

Grievance Procedure under Title VI Non-Discrimination Act

Department of Public Works (DPW)

Introduction

The City-County Council has declared through an adopted ordinance, codified in R.C. Chapter 581, that practice of denying equal opportunities in employment, education, access to and use of public accommodations and acquisition of real estate based on race, color, religion, ancestry, age, national origin, disability, sex, sexual orientation, gender identity, or United States military service veteran status is unlawful in the Consolidated City of Indianapolis and Marion County. R.C. § 581-403.

Procedures for the adjudication of complaints alleging discriminatory practices relating to the acquisition of real estate (including leasing), employment, public education and public accommodations are established in Chapter 581. R.C. §§ 581-401 et seq. The City's Office of Equal Opportunity ("OEO") is established under R.C. § 581-201, and is empowered to carry out the public policy of non-discrimination within the territorial boundaries of the City/County. The City's Equal Opportunity Advisory Board (the "Board") is established under R.C. § 581-301 to adjudicate claims of discrimination under Chapter 581.

In addition to the formal complaint procedures of Chapter 581, DPW, through the City's Office of Disability Affairs, provides an informal process for attempting to resolve allegations of discriminatory practices relating to program areas, services, operations, facilities and public accommodations of DPW and other City agencies.

These informal and formal procedures are outlined below.

Optional Informal Resolution of Discrimination Allegations Against City Agencies

Any person who believes that he/she has been the subject of discrimination (the "complainant") relating to program areas, services, operations, facilities or public accommodations of DPW or other City agencies (the "respondent agency") may first meet with the DPW Title VI Program Manager to determine if the complainant's grievance can be resolved through reasonably prompt action on the behalf of the respondent agency.

Within 60 days of meeting with the complainant, the Title VI Program Manager will conduct an investigation and meet with the appropriate staff of the respondent agency, including senior management of the agency if necessary, to determine whether action can be taken to resolve the complainant's grievance. If it is determined that the respondent agency can take reasonably prompt action that will satisfy the complainant, the solution will be implemented within a time frame agreed upon with the complainant.

Situations where this informal process may be most effective is where the complainant's grievance is based on the condition of public infrastructure or of a public facility, which can be repaired or improved in a manner that serves to eliminate the condition giving rise the alleged denial of equal access or opportunity. An example is the condition of a sidewalk near a disabled person's home that prevents that person from freely and easily traversing the sidewalk as he/she goes about his/her daily life. The lack of access to the free use of the sidewalk may be viewed as a discriminatory practice toward the complainant on the part of DPW, but is a condition that DPW can rectify in a fairly reasonable period of time by repairing the sidewalk, a solution that is likely to satisfy the complainant's grievance.

This informal process is an optional service provided by DPW, and it is not a prerequisite to filing a formal written complaint under Chapter 581. And, a complainant may seek an informal resolution, but if that process fails to result in an acceptable solution, he/she may still file a formal complaint under Chapter 581.

Formal Discrimination Complaints

The procedures established under Chapter 581 should be followed by any person who believes that he/she has been the subject of discrimination within the territorial jurisdiction of the City/County prohibited under Chapter 581 (the “complainant”), including allegations of discrimination in relation to a DPW program area that has not been adequately resolved through any informal process. However, nothing in Chapter 581 shall affect any person's right to pursue any and all rights and remedies available in any other local, state or federal forum. R.C. § 581-416.

Complaint

A written complaint must be filed with the OEO within 180 calendar days from the date of occurrence of the alleged discriminatory practice, or, in the case of a continuing discriminatory practice, during the time of the occurrence of the alleged practice, but not more than 180 calendar days from the date of the most recent alleged discriminatory act. R.C. §§ 581-405, 581-406 and 581-408. It is unlawful for any person to willfully file a false complaint alleging discrimination under Chapter 581. R.C. § 581-402.

A complaint may be submitted by the complainant, one (1) or more members of the Board, or by one (1) or more employees of the OEO. R.C. § 581-405. The complaint must be signed and verified before a notary public or other person duly authorized by law to administer oaths and take acknowledgments (the OEO provides notary services without charge), and must include the following information:

- the full name and address of the complainant or other aggrieved person or persons;
- the full name and address of the person against whom the complaint is made;
- the alleged discriminatory practice and a statement of particulars thereof;
- the date or dates of the alleged discriminatory practice;
- if the alleged discriminatory practice is of a continuing nature, the dates between which the continuing discriminatory practices are alleged to have occurred;
- a statement as to any other action, civil or criminal, instituted before any other administrative agency, commission, department or court, whether state or federal, based upon the same grievance alleged in the complaint, with a statement as to the status or disposition of any such other action; and
- in the case of alleged employment discrimination, a statement that the employer employs six (6) or more employees in the territorial jurisdiction of the OEO.

