

# All Agency Policy Directive

## TITLE VI AND RELATED NONDISCRIMINATION LAWS COMPLAINT MANAGEMENT

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### 1. PURPOSE AND OBJECTIVE

- 1.1 The purpose of this Policy Directive is to establish a process for managing and resolving complaints of discrimination under Title VI and related nondiscrimination laws, brought by any individual or group of individuals who believe they were subjected to discrimination on the basis of race, color, national origin (including limited English proficiency (LEP) access), age, sex, religion, and disability in connection with any federally-funded program or activity of the Metropolitan Transportation Authority (“MTA”) and the following affiliated and subsidiary agencies: MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Construction & Development, MTA Bus Company, and MTA New York City Transit, including the Manhattan and Bronx Surface Transit Operating Authority and the Staten Island Rapid Transit Operating Authority, (collectively, the “MTA Agencies”).<sup>1</sup>

### 2. SCOPE

- 2.1 This Policy Directive is in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., the Federal Transit Laws, (49 U.S.C. § 5332), and the guidance of FTA Title VI Circular 4702.1B, FTA Environmental Justice Policy Guidance for Federal Transit Administration Recipients 4703.1, and FTA EEO Circular 4704.1A.
- 2.2 This Policy Directive does not apply to complaints of employment discrimination, harassment or retaliation under the MTA Agencies, Equal Employment Opportunity and related policies. Such complaints are managed and resolved by the Internal Discrimination Complaint Management Policy Directive, No. 11-062.

### 3. DEFINITIONS

- 3.1 **Administrative Closure** – A complaint that is closed without the MTA Agency issuing an investigatory determination. The reasons for an Administrative Closure may include, but are not limited to: (1) A Complainant fails to pursue the complaint, which includes

<sup>1</sup> The MTA Triborough Bridge and Tunnel Authority is not subject to this Policy Directive due to its funding status.

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(a) his/her failure to respond to a request for information needed to determine the acceptability of the complaint and/or (b) his/her failure to cooperate with the investigation; (2) The Complainant did not provide enough information to investigate the complaint. (3) The Complainant has filed or files the same complaint with a court or administrative agency.

- 3.2 **Complainant** - An individual or group of individuals alleging discrimination on the grounds of race, color, national origin (including LEP access), age, sex, religion and disability in connection with any federally-funded program or activity, including the services and other transit-related programs provided by the MTA Agencies.
- 3.3 **Customer Service** – Any Department, Division or Sub-division designated by the MTA Agencies to receive verbal or written complaints by customers, whether centralized or specific to such Department, Division, or Sub-division.
- 3.4 **Designation of Representative Form** – A form used by an individual or group to designate an authorized representative to assist them in making their complaint. An authorized representative may be a friend, family member, relative, or other person or organization of an individual's choosing.
- 3.5 **Discrimination** - Any action or inaction in any federally-funded program or activity of an MTA Agency, contractor or subcontractor that results in disparate treatment, disparate impact, or that perpetuates the effects of such, based on race, color, national origin (including LEP access), age, sex, religion or disability.
- 3.6 **Investigation** – A formal inquiry into the allegations of a complaint for the purpose of determining whether there has been a violation of policy as stated in MTA's Title VI and Related Nondiscrimination Laws Policy Statement.
- 3.7 **Letter of Finding** – Letters of Finding (s) are issued as the result of the investigation and determination of a complaint received by the responding MTA Agency and sets forth the conclusion as to Reasonable Cause, No Reasonable Cause or Administratively Closed finding.

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- 3.8 No Reasonable Cause** - An investigation determination that a Complainant's allegations are unsubstantiated.
- 3.9 Reasonable Cause** - An investigation determination that a Complainant's allegations are substantiated.
- 3.10 Respondent** - The MTA Agency or Agency's employee(s) that an alleged Title VI or other discrimination complaint has been filed against.
- 3.11 Complaint** - Any verbal or written communication received by an MTA Agency from an individual, group of individuals or organization(s), alleging discriminatory treatment in any federally-funded activity or program of an MTA Agency on the grounds of race, color, national origin (including LEP access), age, sex, religion or disability.
- 3.12 Withdrawal** - After a complaint has been submitted, the Complainant requests that the complaint investigation be closed prior to completion.

