

<b>CalEPA Policy Memorandum</b>	<b>NUMBER:</b> OPM A-23-01
<b>SUBJECT:</b> CIVIL RIGHTS POLICY AND DISCRIMINATION COMPLAINT PROCESS	<b>DATE ISSUED:</b> April 17, 2023
<b>CATEGORY:</b> ADMINISTRATIVE	<b>EXPIRES:</b> UNTIL RESCINDED
<b>REFERENCES:</b> <a href="#">Title VI, Civil Rights Act of 1964</a> , 42 U.S.C. § 2000d-2000d-7; <a href="#">Section 504 of the Rehabilitation Act of 1973</a> , 29 U.S.C. § 794-794a; <a href="#">Age Discrimination Act of 1975</a> , 42 U.S.C. §§ 6101-6107; <a href="#">Sec. 13 of the Federal Water Pollution Control Act Amendments of 1972</a> , 33 U.S.C. § 1251, 1281 (Clean Water Act); <a href="#">40 C.F.R. Part 7</a> (§§ 7.10-7.180); <a href="#">Title IX of the Education Amendments of 1972</a> (20 U.S.C. § 1681-1688); <a href="#">40 C.F.R. Part 5</a> (§§ 5.100-5.605); <a href="#">Cal. Const., Art. 1, § 31</a> ; <a href="#">Gov. Code, §§ 11135 et seq., 11139.8</a> ; <a href="#">Cal. Code Regs., tit. 2, §§ 11140-11200</a> ; <a href="#">State Contracting Manual (SCM), Vol. 1</a> , § 4.03; and <a href="#">SCM, Vol. 2</a> , §§ 1403.3, 1508.	

**A. POLICY STATEMENT**

The California Environmental Protection Agency, Office of the Secretary’s (CalEPA) policy is to provide fair and equal access to the benefits of a program or activity administered by CalEPA. CalEPA will not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by CalEPA. Members of the public who believe they were unlawfully denied full and equal access to a CalEPA program or activity may file a civil rights complaint with CalEPA under this policy. This nondiscrimination policy also applies, to the full extent authorized by law, to entities, including contractors, subcontractors, or grantees that CalEPA utilizes to provide benefits and services to members of the public.

**B. DEFINITIONS**

Complainant: Individual(s) or other interested parties filing a civil rights complaint under this policy.

Discrimination: The unlawful denial of fair and equal access to a program or activity offered, conducted, or administered by CalEPA based on a protected class.

“Denial of Fair and Equal Access” includes:

1. The denial of any program benefit.
2. Providing a different level of benefits than provided to other program users.
3. Restricting the benefit or advantage of any program in a manner dissimilar to restrictions placed on other program users without a protected characteristic.
4. Subjecting a person to segregation or separate treatment related to receiving the benefits of the program.

5. Denial to any person, or group of people, the opportunity to participate as a member of any planning or advisory body otherwise open to the public in some fashion and,
6. Using criteria or methods of administering its program with the effect of discriminating against a user, or potential user, of the program offered by CalEPA.

Protected class: A characteristic of a person which cannot be targeted for discrimination, including sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, gender identity, gender expression, or sexual orientation.

### **C. RESPONSIBILITY**

CalEPA's Secretary for Environmental Protection (Secretary) will have final authority and responsibility for compliance with this policy.

CalEPA's Civil Rights Officer, on behalf of the Secretary, will coordinate this policy's implementation within CalEPA. The Civil Rights Officer coordinates compliance efforts and receives inquiries concerning non-discrimination requirements.

### **D. COMPLAINT PROCEDURE**

A civil rights complaint may be filed against CalEPA, or other entities affiliated with CalEPA, including contractors, subcontractors, or grantees that CalEPA utilizes to provide benefits and services to members of the public.

#### **1. Timeline for Filing a Complaint**

The complainant must file their complaint within three years of the alleged discrimination. This three-year time limit may be extended if the complainant, based upon the exercise of reasonable diligence, could not have obtained knowledge of the facts of the alleged violation within the three-year time limit.

CalEPA encourages complainant to consult with an attorney to ensure any statutory time constraints, necessary to pursue any legal remedies available to the complainant outside of CalEPA's process for addressing complaints of discrimination, are met.

#### **2. Submitting the Complaint Form**

To initiate a complaint, the complainant must complete CalEPA's Civil Rights Complaint Form, attached to this policy, and send it to CalEPA's Civil Rights Officer within the time period discussed above. Email the completed Civil Rights Complaint Form to CalEPA's Civil Rights Officer at [civilrights@calepa.ca.gov](mailto:civilrights@calepa.ca.gov).