R.C. §§ 581-406 and 581-407. The OEO shall cause a copy of the complaint to be served by certified mail upon the person against whom the allegation of discrimination is levied (the “respondent”). The respondent may file a written response to the complaint at any time prior the close of proceedings with respect thereto. R.C. § 581-411.

The administrator of the OEO, in his/her discretion, may refer any complaint to the Indiana Civil Rights Commission for proceedings in accordance with the Indiana state law. R.C. § 581-409. In addition, the OEO is authorized to receive any complaint transferred to it by the Indiana Civil Rights Commission and to take such action with respect to any such complaint as is authorized or required in the case of a complaint filed under Chapter 581. R.C. § 581-410.

A complaint agreement and pre-interview forms have been created by the OEO for use in the intake of formal complaints. Complaints may also be filed with the following government agencies:

Indiana Department of Transportation

Economic Opportunity Division
100 N. Senate Avenue, Room N750
Indianapolis, IN 46204
Phone: (317) 233-6511
Fax: (317) 233-0891

Equal Employment Opportunity Commission

Indianapolis District Office
101 West Ohio Street, Suite 1900
Indianapolis, IN 46204
Phone: (800) 669-4000
Fax: (317) 226-7953
TTY: 1-800-669-6820

Indiana Civil Rights Commission

100 N. Senate Avenue, Room N103
Indianapolis, IN 46204
Toll Free: 1 (800) 628-2909
Phone: (317) 232-2600
Fax: (317) 232-6560

The Indianapolis Office of Disability Affairs also provides a grievance form that can be filled out in the event of a grievance.

OEO's File a Charge of Discrimination: <https://www.indy.gov/activity/file-a-charge-of-discrimination>

OEO's Intake Agreement: <https://citybase-cms-prod.s3.amazonaws.com/b665d41bc7154f54abe84dad4273bd5d.pdf>

OEO's Pre-interview Questionnaire: <https://citybase-cms-prod.s3.amazonaws.com/a3f2a3e9f3894c9898c22e9da3fffc00.pdf>

Investigation

Within 30 days after receipt of a complaint, the OEO shall initiate an investigation of the alleged discriminatory practice charged in the complaint. Investigations may include informal conferences or discussions with any party to the complaint for the purpose of obtaining additional information or attempting to resolve or eliminate the alleged discriminatory practice by conciliation or persuasion. The OEO has the authority to initiate discovery, including but not limited to interrogatories, requests for production of documents and subpoenas. The OEO must make a good faith effort to complete investigations within 100 days after a complaint has been received. If it is impracticable to complete the investigation within 100 days, the administrator of the OEO may extend the time for conducting the investigation, in which case the parties shall be notified in writing of the reason(s) for the delay.

Unless the complaint has been satisfactorily resolved prior to completion of the investigation, the OEO shall report the results of the investigation to a predetermined panel of three (3) members of the Board designated by the chairperson or vice chairperson or pursuant to the rules of the Board. No member of the board who initiated a complaint, who is the subject of a complaint, or who has an immediate family member who is the subject of a complaint shall participate in the adjudication of that complaint as a member of the panel, the adjudication committee or the Board.

In its report to panel, the OEO shall make a recommendation as to whether there is reasonable cause to believe that the respondent has violated Chapter 581 by engaging in a discriminatory practice. The panel shall then determine by majority vote whether reasonable cause exists to believe that any respondent has violated Chapter 581. In making such a determination, the panel shall consider only the complaint, the response, if any, and the administrator's report; provided, however, the panel may request the administrator to make a supplemental investigation and report with respect to any matter which it deems material to such determination. R.C. § 581-412.

