

## NON-DISCRIMINATION GRIEVANCE PROCEDURES

Any person who believes they or others have been subjected to discrimination by the West Virginia Department of Environmental Protection (“the WVDEP”), or its programs, services, or activities, may file a grievance under this procedure. It is against the law for the WVDEP to retaliate against anyone who opposes discrimination, files a grievance, or participates in the investigation of a grievance.

### Procedure for Filing a Grievance:

1. Any person who believes that they or others have been discriminated against on the basis of race, color, national origin (including limited-English proficiency), sex, disability, or age, or that they or others have been retaliated against for standing up for those rights, may file a grievance with the WVDEP. The grievance must:
  - a. Be in writing and clearly identify who the Grievant is (e.g., anonymous grievances cannot be accepted), including his/her signature and contact information such as a phone number and/or an email address to be reached.
  - b. Identify a WVDEP employee, a WVDEP division or program, or a WVDEP entity who allegedly committed the discriminatory action.
  - c. Allege at least one protected base (e.g., race, color, national origin (including limited-English proficiency), sex, disability, or age) that is prohibited by any of the nondiscrimination laws that the WVDEP enforces. The grievance should include as much detail as possible as to how the WVDEP discriminated against the person(s) on the basis of race, color, national origin (including limited-English proficiency), sex, disability, and/or age, or has otherwise engaged in intimidation or retaliation prohibited by the WVDEP and EPA's nondiscrimination regulations. The grievance should also describe the affected community or group(s), and the remedy or relief being sought; and
  - d. Shall be filed within 180 calendar days of the date of the alleged discriminatory action. The WVDEP may consider extending this 180-day timeframe for filing, for good cause shown, under certain circumstances.
2. Grievances may be submitted to the WVDEP Non-Discrimination Coordinator at the contact information below.

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Acting Non-Discrimination Coordinator  
West Virginia Department of Environmental Protection  
601 57<sup>th</sup> St SE  
Charleston, WV 25304  
Telephone: (304) 926-0440  
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3. Upon receipt of the grievance, the WVDEP's Non-Discrimination Coordinator (or her/his designee) shall determine whether the grievance meets the four jurisdictional factors for investigation. Should the WVDEP Non-Discrimination Coordinator determine that the WVDEP cannot accept jurisdiction of the grievance for investigation, a notice informing the Grievant(s) of this decision shall be provided in writing within 30 days of the grievance filing. Alternatively, should the WVDEP Non-Discrimination Coordinator decide to accept the grievance for investigation, a notice informing the Complainant(s) of this decision shall be provided in writing within 30 days of the grievance filing.
4. When a grievance is accepted for investigation, the investigation shall be prompt and fair (in accordance with 40 C.F.R. 7.90(a)), affording all interested persons an opportunity to submit evidence relevant to the allegations at issue. The WVDEP Non-Discrimination Coordinator shall maintain the WVDEP's files and records with respect to the grievance for a period of no less than five years. To the extent possible, and in accordance with applicable law, the WVDEP Non-Discrimination Coordinator shall take appropriate steps to preserve the confidentiality of the files and records relating to grievances and shall only share them with those on a need-to-know basis.
5. The availability and use of this WVDEP grievance procedure shall not preclude a Grievant from pursuing other legal or administrative remedies, including, but not limited to, filing a complaint of discrimination on the basis of race, color, national origin, sex, age, and/or disability with another state or federal entity, in court, or with the EPA at:

U.S. Environmental Protection Agency  
Office of External Civil Rights Compliance (OECRC)  
1200 Pennsylvania Avenue, NW  
Mail Code 2310A  
Washington, DC 20460

The EPA Office of External Civil Rights Compliance (OECRC) may also be reached by e-mail at [Title\\_VI\\_Complaints@epa.gov](mailto:Title_VI_Complaints@epa.gov) or by fax at (202) 565-0196. More information is available at <https://www.epa.gov/external-civil-rights/filing-discrimination-complaint-against-recipient-epa-funds#Where>.

Please note that the WVDEP grievance procedure does not stay or suspend any timeliness requirements of other federal or state complaint processes and/or the remedies being sought. For example, complaints to the EPA must be filed within 180 days of the date of the alleged discrimination.

6. The WVDEP's Non-Discrimination Coordinator shall make appropriate arrangements to ensure that individuals with disabilities and/or with limited English proficiency are provided auxiliary aids and services or language assistance services, respectively, at no cost to the individual(s), if needed to participate in the grievance process. Please see the WVDEP's Limited English Proficiency Plan (which can be found at this link [INSERT URL](#)) and the WVDEP's Disability Access Plan which can be found at this link [INSERT URL](#)

URL). Such arrangements may include, but are not limited to, providing qualified interpreters, or assuring a barrier-free location for interviews conducted pursuant to the investigation of the grievance. Any person who needs such arrangements may contact the WVDEP's Non-Discrimination Coordinator directly. The WVDEP Non-Discrimination Coordinator shall ensure that the WVDEP provides such arrangements free of charge to the individual(s), and in accordance with applicable policies and regulations.

7. No Grievant shall be intimidated, harassed, threatened, retaliated against, or coerced by the WVDEP or its staff because the person has filed a grievance or otherwise participated in any manner in the grievance process.
8. At the conclusion of the investigation, the WVDEP Non-Discrimination Coordinator shall issue a written decision on the outcome of the WVDEP's investigation of the grievance allegations, no later than 60 days after the filing of the grievance, including whether any discrimination was found, a description of the steps the WVDEP took during its investigation, and a notice to the Grievant(s) of their right to pursue further administrative appeal or legal remedies.
9. Should findings of discrimination or noncompliance with the WVDEP's nondiscrimination obligations be identified during the investigation:
  - a. The Director, Deputy Director, or Division Management of the WVDEP Program at issue shall:
    - i. Submit a written response to the findings of discrimination and/or noncompliance, to include a plan of action to address any recommendations for corrective action.
  - b. The WVDEP Non-Discrimination Coordinator shall:
    - i. Monitor progress of the action items being implemented to address the recommendations for corrective action as identified in the written decision.
    - ii. Maintain confidentiality of the identity of the Grievant(s), when possible or practicable.
    - iii. After all corrective action measures have been successfully implemented, the WVDEP shall issue a written notice to the WVDEP Program at issue, acknowledging completion of the identified plan of action and subsequently, closing out the investigation.

10. The WVDEP Non-Discrimination Coordinator shall ensure the periodic (or annual) review of these Grievance Procedures (for both in-print and online materials), and revise as necessary, to ensure prompt and fair resolution of the discrimination grievances.