

Board Policy No. 26 Discrimination Complaint Procedures

Summary

This policy is intended to establish a procedure under which complaints alleging discrimination in North County Transit District's (NCTD) provision of services or NCTD activities can be made by persons who are not employees of NCTD.

Background

It is NCTD's policy to comply with state and federal laws and regulations including the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964 (Title VI), 49 CFR Part 21, California Code § 51 (Unruh Civil Rights Act), California Code § 11135, California Government Code § 12960(d), and other federal and state discrimination laws.

NCTD prohibits discrimination by its employees, contractors, and consultants. The responsibility for the implementation of the discrimination complaint procedures is assigned to NCTD's Civil Rights Officer. NCTD does not discriminate on the basis of race, color, national origin, sex (including gender identity, sexual orientation, and pregnancy), age, religion, ancestry, marital status, medical condition, disability, or any other protected category under state or federal law in conducting government business. Persons who believe they have been subjected to discrimination or have been denied access to services or accommodations required by law, have the right to use this grievance procedure. Additionally, it is NCTD policy to prohibit mistreatment by its employees, contractors, and consultants on the basis of gender identity or gender expression.

In order to comply with 49 CFR Part 21, recipients and sub-recipients of Federal Transit Administration (FTA) funding such as NCTD are required to develop procedures for investigating and tracking Title VI complaints and to make the procedures for filing a complaint available to members of the public upon request. This policy contains the procedures that members of the public should follow in order to request additional information regarding NCTD's nondiscrimination obligations or file a discrimination complaint against NCTD.

Applicability

This complaint procedure is applicable to all persons who are not employees of NCTD. This includes, but is not limited to, visitors to NCTD; members of the public; Board, committee and working group members; vendors; or any other persons transacting business with NCTD or using NCTD's services who believe that they have been subjected to discrimination by NCTD employees, contractors, or consultants. In general, the complaint procedure is designed to address disputes concerning the following:

1. Disagreements regarding a requested service, accommodation, or modification of a NCTD practice or requirement;
2. Inaccessibility of a program, publication, or activity;
3. Harassment or discrimination based on membership in a protected category under state or federal law;
4. Violation of privacy in the context of disability.

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Civil Rights Officer

NCTD's Civil Rights Officer is responsible for administering this complaint procedure as well as ensuring compliance with applicable laws.

NCTD Complaint Procedures

NCTD follows both Federal and State laws and regulations with regard to claims of discrimination from persons who are not NCTD employees.

1. *When To File Complaint* – Complaints should be in writing and must be filed with NCTD within one hundred and eighty (180) calendar days of:

- The date of the alleged discriminatory action; or
- The date on which prior ongoing conduct was discontinued; or
- The date complainant had knowledge of the alleged discriminatory practice

Complaints may be accepted by NCTD beyond the one hundred and eighty (180) calendar day deadline at the discretion of the Civil Rights Officer.

2. *What To File* – A complaint must be in writing and include the following:

- The complaining party's name, address, e-mail address and phone number;
- A full description of the problem;
- A statement of the remedy requested

Individuals filing a complaint may choose to use NCTD's Title VI/Unruh Discrimination Complaint Form, available at www.GoNCTD.com or at NCTD Customer Service centers.

3. *Filing Options* – Complaints may be submitted with the following methods:

- Filed with the Civil Rights Officer at NCTD, 810 Mission Avenue, Oceanside, CA 92054; or
- Filed at NCTD Customer Service centers; or
- Emailed to creports@nctd.org; or
- NCTD's Customer Service may be contacted by phone at 760-966-5600.

4. *Notice of Receipt* – Upon receipt of the complaint, the Civil Rights Officer will review the complaint for timeliness and appropriateness for this grievance procedure and will notify the complaining party acknowledging its receipt. The Civil Rights Officer may contact the complainant to clarify details to establish merit in order to determine if an investigation is warranted.

5. *Investigation* – If the complaint falls within the jurisdiction of the Civil Rights Officer, the Civil Rights Officer or his or her designee shall promptly initiate an investigation. In undertaking the investigation, the Civil Rights Officer may interview, consult with, and/or request a written response to the issues raised in the complaint from any individual the Civil Rights Officer believes to have relevant information, including staff and members of the public.

