

## CHAPTER 3. TITLE VI COMPLAINT PROCEDURES

## 6. PROCEDURES FOR FILING.

- a. Who May File. Any person or any specific class of persons, who believe that he/she has been subjected to discrimination prohibited by Title VI and HUD's implementing procedures may personally, or by a representative, file a complaint.
- b. How, When, and Where to File. All complaints under Title VI must be submitted in writing and filed with HUD not later than 180 days from the date of the alleged discrimination, unless the time for filing has been extended by the AS/FHEO. Title VI complaints should be sent to the ARA/FHEO for the Region having jurisdiction of the State in which the agency identified in the complaint is located. Title VI complaints may alternatively be directed to the AS/FHEO or HUD Area or Insuring Office if more expedient for the complainant.
- c. Special Situation. Any person may bring their concerns about HUD programs to the attention of FHEO compliance staff by telephone or in person. Such communications should be examined by FHEO staff during the course of the conversation. If the nature of the concern suggests Title VI jurisdiction the person should be asked to reduce the matter to writing and mail the complaint or communication to the ARA/FHEO.

## 7. ADMINISTRATIVE PROCEDURES FOR PROCESSING COMPLAINTS.

- a. Control Date. A complaint shall be date stamped on the date on which it was first received by Fair Housing and Equal Opportunity staff in HUD Central, Regional, Area or Insuring Office.
- b. Routing Complaints. (1) When a Title VI complaint of discrimination based on race, color, or national origin is received in any office other than that of the ARA/FHEO it shall be date stamped and a letter of acknowledgment (see Appendix 3.1. for form letter) sent immediately to the complainant. The original complaint and a copy of the letter of acknowledgment shall immediately be sent to the ARA/FHEO for appropriate action and disposition. (2) When a complaint is received directly by the ARA/FHEO it shall be date stamped and a letter of acknowledgment sent to the complainant (see Appendix 3.2(a) for form letter).

## 8. REGIONAL RESPONSIBILITIES. The Fair Housing and Equal



Fair Housing and Equal Opportunity.

c. Contact with Complainant.

- (1) Second Letter to Complainant. A second letter sent to the complainant should request a time and date when an investigator could reach the complainant by telephone for the purpose of discussing the complaint, (see Appendix 3.3 for form letter). Through the use of the telephone, the investigator should be able to:
  - (a) isolate issues and major concerns;
  - (b) inform the complainant of the probability (if none give reasons) for a field investigation; and
  - (c) thank the complainant for bringing the matter to the attention of the Office of Fair Housing and Equal Opportunity.

A second letter shall be sent to the complainant by the ARA/FHEO if:

- 1 the complaint falls within the criteria stated in this paragraph for establishing initial Title VI jurisdiction
- 2 the complaint does not clearly state the basis (e.g. race, color, or national origin) for the complaint (see Appendix 3.2(b)); or
- 3 a letter acknowledging receipt of the complaint has been sent to the complainant by another Office of Fair Housing and Equal Opportunity.

NOTE: Where a complaint is received by the Regional Office of Fair Housing and Equal Opportunity, the letter of acknowledgment and the second letter to the complainant may be combined.

7  
6/76

8040.1

- 4 the complaint does not fall within Title VI or other HUD jurisdiction and is being referred to another HUD Office or outside agency (see Appendix 3.2(b) for form letter).
- (2) Role of Complainant. The complainant is not

a party to a Title VI case and does not enjoy a status different from any other person to be interviewed (see also Chapter 7, paragraph 28 b.).

9. COMPLAINTS INVOLVING TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND TITLE VIII OF THE CIVIL RIGHTS ACT OF 1968.

- a. General Rule. There are situations where it is more appropriate to open a case under Title VIII of the Civil Rights Act of 1968 than Title VI of the 1964 Act. The general rule is as follows:

A complaint which contains an allegation(s) from an individual complainant whose rights are protected under Title VIII of the Civil Rights Act of 1968, and/or contains an allegations) for which individual remedy is available under Title VIII, should be handled under Title VIII.

- b. Application of Rule. In such situations as stated above the FHEO staff may be successful in efforts to assist a complainant to recover financial compensation or damages for violations of rights protected under Title VIII, either through Title VIII administrative (or judicial) enforcement processes. Title VI does not afford the Department the opportunity to secure such remedies on the complainant's behalf. Such complaint may suggest the need for a Title VI compliance review, however, and that need should be noted by the ARA/FHEO.

- c. Concomitant Title VI and Title VIII Complaints. Complaints which fall under Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 may be received for processing and opened in the same manner as described in Chapter 3, paragraph 7, of this Handbook. A complaint should be opened under both Title VI and VIII in instances where:

- (1) The complaint involves the operation, administration, or application of any housing program or housing financing program (other than the program of insurance or guaranty) which receives financial assistance from this Department; and
- (2) The complaint alleges discrimination, segregation, disparate treatment of specific (named) minority persons by recipients of HUD financial assistance, the resolution of which would insure benefits to and participation of minorities generally.

NOTE: For example: John Doe, a minority,  
alleges that a local housing authority

refused to rent an available appropriately sized top floor unit to him and his family. The Executive Director of the Authority informed Mr. Doe that he could not rent any of the top floor units to minorities because of a Housing Commission rule which forbade top floor rentals to minorities because minority families have noisy children.

