

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
Department of Energy and Environment

Office of the Director



**Department of Energy and Environment Administrative Issuance System**

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**Office Order:** 2021-03

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**EFFECTIVE DATE:** June 23, 2021

**SUBJECT:** Nondiscrimination Policy and Grievance Procedures

**PURPOSE:** To promulgate departmental guidance to comply with Title 40 of the Code of Federal Regulations (C.F.R.) Parts 5 and 7, Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency

**SCOPE:** Agency

**AUTHORITY AND PROVISIONS:**

Pursuant to the authority vested in the Director by the District Department of the Environment Establishment Act of 2005, D.C. Official Code § 8-151.01 *et seq.*, specifically § 8-151.07(1) and (5), I hereby publish departmental guidance regarding the filing and handling of grievances by persons who believe they have suffered discrimination as a result of a DOEE action or inaction.

**I. Introduction**

Title 40 of the Code of Federal Regulations (C.F.R.) Parts 5 and 7, Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency, prohibits discrimination on the basis of race, color, national origin (including limited English proficiency), age, sex, or disability in programs or activities receiving financial assistance from the U.S. Environmental Protection Agency (EPA). It requires recipients of financial assistance from the EPA to:

- A. Designate a person to be the Nondiscrimination Coordinator to coordinate efforts to comply with 40 C.F.R. Parts 5 and 7;
- B. Collect, maintain, and provide information showing compliance with 40 C.F.R. Parts 5 and 7;
- C. Adopt grievance procedures that assure the prompt and fair resolution of discrimination complaints alleging violations of 40 C.F.R. Parts 5 and 7; and

- D. Provide continuing and prominent public notice of nondiscrimination on the basis of race, color, national origin, age, sex, or disability, and of the identity and contact information for the designated Nondiscrimination Coordinator.

As set forth below, it is the DOEE policy not to discriminate on the basis of several factors, including those in 40 C.F.R. Parts 5 and 7. In addition, DOEE adopts the following procedures to implement the requirements of 40 C.F.R. Parts 5 and 7.<sup>1</sup>

## **II. Policy**

DOEE does not discriminate on the basis of race, color, national origin, age, sex, disability, sexual orientation, or marital status in administration of its programs or activities, and, DOEE does not intimidate nor retaliate against any individual or group because they have exercised rights protected by 40 C.F.R. Parts 5 and 7 or for the purpose of interfering with the exercise of such rights. This policy applies to DOEE employees, contractors, and grantees.

DOEE is responsible for coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (Non-Discrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

## **III. Designation of Nondiscrimination Coordinator**

The Director shall designate in writing a DOEE employee or employees to serve as Nondiscrimination Coordinator(s) for the Department in order to carry out the duties promulgated in this Order.

## **IV. Compliance Information**

- A. The DOEE Grants Management Division, in conjunction with the DOEE Office of General Counsel, shall collect, maintain, and, on request of the External Civil Rights Compliance Office (ECRCO) within the EPA Office of General Counsel, provide the following information to show compliance with 40 C.F.R. Parts 5 and 7:
1. A description of any lawsuits pending against DOEE that allege discrimination that 40 C.F.R. Parts 5 and 7 prohibits;
  2. Racial/ethnic, national origin, age, sex, disability, and disability data, or EPA Form 4700-4 information submitted with DOEE applications for EPA financial assistance (e.g., grants);

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<sup>1</sup> For definitions of terms, please refer to "Definitions" in Section 7.25 of subpart A in 40 C.F.R. Part 7 and Section 5.105 of Subpart A in 40 C.F.R. Part 5.

3. A log of discrimination complaints against DOEE that identifies the complaint, the date it was filed, the date DOEE's investigation was completed, the disposition, and the date of disposition;
  4. Reports of any compliance reviews conducted by any other agencies; and
  5. Data and information specific to certain DOEE programs or activities to determine compliance when there is reason to believe that discrimination may exist in a DOEE program or activity or reason to investigate a complaint alleging discrimination in a DOEE program or activity.
- B. When preparing compliance information in accordance with this section, DOEE shall use the racial classifications set forth in 40 C.F.R. Section 7.25 in determining categories of race, color, or national origin.
- C. DOEE shall keep records of the compliance information identified in paragraphs (A)(1) through (A)(5) of this section for at least three (3) years after completing a project for which DOEE was a recipient of EPA financial assistance. When any complaint or other action for alleged failure by DOEE to comply with 40 C.F.R. Parts 5 and 7 is brought before the three-year period ends, DOEE shall keep records until the complaint is resolved.
- D. DOEE shall:
1. Give EPA ECRCO access during normal business hours to its books, records, accounts, and other sources of information, including to its offices and facilities, as may be necessary to ascertain compliance with 40 C.F.R., Parts 5 and 7;
  2. Make compliance information available to the public upon request; and
  3. Attempt to obtain other required information that is in the possession of other agencies, institutions, or persons not under DOEE's control, or if a party refuses to release that information, inform the EPA ECRCO and explain DOEE's efforts to obtain the information.

