

FTA Title VI and Related Nondiscrimination Complaint Investigation Process and Procedures

What is an Investigation: An investigation is an official inquiry for the purpose of determining whether there has been a violation of the laws or statutes and includes a determination of appropriate relief where a violation has been found. An investigation requires an objective gathering and analysis of the evidence, which will ensure that the final decision is as accurate as possible.

Role of the Investigator: The investigator is a neutral party provided by the agency to conduct an investigation of the issues raised in a complaint. The investigator's behavior, demeanor, and attitude reflect the agency and may affect the degree of cooperation received from the parties. The investigator has an obligation to identify and obtain relevant evidence from all available sources in order to resolve all of the issues under investigation. ***The investigator is not an advocate for the complainant or the respondent.*** The investigator is a neutral fact finder.

Responsibilities of the Investigator:

The Investigator MUST:

- Never express his/her opinions;
- Never tell the parties that the complaint represents a good case or that the complaint is frivolous;
- Always remain NEUTRAL DO NOT take sides;
- Write the FACTS. State what the facts are based upon the evidence or testimony;
- Stay in control at all levels of the process;
- Decide who is to be interviewed. If the complainant or the respondent is adamant about a witness interview, perform the interview;
- Decide when sufficient evidence has been gathered to begin writing the investigative report;
- Always remain professional and polite;
- Be patient; and
- Be a good listener.

Theories of Discrimination: A Theory of Discrimination refers to the type of discrimination:

- INTENTIONAL DISCRIMINATION/DISPARATE TREATMENT – The decision maker was aware of the complainant's race, color, or national origin, or other protected groups and acted at least in part because of that information. The action was taken because of the complainant's race, color, or national origin, or other protected groups.
- DISPARATE/ADVERSE IMPACT – Discrimination which occurs when a neutral policy or procedure has a disproportionate impact on a protected class. The practice, even though applied equally to all, has the effect of excluding or otherwise adversely affecting a particular group; and
- RETALIATION – Discrimination against persons because of the filing of a complaint, participation in an investigation, or opposing a practice made unlawful pursuant to the laws.

Elements of Proof: How does the investigator prove discrimination?

- Establish a Prima Facie Case – The complainant has the responsibility of initially establishing a prima facie case of discrimination. A prima facie case means the complainant has provided information containing all of the elements necessary for a complaint of discrimination. Establishing a prima facie case requires the following elements:
 1. Complainant is a member of a protected group;
 2. Complainant was harmed by some decision; and
 3. Similarly situated persons of a different group were not or would not have been harmed under similar circumstances.

These elements constitute an ideal complaint of discrimination and establish a prima facie case. However, in many situations, the investigator will not initially have all of these elements. It is the investigator's responsibility to obtain from the complainant all missing information.

- During the investigation – One of the first items that must be determined by the investigator from the respondent, are the reasons for the respondent's actions against the complainant. In other words, establish the respondent's legitimate non-discriminatory reasons for the actions taken against the complainant. The investigator must also obtain evidence to determine whether the respondent's reasons are true based upon the evidence or whether the reasons are an excuse (pretext) to discriminate against the complainant.
- Obtaining the evidence -- During the investigation, the investigator should obtain the following types of evidence:
 - Respondent's policies and procedures;
 - Evidence establishing actions taken against the complainant;
 - Evidence establishing how others, not in the complainant's group, were treated in similar situations;
 - Evidence establishing the normal policies and procedures and how the respondent followed or did not follow the normal policies and procedures when making the decision or taking action involving the complainant;
 - Evidence establishing whether the respondent followed the normal policies and procedures for similarly situated persons; and
 - A position statement from the respondent outlining the reasons for the action taken against the complainant.

Examples of Elements of Proof:

Intentional Discrimination –

- Complainant is a member of a protected group;
- Complainant was excluded from participation in or denied the benefits of a program or activity receiving federal financial assistance;
- Complainant was rejected despite his/her eligibility;
- Respondent selected applicants whose race, color, or national origin were different from the complainant; or
- The Program remained open and the respondent continued to accept applications from applicants of a different race, color, or national origin than the complainant.

Disparate/Adverse Impact –

- Respondent has a facially neutral policy or practice that has affected the complainant;
- The policy or practice operates to disproportionately exclude members of the protected group;
- The policy or practice is a business necessity; or
- There is an effective business alternative with a less adverse impact.

