

AMENDED - {December 31st, 2021}

Title VI Discrimination Complaint

Against a Recipient of EPA Funds:

1.) *The State of Michigan, acting in collaboration and/ or in concert with the Detroit District Court (e.g. clerk's office) and/ or the Ann Arbor District Court's clerk's office... on account of my EPA ABA complaint and/ or EPA protected activity re: my Title VI complaints).*

**To: U.S. Environmental Protection Agency
- 1200 Pennsylvania Avenue, NW,
Washington, DC 20460**

Email information to:

Title_VI_Complaints@epa.gov

From: b(6) Privacy

[REDACTED]

-
- The complaint must be in writing. ✓
 - The complaint should identify the entity which allegedly committed the discrimination. ✓
 - The complaint must allege discrimination prohibited by one of the laws ECRCO enforces. ✓

... specifically – “In Flint, Michigan, the (b) (5) Privacy

[REDACTED] filed what was the oldest pending civil rights complaint

languishing at EPA. In 1992 the (b) (5) Privacy, (b) (7)(C) Enforcement

[REDACTED] alleged that the Michigan

Department of Environmental Quality

(MDEQ) discriminated by, among other

things, treating African Americans who

sought to testify during the permitting

process differently from whites.

○ In 2017, after the (b) (5) Privacy, (b) (7)(C) Enforcement Privacy filed the

complaint but one week after EPA filed

papers to dismiss the litigation, **EPA**

issued its second-ever finding of

discrimination in response to the (b) (5) Privacy, (b) (7)(C) Enforcement

[REDACTED] **complaint. EPA made a finding of**

discrimination.

- So, the 2017 - EPA finding against the State of Michigan of having discriminated against Blacks in Flint is CRITICAL evidence of Michigan State (e.g. and Michigan State EGLE) discrimination as to the wrongful issuance of Permit # 90-21 to Ajax Asphalt Plant [see my EPA Environmental Appeal which is currently pending as to such [EPA CCA Appeal # 21-04]], and evidence of the State of Michigan's discrimination against Blacks (e.g. disabled, poor Blacks such as myself.... which is to say.... Literally [I] had fully intended upon RELOCATING from the City of Flint {e.g. due to its Water Crisis caused by the State of

Michigan, due to discrimination against poor Blacks, who are disabled such as myself {e.g. I am a victim - but Blessed survivor of the Flint Water Crisis....

whereby I suffer worsened health conditions due to such)}} in the Benton Harbor Water Crisis; and such is:

- **...and amounts to VIOLATIONS of my HUD Fair Housing Rights on account of me being a poor, Disabled Black resident of the City of Flint [e.g. from the year late August 2017 - to present I have been a resident of the City of Flint {whereby I have literally lived in a home in Flint that had LEAD-WATER-SERVICE LINES}],**
- **And.... an additional issue of concern as to POSSIBLE further violation of EPA**

Title VI requirements on the part of the State of Michigan is that based upon information which is best available to me.... [It] appears that the State of Michigan has directed Genesee County NOT to make the HUD Block Grant Funds for HOME-RENOVATION available in the City of Flint {e.g. see the attached PDF's as to such}.... which is to say.....

All applicants for and recipients of EPA financial assistance have an affirmative obligation to comply with federal civil rights obligations.

In July 1964 Congress passed the Civil Rights Act of 1964.

Title VI of the Civil Rights Act states that *"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."*

In February 1994, President Clinton issued Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority

Populations and Low-Income Populations." In a separate memorandum, President Clinton identified Title VI as one of several federal laws already in existence that can help "to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects."

There are several basic differences between EPA's responsibilities under

Title VI and under Executive Order

12898:

Title VI

- 1. Title VI prohibits recipients of federal financial assistance (e.g., states, universities, local governments) from discriminating on the basis of race, color, or national origin in their programs or activities.***
- 2. Title VI is a federal law that applies to federal financial***

assistance recipients (i.e., persons or entities that receive EPA financial assistance) and not to EPA itself as the Executive Order does.

3. Title VI allows persons to file administrative complaints with the federal departments and agencies that provide financial assistance alleging discrimination based on race, color, or national origin by recipients of federal funds.

4. Under Title VI, EPA has a responsibility to ensure that its funds are not being used to subsidize discrimination based on race, color, or national origin. This prohibition against discrimination under Title VI has been a statutory mandate since 1964 and EPA has had Title VI regulations since 1973.

