b> and <b>where</b> you believe you were discriminated against. Include as much background information as possible about the alleged acts of discrimination. Additional pages may be attached if needed.		
Complainant(s) or Complainant(s) Representative's Signature:		Date of Signature: