

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

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

DEQ’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 DEQ’s obligations under nondiscrimination statutes.

The complaint procedure is as follows:

1. A complaint regarding prohibited discrimination in DEQ’s services, programs and activities should 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 via email to deqEJ@nd.gov or mail to:

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

2. The complaint must include the following information:
 - A. Name, mailing address, and residential address of the Complainant. The Complainant’s email address should also be provided if the Complainant prefers to receive correspondence via email.
 - B. The name of the entity that is the subject of the complaint (hereinafter “the Respondent”).
 - C. The basis for the complaint (i.e., a description of the alleged discriminatory act or acts giving rise to the complaint). The Coordinator may request additional information from the Complainant if needed to determine the basis for the complaint.
 - D. Whether a complaint has been filed with another agency or court, the agency or court where it was filed and relevant contact information.
3. If the Complainant is unable to submit a written complaint, DEQ’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 arrange for interpretive services for those with limited English proficiency. DEQ shall work to ensure that individuals have full access to the complaint filing and investigative process.
4. Upon receipt of a complaint, the Coordinator shall review the complaint to determine whether DEQ has jurisdiction to investigate the issues presented. For DEQ to have jurisdiction, the following criteria must be met:
 - A. The complaint must allege a discriminatory act that, if true, may violate 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 DEQ’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, may constitute intimidation or retaliation toward any person or persons 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 DEQ, including organizations that receive DEQ funding or operate on behalf of DEQ.

If DEQ does not have jurisdiction, a no-jurisdiction letter shall be issued within 30 calendar days of said determination. A no-jurisdiction letter shall result in DEQ'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.

If DEQ has jurisdiction, a letter of acceptance shall be issued within 30 calendar days of said determination.

- 5. 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, DEQ 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 shall be applied during the analysis of the complaint.
 - C. Attempt, if possible, 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 shall result in DEQ's closure of the complaint file.
- 6. Within 180 days of receiving the complaint, the Coordinator shall issue a report and determination on whether Respondent is in compliance or violation with applicable nondiscrimination laws or policy. The Coordinator's report shall include a narrative of the incident, identification of individuals interviewed, and evidence reviewed, and shall contain findings and a determination. The report and determination shall be placed in the complaint file.
- 7. Upon a finding of violation, the Coordinator shall prepare a letter of remediation summarizing the allegations and investigative process and explaining actions the Respondent shall take to come into compliance. The letter shall prescribe a reasonable time for the Respondent to complete the remedial actions set forth therein.
- 8. Upon a finding of compliance, the Coordinator shall prepare a closure letter summarizing the allegations and investigative process and stating that the complaint file shall be closed if no appeal is received within 30 calendar days and shall send copies thereof to Complainant and Respondent.
- 9. The Complainant may appeal the decision of the Coordinator by writing to the DEQ Director within 30 calendar days of receiving 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.
- 10. 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.
- 11. The above procedures do not limit or deny the right of the Complainant to file 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.