### 4. RESPONSIBILITIES

- 4.1** Every MTA employee is responsible for compliance with the policy as stated in MTA's Title VI and Related Nondiscrimination Laws Policy Statement, which provides that no person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in, any federally-funded program or activity including the services and other transit-related programs provided by the MTA Agencies, on the grounds of race, color, national origin (including LEP access), age, sex, religion or disability.
- 4.2** Each MTA Agency's Diversity/EEO Office shall be responsible for receiving, acknowledging, reviewing, investigating, tracking, reporting, referring to other designated departments, and when applicable, making recommendations for appropriate action, for all Complaints, with the exception of Complaints handled by an MTA Agency's Law Department (see 4.5 below).
- 4.3** Each MTA Agency's Diversity/EEO Office shall also be responsible for developing and implementing a training program for managers and supervisors of the customer

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complaint process and front-line employees with direct customer interaction, on how to identify potential complaints of Title VI or other discrimination.

### 4.4 Customer Service Department/Division/Sub-division at each MTA Agency

4.4.1 Each agency shall keep a record of all customer complaints of potential Title VI and other forms of discrimination as identified herein.

4.4.2 Prior to the investigation, the individual receiving the complaint should follow the process below:

4.4.2.1 Identify whether the Complainant (s) allegation is a potential violation of Title VI or whether other discrimination is alleged.

4.4.2.2 Enter the complaint into a tracking system, assign a unique identifier number to the complaint, and indicate whether the complaint alleges a potential Title VI violation or whether other discrimination is alleged.

4.4.2.3 Route the complaint electronically to the appropriate MTA Agency's Diversity/EEO office within 3 business days of receipt.

4.4.2.4 Acknowledge receipt of the customer's complaint by letter or email and advise the customer of the following:

1. The complaint has been forwarded to the Diversity/EEO office where a determination will be made regarding whether the complaint constitutes a potential Title VI violation or whether other discrimination is alleged;
2. A Diversity/EEO Office or departmental investigator will contact the customer directly if more information is needed in order to conduct an investigation;

4.4.3 Within seven (7) business days after the complaint has been provided to the appropriate MTA Agency's Diversity/EEO Office, that office will provide notice back to the MTA Agency personnel receiving the complaint whether or not the complaint is accepted by their office, or referred back to customer service for appropriate referral to another department.

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4.4.4 Any complaints determined by the Diversity/EEO Office investigator not to constitute a discrimination matter subject to this Policy Directive shall be handled in accordance with the relevant MTA Agency's standard processes for handling customer complaints.

4.4.5 Where a complaint is filed against an employee of a vendor or contractor with whom an MTA Agency has a direct contractual relationship, such complaint will be investigated by such vendor or contractor in accordance with the applicable contract. The MTA Agency will keep a record of such complaint and the outcome of such Complaint, and will ensure that the vendor has in place a Complaint procedure that comports with this Policy Directive.

### **4.5 MTA Agency's Law or Legal Department**

4.5.1 Each MTA Agency law or legal department shall be responsible for handling all Complaints that have been filed with courts and administrative agencies or whenever deemed appropriate by the MTA Agency.

## **5. FILING A COMPLAINT**

5.1 Under MTA's Title VI and Related Nondiscrimination Laws Policy Statement, any person who believes they have been subject to discrimination in any federally-funded program or activity, including the services and other transit-related programs provided by MTA Agencies, on the grounds of race, color, national origin (including LEP access), age, sex, religion or disability, may file a complaint.

5.2 A complaint under this Policy Directive must be made within 180 days of the alleged discrimination occurrence. A complaint is considered untimely if it is filed more than 180 days after the complaint event(s). A complaint shall be deemed filed on the date it is received by any Customer Service as defined in section 3.3.

5.3 A complaint may be made via phone, email, to customer service or by submitting a completed, dated and signed Title VI and Other Discrimination Complaint Form to an MTA Agency's Diversity/EEO Office. Any written complaint may be submitted, in person or by U.S. Mail, to the Diversity/EEO Office, by the Complainant or their representative. The Title VI and Other Discrimination Complaint Form can be downloaded from the MTA website at [Filing a Title VI Complaint](#).

