



KYOVA COMPLAINT PROCEDURES

Any person who believes they—or with a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of a Federal-aid Recipient may file a Title VI complaint. KYOVA’S Title VI complaint form is available on the MPO website (kyovaiipc.org) under the Title VI/Environmental Justice Tab. The complaint procedure and complaint form are also included in **Appendix A**.

Complaints may be filed without the KYOVA Complaint Form but should be in written form and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call the agency and provide the allegations by telephone, and the agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain at least the following information:

- A written explanation of what has happened;
- A way to contact the complainant;
- The basis of the complaint (e.g., race, color, national origin);
- The identification of a specific person/people and the respondent (e.g.) agency/organization) alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s). Complaint should indicate if the alleged discrimination is on-going.

Complaints may be filed with KYOVA, KYTC, WVDOH, ODOT, FHWA Division Offices, the FHWA Headquarters Office of Civil Rights, the United States Department of Transportation (USDOT) Departmental Office of Civil Rights, or the U.S. Department of Justice.

According to U.S. DOT regulations, 49 CFR § 21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the investigating agency.

FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency. With this understanding, complaints should be routed in the following ways:

- If KYOVA receives the complaint it will be routed to the FHWA Division Office with jurisdiction. However, the complainant may send to any of the listed agencies below and they will handle per their guidelines. Ultimately all complaints should be routed through the Federal- aid highway oversight hierarchy until the complaint reaches the Federal Highway Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against State DOTs or Subrecipients of Federal financial assistance.
- Complaints should be forwarded from the initial receiving agency through the Federal- aid highway oversight hierarchy until the complaint reaches HCR. For example, if a complaint is filed with a Subrecipient City, that receiving agency should forward the complaint to the State DOT, which should forward the complaint to the State’s FHWA Division Office, which should forward the complaint to HCR. If a complaint is filed with a State DOT, then the State DOT should forward the complaint to the State’s FHWA Division Office, which should forward the complaint to HCR.
- KYOVA, State DOTs and Subrecipients must log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the FHWA Division Office, State DOT, KYOVA, and Subrecipient (where applicable).

Complaints may be sent to:

KYOVA IPC
Title VI Coordinator
400 Third Avenue
P. O. Box 939
Huntington, WV 25712

KY Transportation Cabinet
Office for Civil Rights
200 Mero Street, 6th Floor
Frankfort, KY 40622

WV DOT
Office for Civil Rights
State Capitol Complex –
Building 5
1900 Kanawha Boulevard
East Charleston, WV 25305

Ohio DOT
Division of Opportunity,
Diversity & Inclusion
1980 West Broad Street, Mail
Stop 3270
Columbus, OH 43223

And/Or

US FHWA-Kentucky Division
John C Watts Federal Building
330 W Broadway St Ste 264,
Frankfort, KY 40601
Attention: Civil Rights Specialist

US FHWA-West Virginia Division
300 Virginia Street East
Suite 7400
Charleston, WV 25301
Attn: Civil Rights Division

US FHWA-Ohio Division
200 North High Street, Room 328
Columbus, OH 43215
Attn: Civil Rights Division

And/Or

Federal Highway Administration Headquarters - Office of Civil Rights
1200 New Jersey Avenue, SE HCR-40, Room E81-101
Washington, DC 20590
202-366-0693 or Fax: 202-366-1599
TTY: 202-366-5751

Additionally, complaints may be filed with the U.S. Department of Justice at:
Federal Coordination and Compliance Section - NWB Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Once complaint is filed, there are four potential outcomes for processing complaints:

- Accept: if a complaint is timely filed, contains sufficient information to support a claim under Title VI, and concerns matters under FHWA's jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- Preliminary review: if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- Procedural Dismissal: if a complaint is not timely filed, is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Division Office a written notice that it is dismissing the complaint.
- Referral\Dismissal: if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

FHWA HCR is responsible for conducting all investigations of State DOTs and other primary Recipients. In the case of a complaint filed against a Subrecipient, HCR may either conduct the investigation itself, or it may delegate the investigation to the primary Recipient State DOT. If HCR chooses to delegate the investigation of a Subrecipient, HCR will communicate its acceptance of the complaint to the complainant and respondent, but the State DOT will conduct all data requests, interviews, and analysis. The State DOT will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI. All Letters of finding issued by FHWA are administratively final.

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance. For State DOTs that have been delegated an investigation from FHWA, 23 CFR §200.9(b)(3) provides that State DOTs must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

Investigation files are confidential and will be maintained by KYOVA. The contents of such files will only be disclosed to appropriate KYOVA personnel and federal/state authorities in accordance with Federal and State laws. KYOVA will retain files in accordance with records retention schedules and all Federal guidelines.