5. EPA's Office of Civil Rights is responsible for the Agency's administration of Title VI, including investigation of such complaints.

The EPA's External Civil Rights Compliance Office (formerly Office of Civil Rights (OCR), within the Office of General Counsel, (ECRCO), also has a duty to ensure that applicants for and recipients of federal financial assistance ("EPA recipients") comply with federal civil rights laws in their programs or activities that apply for and receive federal financial assistance (including subrecipients of EPA financial assistance).

All persons, regardless of race, color, national origin, age, disability or sex, are entitled to receive the benefits of and participation in the programs and activities of EPA recipients without discrimination.

EPA ensures compliance with federal civil rights laws in several ways - through complaint investigations, compliance reviews, technical assistance, community engagement, and policy formulation.v Strong civil rights compliance and enforcement are essential. Furthermore, enforcement of civil rights laws and environmental laws are complementary and can be achieved in a manner consistent with sustainable economic development and that ensures the protection of human health and the environment:

- "Applicant means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance." 40 C.F.R. § 7.25. Generally, a recipient means an

entity that receives financial assistance from EPA EPA regulations define recipient as follows: Recipient means, for the purposes of this regulation, any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. 40 C.F.R. § 7.25 (emphasis added). "

- ***Which is to say.... The State of Michigan — is a recipient of EPA funds; and,***
- ***On relevant dates hereto.... [e.g. the State of Michigan], acting in concert with the Detroit Federal District Court Clerks office {e.g. Mr. Richard Loury and/ or [his] supervisor}... sought to AID in preventing me from BRINGING FURTHER LIGHT and having “proper” notation as to A***

***POTENTIAL “pattern and practice”
ENVIRONMENTAL INJUSTICE
historical - pattern of race and
poverty based environmental
injustice NOW being and/ or
RECENTLY [having FAILED to act in a
timely manner as to the State of
Michigan]... put against the 85%
Black City of Benton Harbor
Michigan.... in effort for the State of
Michigan to HIDE it’s culpable***

***misconduct as to [its] apparent
3-year unjustified DELAY to properly
and meaningfully PREVENTING and/
or addressing the horrible
environmental injustice that is the
BENTON HARBOR water “crisis”
Which [for example] when TAKEN
with the [apparent] wrongful
issuance of Ajax Asphalt plant permit
90-21.... would be VERY evident
that the State of Michigan is***

***INTENTIONALLY discriminating
against primarily black cities in the
state of Michigan, as to
disproportionately putting horrible
environmental injustice against said
primarily black cities such as
BENTON HARBOR (i.e. or in the
instance of the Ajax Asphalt plant
permit # 90-21.... [here] against the
primarily Black City of Flint
Michigan).***

- EPA enforces and ensures compliance with federal civil rights laws that together prohibit discrimination on the bases of race, color, national origin (including limited-English proficiency), disability, sex and age. The five federal civil rights Laws that we enforce are as follows: Title VI of the Civil Rights Act of 1964 {42 U.S.C. §§ 2000d et seq.}; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681 et seq.); Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794); Age Discrimination Act of 1975 (42 U.S.C. §§ 6101 et seq.); and the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 § 13, 86 Stat. 903 (codified as amended at 33 U.S.C. §§ 1251 et seq.

(1972)). See a/so 40 C.F.R. Parts 5 and 7 {EPA's nondiscrimination regulations}. v EPA is required to seek the cooperation of applicants and recipients in securing compliance EPA's nondiscrimination regulations and is available to provide help in that regard. 40 C.F.R. § 7.105. Members of the public who believe that he or she or a specific group of persons have been discriminated against may file a complaint alleging discrimination in violation of federal civil rights laws. 40 C.F.R. § 7.120. In such cases, EPA is authorized to investigate and resolve these complaints, as a part of its responsibility to develop and administer a means of ensuring compliance with federal civil rights laws. See Alexander v. Sandoval,

532 U.S. 275, 293 (2001) (holding that there is no private right of action to enforce disparate impact regulations promulgated under Title VI). EPA is also authorized to initiate compliance reviews to determine compliance with the civil rights laws enforced by EPA. See 40 C.F.R. §§ 7.110, 7.115. This regulatory provision is incorporated by reference in the regulations implementing other statutes enforced by ECRCO. See 40 C.F.R § 5.605. See also External Civil Rights Compliance Office Strategic Plan (2015-2020), at 12 (https://www.epa.gov/sites/production/files/2017/01/documents/finat_strategic_plan_ecrco_january_10_2017.pdf).