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### 5.4 MTA Agency's Diversity/EEO Offices

MTA Headquarters Chief Diversity Officer Department of Diversity and Civil Rights 2 Broadway, 16 <sup>th</sup> Floor New York, NY 10004 1-800-466-8577 EEO Hotline (646) 252-1385	MTA Metro-North Railroad Director Office of Diversity and Equal Employment Opportunity 420 Lexington Avenue, 12 <sup>th</sup> Floor New York, NY 10170 (212) 340-3350, EEO Hotline
MTA New York City Transit Vice President Department of EEO & Diversity 130 Livingston Street, 3 <sup>rd</sup> Floor Brooklyn, NY 11201 (718) 694-1730	MTA Long Island Rail Road Director Office of Diversity Management Jamaica Station, 4 <sup>th</sup> Floor Mail Code #1141 Jamaica, NY 11435 (718) 558-8170
MTA Bus Company Chief Equal Opportunity Officer Office of Equal Employment Opportunity 2 Broadway, 21 <sup>st</sup> Floor New York, NY 10004 (646) 252-8545	MTA Construction & Development Chief Equal Opportunity Officer Department of Diversity and Equal Opportunity 2 Broadway, 8 <sup>th</sup> Floor New York, NY 10004 Phone: (646) 252-4379

- 5.5 If a Complainant is physically unable to provide a written complaint, an MTA representative may transcribe a written record. A Complainant may also choose to have a third party representative file the complaint on their behalf. If a Complainant is represented by a third party, the Complainant may complete a Designation of Representative Form to notify the MTA Agency's Diversity/EEO Office.

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**5.6** If a complaint is made via telephone to the MTA Agency Diversity/EEO Office, the Complainant may be provided a Title VI and Other Discrimination Complaint Form via mail to complete. MTA Agencies will provide translation services in accordance with individual Language Assistance Programs.

**5.7** A complaint should, to the best of a Complainant's ability, set forth:

5.7.1 The Complainant's name, address, telephone number or other method of communicating with them. If the complaint is filed on behalf of another person, it should include the Complainant's name, address, telephone number, and the relationship to the person filing the complaint (e.g., friend, attorney, parent, etc.).

5.7.2 The location, date and time of the alleged discrimination.

5.7.3 Names, addresses and telephone numbers of any witnesses that the MTA Agency could contact for relevant information to support or clarify the allegations.

5.7.4 A description of the alleged violation detailing how and why the Complainant believes they were discriminated against. The complaint should include as much background information as possible about the alleged act(s) of discrimination.

5.7.5 The names of any individual(s) against whom the complaint is filed or as much identifying information as possible.

### **6. COMPLAINT INVESTIGATION PROCESS**

**6.1** The Agency Diversity/EEO Office staff or designee will review and determine whether an allegation sufficiently alleges a violation as covered within this Policy Directive, is submitted timely, and is duplicative of a previous complaint filed by the same Complainant.

**6.2** If the Agency Diversity/EEO Office staff or designee determines that a complaint does not allege a basis of discrimination as covered in this Policy Directive, is reported outside the 180 day requirement or a duplicative incident that has already been investigated, the Agency Diversity/EEO Office staff will notify the Complainant in writing within 15 business days, that the complaint would not be accepted for investigation and administratively close the complaint.



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- 6.3** The MTA Agency Diversity/EEO Office staff or designee may ask a Complainant to clarify allegation(s) in writing or provide additional information necessary for its investigation. If the Complainant does not respond within the time requested, a complaint may be administratively closed.
- 6.4** Once an Agency Diversity/EEO Office staff or designee has determined that a complaint is timely, involves a covered basis of discrimination, and is non-duplicative, the investigator will assign the complaint a case number, send the Complainant acknowledgment that the complaint has been accepted for investigation and inform the Complainant, of the right to file directly with the Federal Transit Administration's Office of Civil Rights.
- 6.5** A prompt and thorough investigation will be launched in order to gather facts to determine whether the Respondent may have acted in violation of the policy as stated in MTA's Title VI And Related Nondiscrimination Laws Policy Statement, and to have sufficient factual data on which to base a finding.
- 6.6** The initial scope of the investigation is limited to the immediate issues raised by the Complainant, although it may be expanded to include other potential issues that are uncovered during the investigation.
- 6.7** The investigator will identify and interview relevant parties and witnesses, compile and analyze data, review relevant documents, make site visits if appropriate and prepare a written investigatory report on the investigation findings, and if applicable make recommendations.
- 6.8** The Diversity/EEO Office staff or designee will seek to complete its investigation within 120 business days from the date of the acceptance of the Complaint. If additional time is required to complete the investigation, the MTA Agency will send written notification to the Complainant.
- 6.9** Upon conclusion of the investigation, the investigator will prepare a summary of findings including a determination of reasonable cause/no reasonable cause. If there is a finding of reasonable cause, the investigator may recommend appropriate corrective action. Recommendations, if applicable for corrective action will be determined by the Agency Diversity/EEO Office staff or designee with input from its Legal or Law Department, and or, Labor Relations where appropriate, and administered in