Conciliation

If the panel determines that reasonable cause exists to believe that any respondent has violated Chapter 581, it may direct the OEO to endeavor to eliminate the alleged discriminatory practice through a conciliation conference. At least one (1) panel member shall be present at any conciliation conference, at which both the complainant and respondent are present or represented. If the complaint is satisfactorily resolved through conciliation, the terms of any agreement reached or undertaking given by any party shall be reduced to writing and signed by the complainant, respondent and the OEO administrator. Any disagreement between the respondent and the administrator in regard to the terms or conditions of a proposed conciliation agreement may be referred to the panel which considered the complaint, and the decision of the panel with respect to such terms or conditions shall be final for purposes of conciliation proceedings, but shall not be binding upon the respondent without his/her written consent thereto. The Board or OEO may institute legal proceedings for enforcement of any written agreement or undertaking executed in accordance with Chapter 581. R.C. § 581-412.

Adjudication

If a complaint has not been satisfactorily resolved within a reasonable time through informal proceedings, a conciliation conference, or if the panel determines that a conciliation conference is inappropriate under the circumstances surrounding the complaint, then the chairperson of the Board shall assign the case to the Board's adjudication committee or, in the case of a complaint not related to housing, to either the adjudication committee or to a hearing officer. The adjudication committee or the hearing officer may hold a public hearing thereon upon not less than ten (10) working days' written notice to the complainant or other aggrieved person and to the respondent. If the respondent has not previously filed a written response to the complaint, he/she may file such response and serve a copy thereof upon the complainant and the office not later than five (5) working days prior to the date of the hearing.

The adjudication committee or the hearing officer shall have the power, upon any matter pertinent to the complaint or response thereto, to subpoena witnesses and compel their attendance; to require the production of pertinent books, papers or other documents; and to administer oaths. The complainant shall have the right to be represented by the OEO administrator or any attorney of his/her choice. The respondent shall have the right to be represented by an attorney or any other person of his or her choice. The complainant and respondent shall have the right to appear in person at the hearing, to be represented by an attorney or any other person, to subpoena and compel the attendance of witnesses, and to examine and cross examine witnesses. The adjudication committee, the hearing officer and the board shall have the power to enforce discovery and subpoenas by appropriate petition to the Marion County Circuit or Superior Courts.

Following the close of the hearing, the adjudication committee or the hearing officer shall prepare a report containing written recommended findings of fact and conclusions and file such report with the OEO. The adjudication committee or hearing officer shall make a good faith effort to complete the report within 30 working days from the close of the hearing, but may extend the time for completing the report as needed, up to an additional 30 working days. A copy of the report shall be furnished to the complainant and respondent, each of whom shall have an opportunity to submit written exceptions within such time as the rules of the complaint adjudication committee shall permit. The adjudication committee or the hearing officer may, in its, his or her discretion, upon notice to each interested party, hear further evidence or argument upon the issues presented by the report and exceptions, if any.

Upon the preponderance of the evidence, the adjudication committee or the hearing officer shall issue written findings of fact and conclusions, and shall and serve a copy thereof upon the complainant and the respondent. Findings and conclusions made by the adjudication committee or the hearing officer shall be based solely upon the record of the evidence presented at the hearing. If, in the opinion of the adjudication committee or the hearing officer, any respondent has engaged or is engaging in a discriminatory practice in violation of Chapter 581, the adjudication committee or the hearing officer may cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purposes of Chapter 581, including but not limited to:

- the restoration of complainant's losses incurred as a result of discriminatory treatment, as the adjudication committee or hearing officer may deem necessary to assure justice;
- the posting of notice setting forth the public policy of the City and County concerning equal opportunity and respondent's compliance with such policy in places of public accommodations;
- the submission of proof of compliance to be filed by respondent at periodic intervals; and
- if the respondent is licensed by a City or County agency authorized to grant a license, the submission of a statement to show cause to the licensing agency why his/her license should not be revoked or suspended.

If, in the opinion of the adjudication committee or the hearing officer, any respondent has not engaged in a discriminatory practice in violation Chapter 581, the adjudication committee or the hearing officer shall dismiss the complaint against that respondent.

The adjudication committee or the hearing officer shall make a good faith effort to serve its, his or her findings and conclusions within one (1) year from the date of receipt of the complaint. If it is impracticable to serve the findings and conclusions within one (1) year from the date of receipt of the complaint, the adjudication committee or the hearing officer may extend the time for serving the findings and conclusions. The adjudication committee or the hearing officer also shall notify the parties in writing of the reason(s) for the delay.

