

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY CIVIL RIGHTS GRIEVANCE PROCEDURE; TITLE VI/DISCRIMINATION COMPLAINT PROCEDURE (NON-EMPLOYEE)

The Nebraska Department of Environment and Energy (Department) prohibits discrimination, intimidation, and/or retaliatory conduct on the basis of race, color, religion, national origin, limited English proficiency (LEP), sex, age, or disability in the administration of its programs or activities, as required by applicable laws and regulations.

The Department's Non-Discrimination Coordinator (Coordinator) is responsible for coordination and implementation of the complaint procedures outlined herein. The Coordinator will 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 the Department's obligations under non-discrimination laws.

If you speak a non-English language, we offer you language assistance services free of charge. Please contact the Department's Non-Discrimination Coordinator at 402-471-2186 for assistance.

The complaint procedure is as follows:

1. Informal Complaints

The Department encourages anyone with concerns about potential failure to provide services or discrimination in providing services to first discuss the matter with the Department's Non-Discrimination Coordinator. Individuals are not required to pursue the informal process first and may engage the formal complaint (grievance) process as their first step if preferred.

The purpose of the informal complaint process is to make a good faith effort to resolve the issue quickly and efficiently. However, the individual may ask to implement the formal process at any time during the informal resolution. If you have concerns about services provided by the Department or Department practices, or if you would like to relay your experiences to the Department without making a formal complaint, please contact the Department's Non-Discrimination Coordinator at:

Nebraska Department of Environment and Energy
c/o Kara Valentine
Non-Discrimination Coordinator
245 Fallbrook Blvd, Suite 100
Lincoln, NE 68521

Email: NDEE.CivilRights@nebraska.gov



2. Formal Complaints

A complaint regarding prohibited discrimination in the Department's services, programs, and activities should be submitted in writing or by email by the complainant or his/her designee as soon as possible but no later than 180 calendar days of the last alleged discriminatory incident to:

Nebraska Department of Environment and Energy
c/o Kara Valentine
Non-Discrimination Coordinator
245 Fallbrook Blvd, Suite 100
Lincoln, NE 68521

Email: NDEE.CivilRights@nebraska.gov

2. The complaint must include the following information:

- A. Name, mailing address, and residential address of the complainant.
- B. The name of the entity that is the subject of the complaint (the respondent).
- C. The basis for the complaint (i.e., a description of the alleged discriminatory act or acts giving rise to the complaint).
- D. Whether the complaint is filed within 180 days of the last alleged discriminatory act or acts and, if not so filed, any good cause that may exist to warrant extension of the 180-day deadline for filing.
- E. Whether a complaint has been filed with another agency or court, the agency or court where it was filed and relevant contact information.
- F. Complainant's signature and date.

3. If the complainant is unable to submit a written complaint, the Department'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. The Department will work to ensure that individuals have full access to the complaint filing and investigative process.

4. Upon receipt of a complaint, the Coordinator will review the complaint to determine whether the Department has jurisdiction to investigate the issues presented. For the Department to have jurisdiction, the following criteria must be met:

- A. The complaint must be in writing.
- B. 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 Americans with Disabilities Act, as amended (ADAAA); Section 13 of the Federal Water Pollution Control Act Amendments of 1972; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and

40 C.F.R. Parts 5 and 7) or the Department'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 on the basis of a personal characteristic set forth in the nondiscrimination policy or on the basis of previous interaction with the Department, including the procedure set forth here.

- C. The complaint must identify a respondent that is a division, subdivision, or agent of the Department, including organizations that receive Department funding or operate on behalf of the Department.
- D. The complaint must be submitted in writing within 180 days of the last alleged discriminatory act or good cause must exist to waive the 180-day deadline. In determining whether good cause to waive the 180-day deadline exists, the Coordinator will consider, among other concerns, the feasibility of investigatory fact finding in light of extended delay.

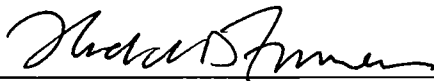
If the Department does not have jurisdiction, a no-jurisdiction letter will be issued within 10 business days of that determination. A no-jurisdiction letter will result in the Department's closure of the complaint file. A no-jurisdiction letter may include a formal referral to another agency in instances where the referred agency's jurisdiction and/or ability to address the complaint is readily apparent to the Coordinator.

If the Department has jurisdiction, a letter of acceptance will be issued within 10 business days of the determination.

- 5. Once a letter of acceptance has been issued, the Coordinator, or designee, will:
 - 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, Department 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 pre-empting the need for future complaints. Upon informal resolution as contemplated here, the Coordinator will 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 Department's closure of the complaint file.

6. Within 180 days of the completion of the investigation and exhaustion of the possibility of informal resolution as set forth above, the Coordinator will make a preliminary written finding as to the complaint. Such preliminary finding will be either:
 - A. A finding that the respondent is in compliance with applicable non-discrimination law or policy; or
 - B. A finding that the respondent is in violation of applicable non-discrimination law or policy.Upon a finding of compliance, the Coordinator will prepare a closure letter summarizing the allegations and investigative process and stating that the complaint file will be closed and send copies to complainant and respondent. A preliminary finding of compliance will result in the Department's closure of the complaint file.

Upon a finding of violation, the Coordinator will prepare a letter of remediation summarizing the allegations and investigative process and explaining actions the respondent should take in order to come into compliance. The letter will prescribe a reasonable time for the respondent to complete the remedial actions set forth in the letter.
7. The Coordinator will maintain copies of complaints and documentation related to the investigation and resolution for a period of at least two years.
8. 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. The Department's decision to take actions to resolve a complaint should not be construed to constitute an admission that any discrimination has occurred, and any written documents prepared by the Department in response to a complaint to constitute an offer of compromise subject to Federal Rule of Evidence 408 and equivalent state rules.



Thaddeus D. Fineran, Interim Director

June 28, 2024

Date

Appendix A: NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY TITLE VI/DISCRIMINATION COMPLAINT (NON-EMPLOYEE)

Appendix B: NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY CIVIL RIGHTS GRIEVANCE PROCEDURE; TITLE VI/DISCRIMINATION COMPLAINT PROCEDURE (NON-EMPLOYEE) (SPANISH)