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accordance with MTA's agencies policies and any applicable collective bargaining agreement(s). Human Resources, Labor Relations (if necessary), and/or Ethics and Legal/Law Departments will assist MTA Agencies in the implementation of corrective actions where appropriate.

- 6.10 Letter of Finding and Complaint Resolution: Upon completion of an investigation, the conclusion and recommended corrective action, if any, is communicated to the Complainant.
- 6.11 The Agency Diversity/EEO Office will retain a record of discussions and documents relating to the investigation in a confidential file.

### 7. WITHDRAWAL AND REJECTION OF COMPLAINTS

- 7.1 The Complainant may withdraw their complaint during any stage of the process. Although there is no prescribed format for withdrawal, the Agency Diversity/EEO Office staff will ensure that the intent to withdraw is clearly expressed as evidenced by a statement with the Complainant's signature. The statement should indicate reasons for withdrawal. The original withdrawal statement should be made a part of the complaint file.
- 7.2 In the event a Complainant withdraws a complaint, MTA Agencies retain the right to continue the investigation without the Complainant's cooperation, to ensure compliance with the policy as stated in MTA's Title VI And Related Nondiscrimination Laws Policy Statement.
- 7.3 The Agency Diversity/EEO Office staff or designee has the authority to reject a complaint. Complaints that fail to meet the conditions set forth above in Section 6 shall be formally rejected in writing by sending a closure letter. Where only a part of the complaint is rejected, the remainder of the complaint will be processed.

### 8. RIGHT TO FILE WITH EXTERNAL AGENCIES

- 8.1 The Letter of Finding will constitute the final internal decision and formally communicate the official findings of the investigation. If applicable, in all correspondence with Complainants, Complainants will be informed of the right, at any

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time (within the external agencies statute of limitations) to file a complaint with external agencies.

A Complainant may file a complaint against any MTA Agency subject to this Policy Directive alleging discrimination with:

Federal Transit Administration,  
Office of Civil Rights,  
Attention: Complaint Team, East Building 5<sup>th</sup> Floor - TCR  
1200 New Jersey Avenue, SE  
Washington, DC 20590

### 9. **FREEDOM FROM REPRISAL**

9.1 It is a violation of this Policy Directive to: (1) retaliate against any person because they have filed a complaint under this Policy Directive or participated in an investigation under this Policy Directive; (2) interfere with any person's ability to file a complaint or participate in an investigation under this Policy Directive; or (3) impede or interfere with an investigation conducted by an MTA Agency under this Policy Directive.

### 10. **TRACKING AND REPORTING**

10.1 Complaints filed pursuant to MTA's Title VI And Related Nondiscrimination Laws Policy Statement (both written and verbal), investigations, and lawsuits will be reported and tracked within each of the MTA Agencies, from the receipt of the complaint to the final disposition. The Department of Diversity and Civil Rights shall monitor the implementation of the MTA Agencies' Title VI and Related Nondiscrimination Laws Complaint Management procedures by reviewing each Agency's annual Title VI Program and periodic review of Title VI and Related Nondiscrimination Laws complaint files. MTA Agencies shall maintain investigation files of complaints under this Policy Directive for ten (10) years from the date of resolution of a complaint. However, records pertaining to an active or resolved lawsuit will be maintained according to MTA's Record Retention Policy and any application litigation hold instructions.

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### 11. FORMS, EXHIBITS AND ATTACHMENTS

- 11.1 The forms and documentation required by the applicable MTA Agency are to be used in the administration of this Policy Directive.