Within 30 working days after the issuance of findings and conclusions by the adjudication committee or the hearing officer, either the complainant or the respondent may file a written appeal of the decision of the adjudication committee or the hearing officer to the Board. If no appeal is filed within 30 working days, then the findings and conclusions are final. After considering the record of the evidence presented at the hearing and the findings and conclusions of the adjudication committee or the hearing officer, the Board may:

- affirm the decision of the adjudication committee or the hearing officer and adopt the findings and conclusions of the adjudication committee or the hearing officer;
- affirm the decision of the adjudication committee or the hearing officer and make supplemental findings and conclusions of its own; or
- reverse the decision of the adjudication committee or the hearing officer and make findings of fact and conclusions to support its decision.

The board may also adopt, modify or reverse any relief ordered by the adjudication committee or the hearing officer. The board shall make a good faith effort to take any of the above actions within 30 working days after the appeal is filed, but may extend the time as needed, up to an additional 30 working days. R.C. § 581-414.

Judicial Review

Any respondent who disagrees with a decision of the Board upon appeal shall have the right to file a verified petition to the Marion County Circuit or Superior Court for a review of the Board's decision. The petition for review must be filed within 30 calendar days after the date of issuance of the written decision of the Board. The City shall be the sole defendant in the petition for review. Within 30 calendar days after receipt of a summons, the City shall cause the Board to file a true and complete copy of the transcript of the hearing with the court. The court, without jury, shall review the record and render its decision as in other administrative reviews. The clerk of the court shall send a copy of the court's decision to the respondent and to the OEO, either of whom may appeal the court's decision. R.C. § 581-415.

Court Enforcement

During the course of the adjudication of a complaint, the adjudication committee, the hearing officer and the Board shall have the power to enforce discovery and subpoenas by appropriate petition to the Marion County Circuit or Superior Courts. R.C. § 581-414.

If the Board determines that any party to a conciliation agreement approved by the OEO administrator has failed or refused to comply with the terms of the agreement, it may file a complaint in the name of the Board in the Marion County Circuit or Superior Courts seeking an appropriate decree for the enforcement of the agreement. R.C. § 581-415.

In any case where the Board, the adjudication committee or the hearing officer has found that a respondent has engaged in or is engaging in a discriminatory practice in violation of Chapter 581 and such respondent has failed to correct or eliminate such discriminatory practice within the time limit prescribed by the Board, the adjudication committee or the hearing officer and the time limit for appeal to the Board has elapsed, the Board may file in its own name in the Marion County Circuit or Superior Courts a complaint against the respondent for the enforcement of Chapter 581. Such complaint may request such temporary or permanent injunctive relief as may be appropriate and such additional affirmative relief or orders as will effectuate the purposes of this chapter and as may be equitable, within the powers and jurisdiction of the court. R.C. § 581-415.

Chapter 581 of the Revised Code may be viewed at:

https://www.municode.com/library/in/indianapolis_-_marion_county/codes/code_of_ordinances?nodeId=TITIIPUHEWE_CH581HUREEQO

Appendix B

Complaint Log

Appendix C

Sample External Complaint of Discrimination Form

**EXTERNAL COMPLAINT OF DISCRIMINATION
DPW**

Office of Equal Opportunity
200 E Washington St. Ste 1601
Indianapolis, IN 46204
Phone 317-327-4055

INSTRUCTIONS:

The purpose of this form is to provide a template for any person interested in filing a discrimination complaint with the DPW/OEO.. You are not required to use this form. You may write a letter with the same information, sign it, and return it to the address below. All bold items must be completed for your complaint to be investigated. Failure to provide complete information may impair the investigation of your complaint.

Title VI of the Civil Rights Act of 1964, as amended and its related statutes and regulations (Title VI) prohibit discrimination on the basis of race, color, national origin, sex, age, disability/handicap, income status, gender identity, or sexual orientation in connection with programs or activities receiving federal financial assistance for the United States Department of Transportation, Federal Highway Administration, and/or Federal Transit Administration. These prohibitions extend to DPW as a sub-recipient of federal financial assistance.

Upon request, assistance will be provided if you are an individual with a disability or have limited English proficiency. Complaints may also be filed using alternative formats such as computer disk, audiotape, or Braille.

You also have the right to file a complaint with other state or federal agencies that provide federal financial assistance to DPW. Additionally, you have the right to seek private counsel.

DPW is prohibited from retaliating against any individual because he or she opposed an unlawful policy or practice, filed charges, testified, or participated in any complaint action under Title VI or other nondiscrimination authorities.