Retaliation –

- Complainant opposed any policy or practice made unlawful or participated in any manner in an activity pursuant to the laws prohibiting discrimination;
- The individual who allegedly retaliated against complainant knew or should have known of the opposition or participation;
- An adverse action was taken against the complainant subsequent to the protected activity;
- There was a ***causal connection** between the opposition or participation and the decision made involving the complainant;
- There was a legitimate non-discriminatory reason for the action taken; or
- The articulated reason is a pretext for retaliatory discrimination.

**Causal Connection:* To establish a causal connection, establish the following:

- Did the treatment of the complainant change after the protected activity;
- Time-line: How long after the initial protest did the adverse action occur; and
- Compare the complainant's treatment with others who were not engaged in the protected activity.

Tracking and Investigating Title VI/Nondiscrimination Complaints - All Title VI/Nondiscrimination complaints will be filed in accordance with the following Title VI Complaint Procedures:

Any person alleging to be aggrieved by a discriminatory practice may in person or through a legal representative, obtain a Title VI/Nondiscrimination Complaint Form, and file the completed form with the Title VI Coordinator within 180 days following the date of the alleged discriminatory action or the date when the person(s) became aware of the alleged discriminatory action.

Complaints will be referred to the Department's Title VI Coordinator. The Title VI Coordinator will review the complaint and inform the appropriate program area designee. Complaints must be in writing, signed by the complainant or a representative, and include the complainant's name, address, and telephone number, or other means by which the complainant may be contacted. Complaints shall explain as fully as possible the facts and circumstances surrounding the alleged discriminatory action and identify the individual(s) and/or organization(s) responsible for the alleged discriminatory action. In cases where the complainant will be assisted in converting an oral complaint into a written complaint, the complainant is required to sign the written complaint. All discrimination complaints will be acknowledged in writing. Complaints received by telephone will be reduced to writing and provided to the complainant for confirmation, revision, and signature before processing.

The Title VI designee or the individual receiving the written complaint will review the complaint to ensure that the required information is provided, the complaint is timely, and is within the appropriate

jurisdiction. The complaint will be accepted unless it is withdrawn, is not filed within the allowed time period, or the complainant fails to provide required information after a written request for omitted or additional information.

Internal Complaint Procedures: Written complaints filed with the Department will be analyzed and investigated by the Title VI Coordinator. The Department will notify a respondent named in a complaint by mail and the respondent will be contacted for an interview. The complaint investigation will be completed within forty (40) days of the date of receipt of the complaint. The Title VI Coordinator will prepare an investigative report (IR) after conducting the investigation. A complaint log will be maintained for all complaints filed with and investigated by the Department. The investigator will advise the complainant of his/her rights under Title VI, and related statutes.

Investigation Process: The Investigation Process includes the following:

- Investigative Plan
- Request for Information
- Conducting Interviews
- On-Site Visit
- Obtaining Evidence
- Analyzing Data
- Writing the Investigative Report

Investigative Plan: The Investigative Plan is an internal document for use by the investigator to define the issues of the complaint. The following elements are contained in an Investigative Plan:

- Complainant(s) Name and Address/Attorney For Complainant with Name and Address;
- Respondent(s) Name and Address/Attorney For Respondent with Name and Address;
- Applicable Law;
- Basis;
- Issue(s);
- Background;
- Name of Person(s) to be interviewed, including questions for the Complainant, Respondent and Witness(es); and
- Evidence to be obtained during the investigation.

Request for Information: Requests for Information are sent to the appropriate official(s) at the respondent's facility. Contact is made with the respondent to advise him/her of the complaint and to determine the appropriate official(s) to interview. The cover letter to transmit the Request for Information should explain the process and provide information regarding any meetings that have been scheduled. To facilitate the availability of evidence during the on-site visit, provide the Request for Information to the respondent prior to conducting the visit.

Conducting Interviews: Interviews are conducted of witnesses who can provide information that will either support or refute complaints. A list of major questions should be prepared that address the issues involved in the complaint. During the interview, the following steps are recommended:

- Introduce yourself and outline the interviewing process;
- Place the person being interviewed at ease;
- Listen effectively;
- Differentiate factual information from opinions;
- Ask questions best worded to provide factual responses;
- Take clear and precise notes; and
- Obtain a signed statement from the person being interviewed.