10. COMPLAINTS INVOLVING TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (CD BLOCK GRANT PROGRAM).

- a. Basis. Complaints which involve the CD Block Grant program and are based on race, color, or national origin may be opened under both Title VI and Section 109 of the Housing and Community Development Act of 1974 (HCDA 1974). However, care must be taken not to open concomitant cases where SEX discrimination is alleged.
- b. Concomitant Title VI and Section 109 Complaints. Complaints which fall under Title VI and Section 109, HCDA 1974 may be processed in the same manner (see Chapter 3, paragraph 7 of this Handbook), particularly since both laws have the same principal requirements (with the exception of the prohibition of sex and employment discrimination under Section 109) and since neither law authorizes remedy to a person aggrieved as a result of its violation.

11. EMPLOYMENT DISCRIMINATION. Employment discrimination may be characterized as any action which denies a person the opportunity to be employed, paid, transferred, promoted, re-assigned, etc. on the basis of race, color, national origin, sex or religion.

- a. Title VI. The employment practices of a HUD recipient may be reviewed or investigated under Title VI to the extent necessary to assure equality of opportunity and nondiscriminatory treatment of beneficiaries of HUD program. Discrimination on the basis of sex and religion are not cognizable under Title VI. Title VI authorizes the review or investigation of the employment practices of HUD recipients in two instances ONLY (see 24 CFR 1.4(c)(1) and (2)):

(1) Where the primary objective of the HUD program or activity is to provide employment; or

8040.1

(2) Where a routine compliance review or complaint investigation tends to indicate apparent

noncompliance with Title VI; in the operation or administration of a HUD program, which may have been brought about or conditioned by the employment practices of the HUD recipient.

NOTE: If analysis of materials gathered as a result of a routine Title VI compliance review, complaint investigation, or data supplied by HUD recipients, tends to indicate that a HUD recipient has violated the provisions of Title VI, and that said apparent noncompliance was or could have been brought about as a result of the employment practices of the recipient, then the employment practices of the recipient may be examined in depth under Title VI.

- b. Section 109. Compliance reviews or complaint investigations of the employment practices of M Block Grant recipients may be conducted to determine compliance with Section 109, the nondiscrimination section of Title I of the Housing and Community Development Act of 1974. Section 109 prohibits discrimination based on race, color, national origin, or sex in any program or activity funded in whole or part with monies made available under the HCDA of 1974. The Department Regulation under that Section of the Act prohibits employment discrimination in all CD Block Grant programs and activities (see 24 CFR 570.601(b))
- c. Funded Agencies. Agencies funded in whole or in part with HUD financial assistance enter into Annual Contributions Contracts (ACC) or contracts for Loans or Grants. These contracts contain language which requires affirmative action and nondiscrimination in employment (based on race, color, national origin, sex, or religion) as a condition of the contract (see Appendix 4.7 for standard HUD contract clause language). Such agencies, commonly referred to as "Funded Agencies, Contractors or Grantees" may be subject to other laws and Executive Orders administered and enforced by the Office of FHEO which require nondiscrimination in employment, as well as the nondiscrimination in employment clause of the contract with HUD. HUD funded agencies are subject to review and investigation for compliance with the above referenced clause (see Appendix 3.4(b) for form letter).

6/76

10

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- (1) Those funded agencies subject to review or investigation in order to determine compliance with the above cited nondiscrimination in

employment clause of HUD contracts, generally are not subject to:

- (a) the employment exceptions under the Title VI Regulation;
  - (b) the employment section of the regulation pursuant to Section 109 of HCDA, 1974, where the agency does not receive CD Block Grant funds; and
  - (c) the provisions of Executive Order 11246 with respect to nonconstruction employment.
- (2) The employment practices of funded agencies which are a part of state or local government are subject to Title VII of the Civil Rights Act of 1964 as well as the HUD funded agency nondiscrimination in employment clause. Title VII is enforced by the Federal Equal Employment Opportunity Commission and the Department of Justice.

12. COMPLAINTS WHICH ON THEIR FACE DO NOT INDICATE A FAILURE TO COMPLY WITH TITLE VI.

- a. Rule. Complaints which do not on their face indicate a possible FAILURE TO COMPLY WITH TITLE VI should not be investigated under Title VI authority (24 CFR 1.7(c)). However, this rule does not preclude an agency against which a complaint has been received, from being scheduled for a Title VI compliance review at some future date. Moreover, this rule does not eliminate the obligation to request more detailed information and to encourage the complainant to be specific, as appropriate.
- b. Comprehensive Complaints. "Comprehensive complaints" are complaints of discrimination in a number of program areas without identifying a particular program, project, activity, complainant (aggrieved individual) or basis. For example: "The City of Smackover practices discrimination. Therefore, many people are not able to be hired,

buy or rent homes, serve on Planning Committees, or participate in Federal program in this town". Such an allegation is cosmic in nature and does not contain enough information to indicate a possible failure to comply with Title VI. Cosmic complaints should not be investigated; however consideration should be given to scheduling a Title VI community-wide compliance review.