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The complaint must provide in writing:

- a. The complainant's current contact information, including telephone number and address, and, if applicable, the contact information for complainant's authorized representative.<sup>1</sup>
- b. The identity of the program or activity administered by CalEPA that committed the alleged discriminatory act(s) or omission(s), whether that be CalEPA, a contractor, subcontractor, or grantee, and whether complainant has filed their complaint with any State or Federal Agency.
- c. Whether complainant alleges that they have experienced discrimination and/or retaliation and the protected class of the person, group, or people subjected to the alleged discrimination.
- d. A detailed description of the alleged act(s) or omission(s) the complainant believes is discriminatory.

### 3. Investigation

CalEPA's Civil Rights Officer, or a designee, may contact complainant or their authorized representative with follow-up questions to collect all facts necessary to resolve the complaint. The Civil Rights Officer, or a person directed by the Civil Rights Officer, will conduct a prompt, neutral, and thorough investigation into the allegations. CalEPA does not waive any statute of limitations that may apply as CalEPA works with the complainant to resolve the complaint.

### 4. Determination

The Civil Rights Officer will review the facts presented and collected and reach a determination on the merits of the complaint based on a preponderance of the evidence. The Civil Rights Officer will inform the complainant in writing when CalEPA has reached a determination on the merits of the discrimination complaint, unless the complainant's contact information was unavailable (e.g., anonymous complaint or contact information not updated).

## **E. OTHER REMEDIES**

Where the complainant has articulated facts that do not appear discriminatory under this policy but warrant further review, the Civil Rights Officer, in their discretion, may forward the complaint to a party within CalEPA for action. The Civil Rights Officer will inform the complainant, either verbally or in writing, before facilitating the transfer.

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<sup>1</sup> CalEPA will accept anonymous complaints and will investigate them to the fullest extent possible. Submission of an anonymous complaint, however, may impede CalEPA's ability to collect facts necessary to resolve the complaint.

This complaint procedure is not intended as a prerequisite to seeking judicial or other relief, nor is it intended to foreclose a complainant from seeking judicial or other relief.

The following alternative complaint procedures are also available:

1. The California Civil Rights Department (CRD) has a Complaint Process for complaints of discrimination involving state funded programs. To begin the process, an intake form can be filed in one of three ways:
  - Online by creating an account and using CRD's interactive [Cal Civ Rights System, CCRS](#)
  - By mail using a printable [intake form](#)
  - By calling using information on CRD's [contact us](#) page

More information on how to file a complaint with the CRD can be found on the CRD [Complaint Process](#) webpage.

2. Complaints of discrimination against recipients of federal funding, such as CalEPA, may also be mailed, emailed or faxed to the United States Environmental Protection Agency (US EPA) to the following:
  - Mail: U.S. Environmental Protection Agency  
Office of External Civil Rights  
Mail code 2310A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460
  - Email: [Title\\_VI\\_Complaints@epa.gov](mailto:Title_VI_Complaints@epa.gov)
  - Fax: (202) 565-0196

More information on how to file a complaint with the US EPA can be found on the US EPA [Filing a Discrimination Complaint Against a Recipient of EPA Funds](#) webpage.

## **F. CONFIDENTIALITY**

CalEPA strives to protect the confidentiality of the complainant and all participants in the civil rights complaint process to the greatest extent possible and as authorized by law. The nature of this process does not permit absolute confidentiality. The Civil Rights Officer may release information as necessary to resolve this complaint. Also, if in the course of reviewing and investigating a complaint, CalEPA learns of information that so warrants, CalEPA reserves the right to initiate a separate personnel investigation and to release information provided during the complaint process to appropriate CalEPA personnel and outside parties including the State Personnel Board in connection with any such personnel investigation or proceeding.

### **G. RETALIATION PROHIBITED**

CalEPA will not tolerate retaliation against a complainant or a participant in the complaint process. Anyone who believes that they have been subject to retaliation in violation of this policy may file a complaint of retaliation with CalEPA following the procedures outlined in this policy.

### **H. QUESTIONS AND ALTERNATE FORMATS**

If you require this document to be made available in an alternate format (i.e., Braille, large print) or another language or for any other questions regarding this policy, please contact CalEPA's Civil Rights Officer by email at [civilrights@calepa.ca.gov](mailto:civilrights@calepa.ca.gov).



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Yana Garcia  
Secretary for Environmental Protection

Attachment: CalEPA Civil Rights Complaint Form