Complainant – The purpose of interviews is to gain a better understanding of the situation outlined in the complaint of discrimination. The investigator contacts the complainant to ensure that he/she understands the complainant’s allegation(s). It is recommended that the investigator interview the complainant prior to preparing the Investigative Plan. If this is not possible, changes are made as appropriate to the Investigative Plan based upon any new information provided by the complainant.

Respondent – Respondents are interviewed to provide an opportunity to respond to the allegations raised by the complainant as well as to provide the investigator the opportunity to understand the respondent’s operation or policies the complainant cites in the complaint. You will need to discuss the Request for Information with the respondent and be able to explain the need for requesting any document on the list. The respondent is informed of their right to submit a formal position statement addressing the complainant’s allegations. The investigator may also question the respondent regarding possible settlement opportunities.

Witnesses – The complainant or respondent may request that additional persons be interviewed. Determine what relevant information, if any, a witness has to provide prior to conducting an interview. Only interview persons who have information relevant to the allegations raised in the complaint of discrimination.

On-Site Visit - An On-Site visit will be conducted when:

- Personal contact with the complainant and the respondent may yield information and clarification that might not otherwise be discovered by only reviewing the written documents or by telephone contacts;
- It is necessary to review the physical environment;
- More effective communication can be established with representatives and witnesses of the complainant and respondent; and
- Documentation can only be examined on-site for reasons of convenience, cost, format, or volume.

Obtaining Evidence - Evidence requested should be related to issues cited in the complaint. An evidence request should contain some or all of the following:

- The policies and procedures regarding the practice that the complainant has alleged;
- All documents relating to the Respondent’s dealing with the complainant in the situation described in the complaint;
- Documents which exhibit how others, not in the complainant’s group, were treated under similar circumstances;
- Respondent’s reason(s) for the action taken; and

- A formal position statement from respondent addressing complainant's allegations.

Types of Evidence include the following:

- Circumstantial Evidence – Includes facts from which may be inferred intent or discriminatory motive and proves intent by using objectively observable data;
- Comparative Evidence – A comparison between similarly situated individuals;
- Direct Evidence – Related to the Respondent's motive, it is defined as any statement or action by an official of the Respondent that indicates a bias against members of a particular group;
- Documentary Evidence – Written material generated during the course of normal business activity;
- Statistical Evidence – Statistics, facts, or data of a numerical type, which are assembled, classified, and tabulated to present significant information about a given subject; and
- Testimonial Evidence – Evidence that is provided orally.

Analyzing Data - Data will be analyzed to determine whether a violation has occurred. When analyzing data you must:

- Review what happened to the complainant;
- Compare the complainant's treatment with the appropriate policies and procedures;
- Compare the complainant's treatment with others in the same situation;
- Review the respondent's reason(s) for the treatment afforded the complainant; and
- Compare the respondent's treatment of the complainant with the treatment afforded others.

Writing the Investigative Report - The Investigative Report (IR) will contain the following sections:

- Complainant(s) Name and Address
- Respondent(s) Name and Address;
- Applicable Law;
- Basis;
- Issues;
- Findings and a corresponding conclusion for each issue;
- Recommended decision; and
- Recommendations (if applicable)

يصف هذا المستند عملية الشكاوى التي تستخدمها وزارة النقل في ولاية كونيتيكت (CTDOT) للتحقيق في شكاوى التمييز المقدمة بموجب الباب السادس من قانون الحقوق المدنية لعام 1964. يمكن تقديم شكاوى الباب السادس من قبل أي فرد أو جماعة تعتقد أنهم تعرضوا للتمييز على أساس العرق أو اللون أو الأصل القومي، فيما يخص برامج وأنشطة وفوائد CTDOT. للمساعدة في ترجمة هذا المستند، يُرجى الاتصال بخط المساعدة اللغوية الخاص بـ CTDOT على (860) 594-2109.