Please make a copy of your complaint form for your personal records. Do not send your original documents as they will not be returned. Mail the original complaint form along with any copies of documents or records relevant to your complaint to the address below.

Complaints of discrimination must be filed within 180 days of the date of the alleged discriminatory act. If the alleged act of discrimination occurred more than 180 days ago, please explain your delay in filing this complaint.

(Signature)

****Your complaint cannot be processed without your signature.**

Name of complainant	Date (<i>month, day, year</i>)
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COMPLAINANT INFORMATION		
Name (<i>first, middle, last</i>)		
Address (<i>number and street, city, state, ZIP code</i>)		
Home telephone number () -	Work telephone number () -	Cellular telephone number () -

PERSON / DEPARTMENT YOU BELIEVE DISCRIMINATED AGAINST YOU		
Name (<i>first, middle, last</i>)	Title	
Department		
Address (<i>number and street, city, state, ZIP code</i>)		
Home telephone number () -	Work telephone number () -	Cellular telephone number () -
When was the last alleged discriminatory act? (<i>month, day, year</i>)		
<p>Complaints of discrimination must be filed within 180 days of the alleged discriminatory act. If the alleged act of discrimination occurred more than 180 days ago, please explain your delay in filing this complaint.</p>		
The alleged discrimination was based on:		
<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> Age
<input type="checkbox"/> Disability	<input type="checkbox"/> Ancestry	<input type="checkbox"/> Retaliation
		<input type="checkbox"/> Gender
		<input type="checkbox"/> Religious Affiliation
		<input type="checkbox"/> Nation Origin

Name of complainant	Date (<i>month, day, year</i>)
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Describe the alleged act(s) of discrimination. (Use additional pages, if necessary)

Provide the names of any individuals with additional information regarding your complaint:		
Name of witness 1 (<i>first, middle, last</i>)	Title	
Name of company		
Address (<i>number and street, city, state, ZIP code</i>)		
Home telephone number () -	Work telephone number () -	Cellular telephone number () -
Include a brief description of the relevant information the witness may provide to support your complain of discrimination:		

Name of complainant	Date (<i>month, day, year</i>)
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Name of witness 2 (<i>first, middle, last</i>)		Title
Name of company		
Address (<i>number and street, city, state, ZIP code</i>)		
Home telephone number () -	Work telephone number () -	Cellular telephone number () -
Include a brief description of the relevant information the witness may provide to support your complain of discrimination:		

Name of witness 3 (<i>first, middle, last</i>)		Title
Name of company		
Address (<i>number and street, city, state, ZIP code</i>)		
Home telephone number () -	Work telephone number () -	Cellular telephone number () -
Include a brief description of the relevant information the witness may provide to support your complain of discrimination:		

Appendix D

Complaint Consent Release Form

COMPLAINANT CONSENT / RELEASE

Name <i>(first, middle, last)</i>	Telephone number () -
Address <i>(number and street, city, state, ZIP code)</i>	
Case number(s) <i>(if known)</i>	
<p>As a complainant, I understand that during an investigation it may become necessary for DPW to reveal my identity to individuals outside of DPW and OEO in the course of verifying information or gathering facts and evidence to develop a basis for making a civil rights compliance determination. I understand that it may be necessary for DPW and OEO to share information, including personal details collected as part of its complaint investigation. In addition, I understand that as a complainant, I am protected by Title VI of the Civil Rights Act of 1964, as amended, and its related statutes and regulations prohibiting intimidation or retaliation for taking action or participating in an action to secure rights protected by the nondiscrimination statutes enforced by DPW and OEO.</p>	
<p><i>Please read both paragraphs below, check your choice of CONSENT or CONSENT DENIED and sign below. (Please mark one)</i></p>	
<p><input type="checkbox"/> CONSENT</p> <p>I have read and understand the above information and authorize DPW and OEO to disclose my identity to individuals as needed during the course of the investigation for the purpose of verifying information or gathering facts and evidence relevant to the investigation of my complaint. I authorize DPW and OEO to receive, review, and discuss material and information about me relevant to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release and volunteer to do so.</p>	
<p><input type="checkbox"/> CONSENT DENIED</p> <p>I have read and understand the above information and do not want DPW and OEO to disclose my identity to any individual during the course of the investigation. I understand this choice could delay the investigation of my complaint and may, in some circumstances, result in an administrative closure of the investigation of my complaint without DPW and/or OEO making a determination in my case.</p>	
Signature	Date <i>(month, day, year)</i>