## **V. Grievance Procedures**

Any person who believes someone has been subjected to discrimination by DOEE, or its employees, contractors, or grantees, may file a grievance (complaint) by contacting the Nondiscrimination Coordinator, or by filling out and submitting a Nondiscrimination Complaint form online. It is against the law for DOEE, or any of its employees, contractors, or grantees, to retaliate against any person or group because they have exercised rights protected by 40 C.F.R. Parts 5 and 7 or for the purpose of interfering with the exercise of any such rights.

DOEE adopts the following grievance procedures in order to assure the prompt and fair resolution of complaints that allege a violation by DOEE of 40 C.F.R. Parts 5 and 7:

- A. Grievances must be submitted to the Nondiscrimination Coordinator within 90 days of the date the person filing the grievance becomes aware of the alleged discriminatory action. Grievance submissions can be filed in the preferred language of the complainant.
- B. The Nondiscrimination Coordinator shall create a complaint form to receive grievances, and shall work with the DOEE Office of Communications, Engagement, and Outreach (OCEO) to have the complaint form posted on the Department's website. In addition, the Nondiscrimination Coordinator shall identify other means, such as e-mail, regular mail, or phone, to receive complaints, and shall work with OCEO to post such information on the Department's website.
- C. The following minimum requirements for receiving a complaint must be posted on the Department's website.
  - 1. A complaint must be in writing, containing the name and address of the person filing it and/or the identified representative.
  - 2. The complaint must state the date of the occurrence and the problem or action alleged to be discriminatory and the remedy or relief sought.
  - 3. The complaint shall specify with as much detail as possible:
    - a. The actions or inactions by DOEE that support an alleged violation of 40 C.F.R. Parts 5 and 7;
    - b. The alleged discrimination that did or will result from such actions or inactions;
    - c. The identity of the person(s) harmed or potentially harmed by the alleged discrimination; and
    - d. The basis for why the action is believed to be discriminatory, and if possible, identifying the sections of 40 C.F.R. Parts 5 and 7 that were allegedly violated.
- D. The Nondiscrimination Coordinator will acknowledge receipt of the grievance within five (5) business days and shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Nondiscrimination Coordinator will maintain all DOEE files and records relating to grievances filed and investigation of the grievances. The Nondiscrimination Coordinator will take appropriate steps to preserve the confidentiality of files and records relating to grievances in accordance with applicable laws and regulations.
  - 1. The Nondiscrimination Coordinator is responsible for making information available to non-employees regarding rights to services, aids, benefits, and participation without regard to race, color, national origin, age, sex, disability, sexual orientation, or marital status. The Nondiscrimination Coordinator will periodically evaluate the effectiveness of DOEE's efforts to offer such services, aids, benefits and participation opportunities when feasible.

2. The Nondiscrimination Coordinator is responsible for ensuring that intimidation and retaliation against any person or group because they have exercised rights protected by 40 C.F.R. Parts 5 and 7, or for the purpose of interfering with the exercise of any such rights, is prohibited, and that claims of intimidation and retaliation will be handled promptly if they occur.
  3. The Nondiscrimination Coordinator will coordinate or facilitate training efforts for staff regarding DOEE's obligations to comply with non-discrimination statutes, regulations, policies, and procedures.
  4. The Nondiscrimination Coordinator will track all complaints filed against DOEE under this policy or that have been filed with the EPA, and shall review all complaints on a semiannual basis to identify and address any patterns or systemic problems relating to discrimination in DOEE programs.
  5. The Nondiscrimination Coordinator will ensure that complainants are updated on the progress of their discrimination complaints filed with DOEE, if requested. The Nondiscrimination Coordinator will promptly inform the complainant as to any conclusions and determinations made regarding the complaint after investigation.
  6. The Nondiscrimination Coordinator is responsible for providing public notice of this policy and carrying out the investigation of non-employee complaints.
- E. The Nondiscrimination Coordinator will issue a written decision on a grievance, based on a preponderance of the evidence, no later than 30 calendar days after its filing. The 30 calendar day deadline may be extended in writing by the Director if necessary to ensure a complete and thorough investigation. The written decision regarding the grievance will include a determination as to whether discrimination is found and a description of the investigation process. The decision must also include a notice to the complainant of their right to pursue further administrative or legal remedies as provided in this Order, or by statute or regulation.
- F. DOEE prohibits intimidation and retaliation and assures that claims of intimidation and retaliation will be handled promptly and fairly pursuant to this Order in the same manner as other claims of discrimination.
- G. The person filing the grievance may appeal the decision of the Nondiscrimination Coordinator to the Director by writing to the Nondiscrimination Coordinator within 15 calendar days of receiving the Nondiscrimination Coordinator's decision. The appeal shall explain why the Nondiscrimination Coordinator's decision was in error, and include any relevant documentation not considered by the Nondiscrimination Coordinator in reaching a decision that the appellant would like to have considered on appeal. The grievance filer may request an extension of the 15 calendar day deadline for appeal from the Director for good cause by submitting an extension request in writing to the Nondiscrimination Coordinator before expiration of the 15-day period. The Director shall issue a written decision in response to the appeal no later than 60 calendar days after its filing.

