



UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D C. 20460

Office of Environmental Justice and External Civil Rights
Office of External Civil Rights Compliance

March 29, 2023

In Reply Refer to:

EPA Complaint No: 02NO-20-R3

Jeffrey H. Coben, MD
Interim Cabinet Secretary
West Virginia Department of Health and Human Resources
One Davis Square, Suite 100 East
Charleston, West Virginia 25301
DHHRSecretary@wv.gov

Re: Resolution of EPA Complaint No. 02NO-20-R3

Dear Dr. Coben:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Environmental Justice & External Civil Rights Compliance, Office of External Civil Rights Compliance (OECRC),¹ has resolved this complaint based on the enclosed Informal Resolution Agreement ("Agreement") entered into between EPA and the West Virginia Department of Health and Human Resources (DHHR).

On April 10, 2020, EPA accepted for investigation a complaint against DHHR alleging discrimination on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964 and EPA's nondiscrimination regulation, at 40 C.F.R. Part 7. After receipt on March 19, 2020, the complaint was assigned EPA Complaint No. 02NO-20-R3. Specifically, EPA accepted the following issues for investigation:

1. Whether the WVDHHR provides meaningful access to information and their programs and activities, to residents with limited-English proficiency as required by Title VI of the Civil Rights Act of 1964 and EPA's non-discrimination regulation found at 40 C.F.R. Part 7.²
2. Whether the WVDHHR has and is implementing the procedural safeguards required under 40 C.F.R. Parts 5 and 7 that recipients of federal assistance must have in place to comply with their general nondiscrimination obligations, including specific policies and

¹ On September 24, 2022, EPA announced the establishment of the [Office of Environmental Justice and External Civil Rights](#) (OEJECR). The new Office includes the External Civil Rights Compliance Office, which was renamed the [Office of External Civil Rights Compliance](#) (OECRC). [OECRC](#) continues to enforce and ensure compliance with federal civil rights laws, which prohibit discrimination by applicants for and recipients of EPA financial assistance. OECRC accomplishes in accordance with the procedure described in the [Case Resolution Manual](#).

² See Title VI of the Civil Rights Act, 42 U.S.C. 2000(d) *et seq.* (prohibiting discrimination on the basis of national origin); *Lau v. Nichols*, 414 U.S. 563, 568-69 (1974) (finding that the government properly required language services to be provided under a recipient's Title VI obligations not to discriminate based on national origin); 40 C.F.R. § 7.35(a). See also EPA's Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 69 FR 35602 (June 25, 2004). <https://www.govinfo.gov/content/pkg/FR-2004-06-25/pdf/04-14464.pdf>.

procedures to ensure meaningful access to WVDHHR services, programs and activities for individuals with limited-English proficiency and individuals with disabilities, and whether the WVDHHR's public participation policy and process provide meaningful public involvement that is consistent with Title VI and EPA's Title VI implementing regulation at 40 C.F.R. Part 7.³

During EPA's investigation, DHHR agreed to enter into the Agreement to resolve EPA Complaint No. 02NO-20-R3. The enclosed Agreement, signed on February 10, 2023, is entered into by EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI and 40 C.F.R. Part 7. It is understood that the Agreement does not constitute an admission by DHHR of any violation or a finding by EPA of compliance or noncompliance with applicable federal non-discrimination laws and regulation.

The enclosed Agreement does not affect DHHR's continuing responsibility under Title VI, 40 C.F.R. Parts 5 and 7, and other federal nondiscrimination laws, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth EPA's disposition of the complaint. This letter is not a formal statement of EPA policy and should not be relied upon, cited, or construed as such.

EPA is committed to working with DHHR as it implements the provisions of the Agreement. If you have any questions regarding this letter and the Agreement between EPA and DHHR, please contact me at (202) 809-3297 or by e-mail at hoang.anhthu@epa.gov.

Sincerely,

Anhthu Hoang
Acting Director
Office of External Civil Rights Compliance
Office of Environmental Justice & External Civil Rights Compliance

cc: Ariadne Goerke
Deputy Associate General Counsel
Civil Rights & Finance Law Office

Diana Esher
Deputy Regional Administrator
Deputy Civil Rights Official, U.S. EPA Region 3

Cecil Rodrigues
Regional Counsel, U.S. EPA Region 3

³ See EPA's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. 71 FR 14207 (March 21, 2006), https://www.epa.gov/sites/default/files/2020-02/documents/title_vi_public_involvement_guidance_for_epa_recipients_2006.03.21.pdf. See also Procedural Safeguards Checklist for Recipients, which provides a more detailed explanation of nondiscrimination obligations and best practices, available at https://www.epa.gov/sites/default/files/2020-02/documents/procedural_safeguards_checklist_for_recipients_2020.01.pdf.