- **Who is Covered by Federal Civil Rights Laws?**

Federal civil rights laws apply to the programs and activities of applicants for and recipients of federal financial assistance. The EPA's nondiscrimination regulation defines a "recipient" to include both public and private entities, such as a State, public or private agency, institution, organization, or other entity or person to which Federal financial assistance is extended.

- What is Covered by Federal Civil Rights Laws? Civil rights laws prohibit discrimination in "any program or activity" of recipients of federal financial assistance. With regard to certain recipients, such as public institutions, the "program or activity"

that Title VI covers encompasses the entire institution and not just the part of the institution that receives the federal financial assistance. **For example, many state environmental agencies receive federal funding for their regulatory and environmental protection functions. Those agencies should be aware that all actions, not just permitting decisions, taken by state agencies funded by EPA are subject to federal civil rights laws.**

- **It is also important to note that civil rights laws and environmental laws function separately. Thus if, in a given circumstance, you are complying with applicable environmental laws that fact**

alone does not necessarily mean that you are complying with federal civil rights laws.

- **Analyzing Discrimination Complaints**
at EPA Federal civil rights laws prohibit recipients from intentionally discriminating¹² based on race, color, national origin, disability, sex and age. In addition, federal law authorizes federal agencies to enact "rules, regulations, or orders of general applicability" to achieve the law's objectives. **The Supreme Court has held that such regulations may validly prohibit practices that have a disparate impact on protected groups.** This includes policies, criteria or methods of

administering programs that are neutral on their face but have the effect of discriminating. Therefore, both intentionally discriminatory actions (as discussed in section A below) and actions that have the effect of subjecting individuals to discrimination (as discussed in section B below) are prohibited.¹⁵ In 1973, EPA issued such nondiscrimination regulations and revised them in 1984. ¹⁶ Under these regulations, recipients of EPA financial assistance are prohibited from taking actions in their programs or activities that are intentionally discriminatory and/or have a discriminatory effect.

EPA regulations also prohibit retaliation and intimidation. No applicant, recipient nor other person may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the non-discrimination statutes that the EPA External Civil Rights Compliance Office (ECRCO) enforces.

What constitutes intentional discrimination (disparate treatment)?

Federal civil rights laws prohibit recipients from intentionally discriminating in their

programs and activities based on race, color, or national origin, disability, age, or sex. This is also referred to as disparate treatment. A claim of intentional discrimination alleges that a recipient intentionally treated individuals differently or otherwise knowingly cause them harm because of their race, color, or national origin, disability, age or sex. Intentional discrimination requires a showing that a "challenged action was motivated by an intent to discriminate."20 Evidence of "bad faith, ill will or any evil motive of the part of the [recipient] is not necessary. Evidence in a disparate treatment case will generally show that the

recipient was not only aware of the complainant's protected status, but that the recipient acted, at least in part, because of the complainant's protected status.

Various methods of proof are available to organize evidence to show whether intentional discrimination has occurred.

These methods are described briefly below and one or more of these methods may apply to the facts in an investigation. EPA will evaluate the "totality of the relevant facts" including direct, circumstantial, and statistical evidence to determine whether intentional discrimination has occurred.

The clearest case of intentional discrimination involves direct evidence,

such as with a policy or decision that is discriminatory on its face. For example, a policy or decision that includes explicit language requiring individuals or groups of one race to be treated differently from individuals or groups of another race - such as explicitly conditioning the receipt of benefits or services on the race, color, or national origin of the beneficiary evidences an express classification and thus, direct evidence of intentional discrimination. Comments or conduct by decision-makers that express a discriminatory motive, such as racist or similar discriminatory statements or

actions, are also direct evidence that can establish intentional discrimination.

EPA External Civil Rights Compliance Office, Toolkit – Chapter I, January 18, 2017

Intentional discrimination also occurs when a policy or decision that is facially neutral (*for instance, if the language used does not explicitly differentiate between groups on*

EGLE has a policy on its website stating that it provides fair and equal access to its programs and activities and does not discriminate based on race, color, national origin, disability, sex, age or any other protected category under law. EGLE is aware that individuals in the community with physical mobility disabilities wished to participate in a public meeting regarding

a proposed environmental action; however. EGLE decided to hold the meeting at a facility that is inaccessible to those individuals because the facility is more centrally located for EGLE staff. This action, though based on an apparently neutral rationale, DOES in FACT constitute a viable intentional disability discrimination on the part of the Michigan State EGLE.

