



## DNREC GRIEVANCE PROCEDURES

### **I. Purpose**

- a.** In compliance with 40 C.F.R. Part 7, Section 7.90(a)<sup>1</sup>, DNREC has established these grievance procedures to ensure prompt and fair resolution of complaints, not related to employment, alleging discrimination due to an individual's race, color, national origin, including Limited English Proficiency, sex, age, or disability or retaliation for exercising rights under applicable non-discrimination laws and regulations in violation of Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, as amended, and other related federal and state civil rights statutes and regulations. These procedures have been adopted to conform to 40 C.F.R. Parts 5 and 7 and United States Environmental Protection Agency guidelines.
- b.** DNREC endeavors to resolve complaints directly through informal means in order to expedite resolution of complaints and provide appropriate relief to complainants. In the alternative, complainants are advised that they may file their complaints directly with the United States Environmental Protection Agency or another appropriate federal agency.
- c.** The grievance procedures are intended to address allegations of discrimination, in which the individual(s) feel that they have been excluded from participation in, denied the benefits of, or subjected to discrimination in DNREC's programs or activities on the basis of:
  - i.** Race;
  - ii.** Color;
  - iii.** Age;
  - iv.** National origin;
  - v.** Disability;
  - vi.** Sex; or
  - vii.** Retaliation.
- d.** The grievance procedures provide a process for filing a timely complaint to the proper authority and describes the process that will be used to investigate and resolve the complaint. However, the procedures do not apply to administrative actions, such as internal workplace discrimination complaints not covered by

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<sup>1</sup> See also 40 C.F.R. § 5.135(b) (A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of actions prohibited by Title IX regulations in recipient education programs or activities).

EPA's nondiscrimination regulations at 40 C.F.R. Parts 5 and 7, that are handled under a separate process.

- e. Complainants are also advised that they may have rights under Delaware's Equal Access Laws. Complainants should consult with Delaware's Human Relations Commission or an attorney if they have questions about their rights under Delaware law or Federal Non-Discrimination Statutes.

## **II. Non-Discrimination Coordinator**

- a. The Non-Discrimination Coordinator for DNREC is:

- i. Katera Moore, PhD
- ii. DNREC Title VI Coordinator
- iii. 89 Kings Highway  
Dover, DE 19901
- iv. DNREC\_EJ@delaware.gov
- v. 302-739-9001

- b. The Non-Discrimination Coordinator is the initial point of contact for all grievances. They are responsible for overseeing and guiding the complainant through the grievance process. The Non-Discrimination Coordinator manages files and records of complaints pertaining to DNREC. In addition, they are responsible for coordinating with the appropriate person(s) from DNREC to ensure the grievance is processed efficiently and correctly.

## **III. Submission of a Complaint**

### **a. Filing of Complaint**

- i. A person, or the authorized representative of a person, who believes that they or a class of persons have been excluded from participation in, denied the benefits of, or subjected to discrimination under any DNREC program or activity on the basis of race, color, age, national origin, disability, sex, or retaliation, may file a complaint with DNREC. A complainant filing on behalf of or pertaining to another person(s) is responsible for securing written consent from that individual. Complaints must:
  - 1. Be in writing;
  - 2. Contain the contact information of the complainant(s), including:
    - a. Name (or, for group or association, an official representative);
    - b. Mailing Address;

- c. Daytime Phone Number; and
  - d. E-mail Address (if appropriate)
3. Be filed within sixty (60) calendar days of an alleged violation (except as indicated in the following paragraph);
  4. Describe with specificity the action(s) by DNREC that allegedly result in discrimination in violation of 40 C.F.R. Parts 5 and 7;
  5. Describe with as much detail as possible the discrimination that allegedly has occurred or will occur as the result of such action(s);
  6. Contain the name(s), address(es) and title(s) of the alleged discriminating officials or entities;
  7. Identify the names and contact information of any potential witnesses, including DNREC employees or contractors with direct knowledge of the alleged discriminatory act;
  8. Identify the parties impacted or potentially impacted by the alleged discrimination; and
  9. Be signed by the complainant or the complainant's representative. If the complainant is filing on behalf of another person, signed written consent from the individual must be included with the submission.
- ii. DNREC may waive requirement (3), above, in its discretion, in order to address allegations of potential discrimination caused by pending actions at the earliest appropriate and feasible juncture; or, for good cause, to address complaints filed more than sixty (60) calendar days after an alleged violation. DNREC further may waive requirement (3) if the complainant could not reasonably be expected to know an act was discriminatory within the initial sixty (60) day period, and the complaint was filed within sixty (60) calendar days after the complainant became aware of the alleged discrimination.
  - iii. DNREC may request additional information from the complainant if this information is needed to meet the complaint requirements described above or otherwise contained in 40 C.F.R Parts 5 and 7. The complainant will have fifteen (15) business days to respond to DNREC's request for additional information. DNREC may expand this time to respond for good cause, in its discretion.
  - iv. Should the complainant require language services, appropriate assistance will be provided to individuals. More information on DNREC's Language Access Plan can be found here:  
<https://documents.dnrec.delaware.gov/Admin/Environmental-Justice/Language-Access-Plan.pdf>.