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6. *Cooperation with Filing of Complaint/Investigation* – If additional information is needed to determine jurisdiction of the complaint or to complete the investigation, the Civil Rights Officer may contact the complainant. The complainant has twenty-one (21) calendar days from the date of the request by the Civil Rights Officer to send requested information to the investigator assigned to the case. If the Civil Rights Officer is not contacted by the complainant or does not receive the requested material within twenty-one (21) calendar days, the Civil Rights Officer may administratively close the case.
7. *Contractor Representation* – Any contracted party who is a respondent shall have the right to have a contractor representative present. The party shall indicate whether he or she will be accompanied by a contractor representative and, if so, the name of that representative.
8. *Findings And Notification* – Upon completion of the investigation, the Civil Rights Officer will review the findings with NCTD General Counsel. This submission will be expected within forty-five (45) calendar days of the filing of the formal complaint. The deadline may be extended by the Civil Rights Office for good cause. At the conclusion of the complaint, the Civil Rights Officer shall issue Letters of Determination, which contain the decision on the complaint and appeal rights.
 - If the Civil Rights Officer determines that the discrimination complaint lacks merit establishing prima facie or there is insufficient evidence to substantiate the allegations, the Civil Rights Officer will forward the matter to Customer Service and/or the appropriate NCTD department for appropriate follow up.

Complainant Responsibilities

Complainants must cooperate with this process in order to reach a resolution of the complaint. Failure to cooperate, provide requested information to support the complaint, and/or maintain communication throughout the process will likely result in closure of the case.

Complainants must provide their correct contact information in order to proceed with a complaint. Inaccurate or incomplete contact information will likely result in closure of the case.

Complainants may request in writing to discontinue a complaint at any time they feel it has been resolved to their satisfaction or they feel no need to continue with the matter. Complainants should be aware that complaints with established merit may still require follow up by NCTD, regardless of whether a complainant has requested to discontinue their complaint.

Remedies

Possible remedies under this complaint procedure include, but are not limited to, corrective steps, actions to reverse the effects of discrimination or to end harassment, and measures to provide a reasonable accommodation or proper ongoing treatment.

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Appeal

Complainants who are not satisfied with the determination of the Civil Rights Officer may file an appeal with the FTA, Office of Civil Rights, and the Department of Fair Employment and Housing (DFEH), as identified below.

Additional Filing Options

Federal Transit Administration - Office of Civil Rights:

Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the FTA. A complaint must be filed with the FTA no later than one hundred-eighty (180) calendar days after the date of the alleged discrimination, unless the time for filing is extended by FTA. Title VI complaints regarding FTA funded programs at NCTD can be sent to:

FTA Office of Civil Rights
Attention: Complaint Team
East Building, 5th Floor - TCR
1200 New Jersey Ave. SE, Washington, DC 20590

Department of Fair Employment and Housing:

Written complaints may also be filed with the DFEH. A complaint must be filed with the DFEH no later than three hundred sixty-five (365) calendar days after the date of the alleged discrimination. Discrimination complaints may be sent to:

Department of Fair Employment and Housing
2218 Kausen Drive, Suite 100
Elk Grove, CA 95758

Confidentiality

NCTD will take reasonable measures to protect the privacy of the complaining party and those individuals who may be the subject of a complaint. NCTD cannot guaranty privacy, however, particularly if disclosure is necessary for a complete investigation or where disclosure is required by law.

Assistance Filing Complaints

An alternate means of filing a complaint, such as personal interviews or audio recording of the complaint, will be made available for people with disabilities upon request.

[Approvals on following page]

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Approvals

 10/18/2018
Board Chair Date

 10/18/2018
Executive Director Date

 10/18/2018
General Counsel Date

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DATE	REVISION No.	RESOLUTION No.	COMMENTS
10/18/2012	ADOPTED		
10/17/2013	1		2013 REVISION
10/16/2014	2		2014 REVISION
11/19/2015	3		2015 REVISION
10/20/2016	4	16-10	2016 REVISION
10/19/2017	5	17-10	2017 REVISION
10/18/2018	6	18-09	2018 REVISION