....the basis of race) is administered by the recipient in a discriminatory manner that is motivated, at least in part, by the race, color, national origin, disability, age or sex of the alleged victims of discriminatory treatment.

The Michigan State EGLE had determined, and did to hold a public hearing on the permitting of a controversial AJAX asphalt plant. EGLE decided it will hold public hearings in

different sections near the city of Flint to cover the two main areas of town. EGLE holds two hearings in the East Section, a predominantly white part of the Township and one hearing several miles away in the West Section, a predominately African-American part of the near or in the City of Flint.. The East Section hearings are held during the daytime, as well as in the evening after work hours, and both hearings provide three-hour time slots for community comments. The hearing that is held in the West Section is held during the day hours only and limits comments from the community to one hour. Armed security officers also attend the West Section hearing. EGLE;s decision to hold three public hearings appears to reflect an effort to provide access to all areas of the Township/ City of Flint area. . However, the fact that the hearing in the West Section provides significantly less time for community comment and is scheduled and staffed differently than the two hearings in the East Section raises different treatment concerns. Given these facts, EGLE actions may result in a viable claim of disparate treatment based on race.

EPA External Civil Rights Compliance Office, Toolkit - Chapter I, January 18, 2017 Direct proof of discriminatory motive is often unavailable. However, EPA will consider both direct and circumstantial evidence of discriminatory intent.

For example, evidence to be considered may include:

- statements by decision makers,**
- the historical background of the events in issue, •**
- the sequence of events leading to the decision in issue,**

- a departure from standard procedure (e.g., failure to consider factors normally considered), •
- legislative or administrative history (e.g., minutes of meetings), •
- the foreseeability of the consequences of the action, •
- a history of discriminatory or segregated conduct.
- Finally, disparate treatment can be shown based on evidence of a substantial disparate impact on a protected group, together with other evidence of motive, such as that listed in the bulleted list above, showing

that the recipient acted with discriminatory intent.

Additionally, in situations where direct proof of discriminatory motive is unavailable, EPA may analyze claims of intentional discrimination using the Title VI... burden shifting analytic framework established by the Supreme Court in *McDonnell Douglas Corp. v. Green*.

This framework is usually most applicable where a complaint is about one or a few individuals, and involves easily identifiable, similarly-situated individuals not in the protected class. To establish a

prima facie case of disparate treatment under the McDonnell Douglas framework, EPA must determine that:

(1) the complainant is a member of a protected class;

(2) the complainant was eligible for the recipient's program, activity or service;

(3) the complainant was excluded from that program, activity or service or was otherwise treated in an adverse manner; and

(4) an individual who was similarly situated with respect to qualifications, but was not in the complainant's protected group, was given better treatment.

If a prima facie case of disparate treatment is established, the recipient then has the burden of producing a legitimate, non-discriminatory reason for the challenged policy or decision and the different treatment. If the recipient articulates such a reason, EPA must then determine if there is evidence that the proffered reason is false, i.e. , that the nondiscriminatory reason or reasons or the defendant gives for its actions are not the true reasons and are actually a pretext for discriminatory intent.

CONCLUSION:

Similar principles may be used to analyze claims that a recipient has engaged in a pattern or practice- or systemic violations - of unlawful discrimination. A showing of more than the mere occurrence of isolated, accidental or sporadic discriminatory acts may prove such claims.

In such cases, EPA would look to determine if the recipient regularly engaged in less favorable treatment of a protected group in some aspect of its program as part of its standard policy or operating procedure. A standard policy or operating procedure may be established by a strong statistical disparity that affects a large number of individuals. Statistical evidence can

sometimes serve by itself to establish a prima facie case of a pattern or practice of unlawful discrimination³⁴ but in many cases, statistics are coupled with anecdotal evidence of an intent to treat the protected class unequally. Once the existence of such a discriminatory pattern has been shown, it may be presumed that every disadvantaged member of the protected class was a victim of the discriminatory policy, unless the recipient can rebut the inference that its standard operating policy or operating procedure is discriminatory.

Finally, it is important to understand that establishing that a recipient acted

because of race, color, or national origin does not mean that the recipient's actions automatically violate Title VI. Race may be used when a governmental entity has a compelling interest supporting its use, and that use is narrowly tailored to support the stated compelling interest. The EPA regulations recognize circumstances under which recipients' consideration of race may be permissible, including providing remedies to those injured by past discrimination.