- H. The availability and use of this grievance procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex or retaliation, in court or with the EPA ECRCO. A person can file a complaint of discrimination by e-mail with the EPA by to TitleVI\_Complaints@epa.gov, by phone at (202) 564-3316, by regular mail at:

U.S. EPA External Civil Rights Compliance Office  
Office of General Counsel (Mail Code 2310A)  
1200 Pennsylvania Avenue N.W.,  
Washington, D.C. 20460

The availability and use of the grievance procedure in this Order also does not prevent a person from filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex, sexual orientation, or marital status with the District of Columbia Office of Human Rights (OHR). Instructions on filing complaints of discrimination or retaliation on the basis of these classes, or other classes protected under the District of Columbia Human Rights Act of 1977, D.C. Official Code, Title 2, Chapter 14, can be found at <https://ohr.dc.gov/service/file-discrimination-complaint>.

- I. In implementing this Order, DOEE will comply with the requirements of all applicable federal and District laws related to individuals with disabilities, such as the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., or to individuals with limited English proficiency, such as the District of Columbia Language Access Act of 2004, D.C. Official Code § 2-1931 et. seq., to ensure that covered individuals may adequately participate in the grievance process. The Nondiscrimination Coordinator will make appropriate arrangements to ensure that individuals with disabilities and individuals with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed. Such arrangements may include, but are not limited to, providing qualified interpreters, providing taped cassettes of material for individuals with low vision, or assuring a barrier-free location for the proceedings.

## **VI. Notice of Nondiscrimination**

DOEE shall provide continuing notice that it does not discriminate on the basis of race, color, national origin, age, sex, disability, sexual orientation, or marital status in any of its programs or activities. Methods of notice shall accommodate those with impaired vision or hearing. At a minimum, this notice shall be posted in a prominent place in DOEE's offices or facilities and on DOEE's internet website homepage. Methods of notice may also include publishing in newspapers and magazines and placing notices in DOEE's publications. When appropriate or upon request, such notice shall be in a language or languages other than English. The notice shall identify the current DOEE Nondiscrimination Coordinator as the responsible DOEE employee designated to coordinate DOEE's efforts to comply with its obligations under 40 C.F.R. Parts 5 and 7. The text of the notice to be provided under this policy shall read as follows:

It is the policy of the District of Columbia Department of Energy and Environment (DOEE) to not discriminate on the basis of race, color, national origin, age, sex, disability, sexual orientation, or marital status in administration of its programs or activities, and DOEE does not intimidate nor retaliate against any individual or group because they have exercised rights protected by 40 C.F.R. Parts 5 and 7 or for the purpose of interfering with the exercise of such rights.

DOEE is responsible for coordination of compliance efforts and receipt of inquiries concerning nondiscrimination requirements established by 40 C.F.R. Parts 5 and 7 (Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1973; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (collectively the federal nondiscrimination statutes).

If you have any questions about this notice or any of DOEE's nondiscrimination programs, policies, or procedures, you may contact:

[Provide name and contact information for DOEE's Nondiscrimination Coordinator]

If you believe that you have been discriminated against with respect to a DOEE program or activity, you may contact DOEE's Nondiscrimination Coordinator identified above or visit our website at [doee.dc.gov](http://doee.dc.gov) to learn how and where to file a complaint of discrimination.

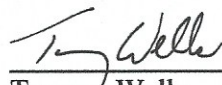
## **VII. Periodic Review of Nondiscrimination Grievance Policy and Procedures**

The Nondiscrimination Policy and Grievance Procedures established herein, and all in-print and online materials used to implement this Order, shall be reviewed on an annual basis, and revised as necessary to ensure prompt and fair resolution of discrimination complaints.

## **VIII. Expiration Date.**

This Office Order is effective until superseded by subsequent office order.

This 23 day of June, 2021.

  
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Tommy Wells  
Director