

**NORTH DAKOTA DEPARTMENT OF ENVIRONMENTAL QUALITY
COMPLAINT OF DISCRIMINATION PROCEDURE
(NON-EMPLOYEE)**

The North Dakota Department of Environmental Quality (“NDDEQ”) prohibits discrimination, intimidation and/or retaliatory conduct on the basis of race, color, national origin, disability, age, sex, religion or status with respect to marriage or public assistance in the administration of its programs or activities, as required by applicable laws and regulations.

NDDEQ’s Nondiscrimination Coordinator (“Coordinator”) shall be responsible for coordination and implementation of the complaint procedures outlined herein. The Coordinator shall receive and review complaints, communicate with complainants, investigate complaints, or arrange for the investigation of complaints, issue letters and notices, and perform other actions necessary to fulfill NDDEQ’s obligations under nondiscrimination statutes.

The complaint procedure is as follows:

1. A complaint regarding prohibited discrimination in NDDEQ’s services, programs and activities shall be submitted by the Complainant or his/her designee in writing as soon as possible but no later than 180 calendar days of the last alleged discriminatory incident. Complaints can be submitted online using [SFN 62454](#), and sent via email to deqEJ@nd.gov, or the form may be printed, filled out and mailed to:

Ann Fritz
Nondiscrimination Coordinator
North Dakota Department of Environmental Quality
4201 Normandy St.
Bismarck, ND 58503-1324

- A. The Complainant must use [SFN 62454](#) to file the complaint to ensure that all information to determine jurisdiction or compliance is provided. The Coordinator may request additional information from the Complainant if needed to determine the basis for the complaint.
2. If the Complainant is unable to submit a complaint using SFN 62454, NDDEQ’s Coordinator should be contacted to request reasonable accommodations to this procedure. Such accommodations may include, but are not limited to, using a relay service to communicate with a Complainant who has a hearing impairment or arranging for interpretive services for those with limited English proficiency. The NDDEQ must work to ensure that individuals have full access to the complaint filing and investigative process.
3. Upon receipt of a complaint, the Coordinator shall review the complaint to determine whether the NDDEQ has jurisdiction to investigate the issues presented. For NDDEQ to have jurisdiction, the following criteria must be met:

- A. The complaint must allege a discriminatory act that, if true, violates Title VI of the 1964 Civil Rights Act, another applicable federal nondiscrimination law (e.g., Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; Section 13 of the Federal Water Pollution Control Act Amendments of 1972; and 40 C.F.R. Parts 5 and 7) or NDDEQ's nondiscrimination policy, such as an act or policy that subjects a person or persons to discriminatory treatment or results in discriminatory impact on a person or persons on the basis of a personal characteristic set forth in the nondiscrimination policy (e.g., race); or that, if true, constitutes intimidation or retaliation toward any person or person's group because they have exercised their rights to participate in actions protected, or oppose action prohibited, by 40 C.F.R. Parts 5 and 7.
 - B. The complaint must identify a Respondent that is a program, division, or agent of the NDDEQ, including organizations that receive funding from or operate on behalf of the NDDEQ.
4. If the NDDEQ determines it does not have jurisdiction, a no-jurisdiction letter must be issued by the Coordinator within 30 calendar days of said determination. A no-jurisdiction letter will result in NDDEQ's closure of the complaint file. A no-jurisdiction letter may include a formal referral to another agency in instances where the referred agency's jurisdiction and/or ability to address the complaint is readily apparent to the Coordinator.
5. If NDDEQ has jurisdiction, a letter of acceptance will be issued by the Coordinator within 30 calendar days of said determination.
6. Once a letter of acceptance has been issued, the Coordinator shall:
 - A. Notify the Respondent of the complaint and request the Respondent provide a written response to the complaint within a reasonable time.
 - B. Conduct an appropriate, timely, and impartial investigation of the allegations, which may include interviews of the Complainant, NDDEQ staff, any witnesses to the alleged discrimination, and other persons with relevant personal knowledge. The investigation may also include a review of any physical or written material provided by the Complainant or Respondent. A preponderance of the evidence standard will be applied during the analysis of the complaint.
 - C. Attempt to conciliate and resolve the complaint through a mutually agreeable solution. The focus of this informal resolution process should include improving agency procedures with the intent of preempting the need for future complaints. Upon informal resolution as contemplated here, the Coordinator shall provide a letter of resolution summarizing the allegations and describing the informal resolution mutually agreed to by the Complainant and the Respondent. Such a letter of resolution will result in the NDDEQ's closure of the complaint file.
7. Within 180 days of receiving the complaint, the Coordinator will issue a report and determine whether Respondent is in compliance or violation with applicable nondiscrimination laws or policy. The Coordinator's report must include a narrative of the incident, identification of individuals interviewed and evidence reviewed, and contain

findings and a determination. The report and determination must be placed in the complaint file.

8. Upon a finding of violation, the Coordinator shall prepare a letter of remediation summarizing the allegations and investigative process and explaining actions the Respondent must take to come into compliance. The letter will prescribe a reasonable time for the Respondent to complete the remedial actions set forth therein.
9. Upon a finding of compliance, the Coordinator shall prepare a closure letter summarizing the allegations and investigative process and stating that the complaint file will be closed if no appeal is received within 30 calendar days. The Coordinator shall mail two copies of the closure letter, one to the Complainant and one to the Respondent.
10. The Complainant may appeal the decision of the Coordinator by writing to the NDDEQ Director within 30 calendar days of the date of the Coordinator's decision. The Director shall issue a written decision in response to the appeal no later than 30 calendar days after its receipt.
11. The Coordinator shall maintain copies of complaints and documentation related to the investigation and resolution thereof for a period of not less than two years.
12. The above procedures do not limit or deny the right of the Complainant to pursue other means, including filing a complaint with state or federal agencies, or to seek private counsel for complaints alleging discrimination, intimidation, or retaliation of any kind that is prohibited by law.