- v. Person(s) who believe they or a class of persons have been discriminated against and need more information, help with submitting a complaint, or an accommodation if they require an alternate means of submission may call or email the Non-Discrimination Coordinator, Dr. Katera Moore (contact information listed above).
- vi. DNREC will also accept complaints in alternate formats from persons with disabilities (such as filed on a computer disk, by audio tape, or in Braille), upon request. The complainant shall verify the complaint by signature, or by alternative methods acceptable to DNREC.
- vii. All written complaints shall be submitted in one of the following manners:
  - 1. MAIL –
    - a. **Subject line:** Title VI Grievance
    - b. **Address:** 89 Kings Highway, Dover, DE 19901
  - 2. FAX – 302-677-7061
  - 3. EMAIL –
    - a. **Email:** [DNREC\\_EJ@delaware.gov](mailto:DNREC_EJ@delaware.gov)
    - b. **Subject line:** Title VI Grievance
- viii. Within ten (10) business days of receiving a written complaint, DNREC will provide the complainant with written notice of receipt.

**b. Determination of Jurisdiction and Investigative Merit**

- i. DNREC, based on information in the complaint and other information available, will determine if it has jurisdiction to pursue the matter and whether the complaint has sufficient merit to warrant an investigation. A complaint shall be regarded as meriting investigation unless:
  - 1. It is not under DNREC’s jurisdiction;
  - 2. It clearly appears on its face to be frivolous or trivial;
  - 3. Within the time allotted for making the determination of jurisdiction and investigative merit, DNREC voluntarily concedes noncompliance and agrees to take appropriate remedial action or reaches an informal resolution with the complainant;
  - 4. Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint; or
  - 5. It is not timely and good cause does not exist for waiving the timing requirement under section A.3.

#### **IV. Disposition of Complaints**

- a.** Within one hundred and twenty (120) calendar days of accepting a written complaint, DNREC will respond in writing to the complainant with a resolution, including whether discrimination is found and a description of the investigation process. If DNREC determines at this time that additional time is needed for its investigation, DNREC will notify the complainant of this determination. The resolution will be determined based on the preponderance of the evidence.
- b.** DNREC may, at any time during the processing of a complaint, attempt to seek resolution of the complaint through negotiation with the complainant.
- c.** DNREC may dismiss a complaint for the following reasons:
  - i. The complaint is not filed in a timely manner;
  - ii. The complainant fails to respond to repeated requests for additional information needed to process the complaint;
  - iii. The complainant cannot be located after reasonable attempts;
  - iv. There is no statutory or alleged basis for the complaint, or the complainant does not allege any harm with regard to current programs or statutes;
  - v. The complaint has been investigated by another agency and the resolution of the complaint meets federal regulatory standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet appropriate federal standards;
  - vi. Credible information found at any time indicating that the allegations raised by the complainant have been resolved, or are moot and there are no class-wide allegations or implications;
  - vii. The same complaint allegations have been filed and are pending with another Federal, State, or local agency possessing statutory authority to accept and process such complaints;
  - viii. The complainant has filed a legal action in State or Federal District Court with the same basis(es) and issue(s) involved in the complaint.

#### **V. Record-Keeping**

- a.** The Non-Discrimination Coordinator will maintain a log of all Civil Rights and Non-Discrimination grievances received. This log is available for public viewing online: <https://dnrec.delaware.gov/environmental-justice/title-vi-dnrec/>
- b.** DNREC will periodically review these procedures to evaluate their effectiveness and any need for additional measures to ensure that any complaints DNREC has

received have been resolved in a prompt and fair manner. As needed, DNREC will update these procedures.

## **VI. Retaliation**

- a.** DNREC or any other person may not intimidate, threaten, coerce, or discriminate against any individual or group for the purpose of interfering with any right or privilege guaranteed under applicable state and federal law. DNREC or any other person also may not intimidate, threaten, coerce, or discriminate against any individual or group because the individual has filed a complaint; has testified, assisted, or participated in any way in an investigation, proceeding, or hearing related to a DNREC matter; or has opposed any practices made unlawful by DNREC's nondiscrimination policy. Accordingly, any such intimidation or retaliation on the part of DNREC or any DNREC representative would be grounds for a complaint pursuant to these procedures and will be handled in the same manner as any other complaint of discrimination.