What constitutes disparate impact discrimination? The second primary method for proving a federal civil rights violation is based on federal nondiscrimination regulations and is

known as the disparate impact or discriminatory effects standard. 39 As noted previously, EPA and other federal agencies are authorized to enact regulations to achieve the law's objectives in prohibiting discrimination. For example, EPA regulations state: A recipient shall not use criteria or methods of administering its program or activity which have the effect of subjecting individuals to discrimination.

In a disparate impact case, EPA must determine whether the recipient uses a facially neutral policy or practice that has a sufficiently adverse (harmful) and disproportionate effect based on race, color, or national origin. This is

referred to as the prima facie case. To establish an adverse disparate impact, EPA must:

- (1) identify the specific policy or practice at issue;
- (2) establish adversity/harm;
- (3) establish disparity; and
- (4) establish causation.

The focus here is on the consequences of the recipient's policies or decisions, rather than the recipient's intent. The neutral policy or decision at issue need not be limited to one that a recipient formalizes in writing, but also could be one that is understood as "standard operating procedure" by recipient's employees. Similarly, the neutral practice need not

be affirmatively undertaken, but in some instances could be the failure to take action, or to adopt an important policy. If the evidence establishes a prima facie case of adverse disparate impact, as discussed above, EPA must then determine whether the recipient has articulated a "substantial legitimate justification" for the challenged policy or practice. "Substantial legitimate justification" in a disparate impact case, is similar to the Title VII employment concept of "business necessity," which in that context requires a showing that the policy or practice in question is demonstrably related to a significant, legitimate employment goal.

The analysis requires balancing recipients' interests in implementing their policies with the substantial public interest in preventing discrimination. Although determining a substantial legitimate justification is a fact-specific inquiry, EPA will generally consider whether the recipient can show that the challenged policy was "necessary to meeting a goal that was legitimate, important, and integral to the [recipient's) institutional mission" in order to establish a "substantial legitimate justification."

EPA will evaluate whether the policy was "necessary" by requiring that the

justification bear a "manifest demonstrable relationship" to the challenged policy. As part of its assessment, EPA will generally consider not only the recipient's perspective, but the views of the affected community in its assessment of whether a permitted facility, for example, will provide direct, economic benefits to that community. If a recipient shows a "substantial legitimate justification" for its policy or decision, EPA must also determine whether there are any comparably effective alternative practices that would result in less adverse impact. In other words, are there "less discriminatory alternatives?"

Which is to say... I, **b(6) Privacy**, am an *INDIVIDUAL* with (both) physical disabilities,

- *Whereby [I] suffer from serious vision impairments {and} eye-strain migraine headaches;*
- *and what amounts to episodic communication-disability/ impairment... **b(6) Privacy***

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

[REDACTED]

[REDACTED]

- **My race is Black African American, color (e.g. Black), or national origin {e.g. historical roots in Africa [a decendant of Slaves therefrom], disability (e.g. I am a disabled person as set forth above)...**
- **And on or about December 28th, 2021, a CONTINUED PATTERN and PRACTICE/ policy of intentional discrimination was put against me by the State of Michigan and whereby such was in apparent “concert” with the Detroit Federal District Clerks office (e.g. the supervisor of Richard Loury, for example)..... AND,**
- **As a direct result of such....**
- ***I am a person in the United States who, on the ground of race, color, or national origin, WAS [and/ or]***

HAVE BEEN excluded from participation in, [OR] was denied the benefits of, or WAS subjected to discrimination under A program(s) or activity(s) receiving Federal financial assistance, {i.e. as to the State of Michigan... apparently acting in concert with the Detroit Federal District Court's clerks office as noted above).



NOTE: please see the AMENDED (e.g. added) discrimination issues which [appear] to VIOLATE the EPA Title VI

requirement, which are set forth by me on pages #3 through # 7 above).

• *Respectfully Submitted.*

b(6) Privacy

p.s. I require LARGE-PRINT written communication; and the BEST method of communicating with [me] is VIA email (e.g. preferred).

note: *nearly 90% of the instant document is “cut-and-pasted” from:*

*The EPA Toolkit Chapter 1 Dear Colleague
Letter - January 18, 2017 and/ or the EPA
Title VI bulletin.*