

STATE OF VERMONT  
AGENCY OF NATURAL RESOURCES

**Civil Rights and Nondiscrimination Grievance Procedure**

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Julie S. Moore, P.E., Secretary  
Agency of Natural Resources

## **§ 1. Purpose and applicability**

- (a) Purpose. The Vermont Agency of Natural Resources (ANR) adopts this Civil Rights and Nondiscrimination Grievance Procedure to ensure prompt and fair resolution of complaints from members of the public alleging discrimination in the operation of ANR's programs, services, or activities.
- (b) Applicability. This procedure shall apply to complaints of discrimination by ANR or a recipient of funding from ANR on the basis of race, religion, creed, color, national origin (including limited English proficiency), ancestry, place of birth, disability, age, marital status, sex, sexual orientation, gender identity, and breastfeeding (mother and child).

**Notes:** Workplace discrimination complaints are addressed in Department of Human Resources Personnel Policy Number 3.3. Complaints alleging discrimination related to Vermont's Public Accommodations law, 9 V.S.A., Chapter 139, and Fair Employment law, 21 V.S.A. § 495, should also be directed to the Vermont Human Rights Commission. Filing a complaint pursuant to this procedure shall not prevent the complainant from filing of a complaint with any other federal or state agency or from obtaining legal counsel.

## **§ 2. Intimidation and Retaliation Prohibited**

Intimidation and retaliation are prohibited and claims of intimidation and retaliation will be handled promptly and fairly pursuant to this procedure in the same manner as other claims of discrimination. See 40 C.F.R. § 7.100.

## **§ 3. Informal Inquiries**

Although members of the public may submit informal questions or concerns about civil rights and/or nondiscrimination to ANR, this procedure must be followed in order to ensure a resolution of a complaint.

#### § 4. Filing a Complaint

- (a) Any person who alleges discrimination in the operation of ANR's programs, services, or activities may file a complaint pursuant to this procedure. Complaints may be filed by the person alleging discrimination or a person who witnessed discriminatory conduct occurring.
- (b) Timing and Contents of a Complaint. The complaint should:
  - (1) be submitted in writing by mail or email to:

**Vermont Agency of Natural Resources**  
Nondiscrimination Coordinator  
Davis Building - 1st Floor  
One National Life Drive  
Montpelier, VT 05620-0301  
[ANR.civilrights@vermont.gov](mailto:ANR.civilrights@vermont.gov)
  - (2) be filed within 180 days of the date that the alleged discriminatory conduct occurred;
  - (3) describe with specificity the conduct subject to the grievance and provide any supporting documentation or evidence that relates to the alleged conduct; and
  - (4) if the complainant is not the party discriminated against, identify the party or parties impacted or potentially impacted by the alleged discrimination.
- (c) Acceptance of a Complaint. Within 14 days of receiving a written complaint ANR shall:
  - (1) assign a person to conduct an investigation of the complaint (ANR Investigator);
  - (2) provide the complainant with written notice of receipt and notification of the name and contact information of the ANR Investigator assigned to the complaint; and
  - (3) make a request for any additional information needed to facilitate the investigation of the complaint.

## § 5. Investigations of Complaints of Discrimination against ANR

- (a) Informal Investigation of Discrimination Complaints. An ANR Investigator shall document in writing, or in the case of an interview through recording, all activities undertaken to investigate an allegation of discrimination under this procedure.
  - (1) An ANR Investigator shall have the authority to request records, including e-mails and text messages, from any person that may be related to a grievance filed under this procedure.
  - (2) An ANR Investigator shall have the right to conduct interviews with any person that may be related to a matter subject to a grievance. A state employee shall have the right to request union representation at an interview with an ANR investigator. If such a request is made, the Investigator shall deem that the complaint is credible and resolve the matter as defined in subsection (g) of this section.
- (b) Stipulated Resolution of Discrimination Complaint. ANR and a complainant may stipulate to a resolution of a complaint filed under this procedure. A stipulated resolution shall be filed with the ANR Investigator, and if the Investigator determines that the stipulation is fair and in the best interests of all parties, the ANR Investigator may forward the stipulated resolution to the Secretary for approval and shall dismiss the complaint.
- (c) Preliminary Findings of Fact and Conclusions of Law. Within 90 days of concluding an informal investigation, an ANR Investigator shall provide the Parties with the ANR Investigator's Preliminary Findings of Fact and Conclusions of Law, which shall summarize the findings of the investigation, make a determination, based on a preponderance of the evidence, whether discriminatory conduct occurred or whether the ANR Program or Service had a discriminatory or disparate impact on a class protected by this procedure, and identify necessary actions to address the discriminatory conduct or disparate impact.
- (d) Reply by Parties. Within 15 days of issuance of the Preliminary Findings of Fact and Conclusions of Law, a Party may:
  - (1) Request a formal hearing on the grievance; or
  - (2) Provide informal written comments on the Preliminary Findings of Fact and Conclusions of Law.
- (e) Formal Hearing. If any Party requests a formal hearing, then ANR shall conduct such a hearing. Hearings under this procedure shall be treated as contested cases pursuant to 3 V.S.A. § 817.

- (f) Final Findings of Fact and Conclusions of Law. If no Party requests a formal hearing, then the ANR Investigator shall:
- (1) Review any informal written comments to the Preliminary Findings of Fact and Conclusions of Law; if appropriate, make changes to the decision based on those comments; and prepare a response to any informal comments.
  - (2) Provide the Report to the Secretary. The Secretary shall either accept the report, dismiss the allegations, or remand the matter back to the ANR Investigator with instructions for further investigation.
- (g) Complaints against ANR Employee Conduct. If the investigator **at any time** during the investigation believes that there is credible evidence that indicates that a State Employee may have discriminated during the course of employment, the investigator shall:
- (1) Contact the Vermont Department of Human Resources and transfer all investigation materials to the Department of Human Resources;
  - (2) Notify the Commissioner of the Department where the conduct in question occurred that a credible allegation of discrimination has occurred, that the investigation has been referred to the Vermont Department of Human Resources, and that the Department is required to assign a different employee to conduct the action that was subject to the grievance as though no previous action occurred; and
  - (3) Notify the complainant that a credible allegation of discrimination has been filed, that the investigation is continuing under the State's Human Resources policies, and that ANR is assigning a person to review the ANR action (permit, grant, or other action) to conduct the ANR action that was subject to the grievance as though no previous action occurred.
- (h) Dismissal of Grievance. An ANR Investigator may dismiss a grievance at any time if the Investigator determines that:
- (1) There are not facts that support a credible claim that discrimination took place;
  - (2) The grievance does not allege discriminatory conduct that is subject to this procedure;
  - (3) The grievance does not make allegations against ANR or one of its subrecipients;
  - (4) The complainant fails to respond to requests for additional information;
  - (5) The grievance is not timely and good cause does not exist for waiving the timing requirement.

## **§ 6. Recordkeeping**

The Nondiscrimination Coordinator shall enter each written complaint into a log or database including the complainant's name and contact information, date(s) of the alleged discriminatory action(s), and the alleged basis. The log or database will also include a written description of the outcome of the investigation. This log or database shall be available for public viewing. This log or database will be reviewed on an annual basis by the Nondiscrimination Coordinator and revised as necessary, to ensure prompt and fair resolution of discrimination complaints, and to identify patterns or systematic problems.