Esse documento descreve o processo de denúncia usado pelo Departamento de Transportes de Connecticut (*Connecticut Department of Transportation* - CTDOT) para investigar denúncias de discriminação apresentadas conforme o Título VI da Lei de Direitos Civis de 1964. As denúncias do título VI podem ser ajuizadas por qualquer pessoa ou grupo que acreditem terem sido

submetidos a discriminação com base em sua raça, cor ou origem relacionada aos programas, atividades e benefícios do CTDOT. Para ajuda na tradução deste documento, por favor ligue para o telefone de assistência à idiomas do CTDOT: (860) 594-2109.

Dokiman sa a bay detay sou pwosesis pote plent Depatman Transpò Connecticut la (Connecticut Department of Transportation, CTDOT) itilize pou fè ankèt sou plent yo depoze pou diskriminasyon ki konfòm ak Atik VI (Atik 6) nan lwa sou Dwa Sivil lane 1964 la. Nenpòt moun oswa gwoup ki kwè yo te sibi diskriminasyon ki baze sou ras yo, koulè po yo, oswa peyi kote yo sòti, konsènan pwogram, aktivite, ak avantaj CTDOT yo kapab depoze plent ki konfòm ak atik VI (Atik 6) la. Pou jwenn èd nan tradui dokiman sila a, tanpri rele liy telefòn asistans lang CTDOT an nan (860) 594-2109.

Il presente documento describe il processo di reclamo utilizzato dal Dipartimento dei Trasporti del Connecticut (CTDOT) per indagare sulle denunce di discriminazione presentate ai sensi del Titolo VI del Civil Rights Act [Legge sui Diritti Civili] del 1964. Le denunce ai sensi del Titolo VI possono essere presentate da qualsiasi individuo o gruppo che ritenga di essere stato sottoposto a una discriminazione basata sulla razza, colore o nazionalità, in relazione a programmi, attività e benefici del CTDOT. Per assistenza nella traduzione di questo documento, contattare l'assistenza linguistica del CTDOT al numero (860) 594-2109.

Ten dokument opisuje proces wnoszenia skarg stosowany przez Departament Transportu Stanu Connecticut (CTDOT) w celu badania skarg dotyczących dyskryminacji wnoszonych na podstawie Tytułu VI Ustawy o Prawach Obywatelskich z 1964 roku. Skargi na podstawie Tytułu VI może wnosić każda osoba lub grupa osób, która uważa, że została poddana dyskryminacji ze względu na rasę, kolor skóry lub narodowość w związku z programami, działalnością oraz świadczeniami CTDOT. Pomoc przy tłumaczeniu tego dokumentu można uzyskać dzwoniąc na infolinię językową CTDOT pod numerem (860) 594-2109.

В данном документе приводится описание процесса рассмотрения Министерством транспорта Коннектикута (CTDOT) жалоб и обращений о дискриминации, поданных в соответствии с Разделом VI закона "О гражданских правах", 1964г. Жалобы в соответствии с Разделом VI могут быть поданы каким-либо лицом или группой, которые предполагают, что они подверглись дискриминации по признаку расы, цвета кожи или национального происхождения в связи с программами, мероприятиями и льготами Министерства транспорта Коннектикута. Чтобы получить помощь в переводе данного документа, позвоните в службу языковой поддержки Министерства транспорта Коннектикута по телефону: (860) 594-2109.

本文件说明康涅狄格州交通部 (CTDOT) 针对根据 1964 年《民权法案》第六章提出的歧视投诉所采取的调查程序。Title VI 投诉表可由认为其在 CTDOT 相关项目、活动和福利方面因种族、肤色或国籍而遭到歧视的任何个人或团队提交。如需协助翻译本文件，请拨打 CTDOT 语言协助热线：(860) 594-2109。

Tài liệu này mô tả quy trình khiếu nại được Sở Giao thông Vận tải Connecticut (CTDOT) sử dụng để điều tra các khiếu nại phân biệt đối xử được gửi đến theo Tiêu đề VI của Đạo luật Quyền Dân sự năm 1964. Bất kỳ cá nhân hoặc nhóm nào cho rằng họ đã bị phân biệt đối xử dựa trên chủng tộc, màu da hoặc nguồn gốc quốc gia của họ, liên quan đến các chương trình, hoạt động và phúc lợi của CTDOT, đều có thể gửi đơn khiếu nại theo Tiêu đề VI. Để được hỗ trợ cho việc dịch tài liệu này, vui lòng gọi cho đường dây trợ giúp ngôn ngữ của CTDOT theo số (860) 594-2109.