

TITLE VI/NONDISCRIMINATION AND AMERICANS WITH DISABILITIES ACT (ADA) PROGRAM

2021 External Civil Rights Training

Section 1 of the External Civil Rights Manual

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LEARNING OUTCOMES

At the end of this training participants will be able to:

- Define Title VI/Nondiscrimination and Americans with Disabilities Act (ADA)
- Explain the roles, requirements and responsibilities of the Federal Transportation Administration (FTA), Federal Highway Administration (FHWA), North Dakota Department of Transportation (NDDOT), and subrecipients.
- Recognize Title VI/nondiscrimination and ADA complaints and the complaint process.

WHAT IS TITLE VI/NONDISCRIMINATION?

- Discrimination
 - prejudiced or prejudicial outlook, action, or treatment
 - racial discrimination; the act, practice, or an instance of discriminating categorically rather than individually (Merriam-Webster.com)
- Title VI/nondiscrimination is part of the Civil Rights Act of 1964.
- Nondiscrimination in Federally Assisted Programs & Activities
 - Prevent acts against persons based solely on race, color, national origin, sex, age, disability in any program or activity receiving Federal financial assistance from FHWA under 23 USC or FTA.

THE AMERICANS WITH DISABILITIES ACT (ADA)

- The Americans with Disabilities Act (ADA)
 - 1990 signed into law which prohibits discrimination against people with physical or mental disabilities in employment, transportation, public services, and public accommodations.
 - Title II-Public Services-Required to provide equal opportunity to individuals with disabilities to services, telecommunications, and transportation. e.g., accessibility to buildings, Paratransit.
- Section 504 of the 1973 Rehabilitation Act
 - Prohibits discrimination on the basis of disability in Federally Assisted Programs.

TITLE VI/NONDISCRIMINATION AND ADA PURPOSE AND INTENT

- Purpose is to make sure public funds are not spent in a manner that encourages, subsidizes, perpetuates, or results in discrimination.
- Eliminates barriers and conditions that prevent protected groups and persons from receiving access; participation and benefits from Federally-assisted programs, services and activities.
- Ensure complaints filed under Title VI/nondiscrimination and ADA are processed in accordance to established complaint procedures.

US DOT 1050.2A ASSURANCES

- DOT 1050.2A is an assurance
 - Comply with Title VI and other Nondiscrimination provisions
 - Include Title VI provisions in its contracts
- Appendix A and E required in all contracts and tiers.
 - **Appendix A- All contracts**
 - Appendix A(5)(a&b)- Sanctions for noncompliance regarding nondiscrimination provisions of contract
 - Appendix B- Deeds transferring United State property
 - Appendix C- Transfer of acquired or improved real property
 - Appendix D- Construction and use or access to real property
 - **Appendix E- Important Nondiscrimination Authorities.**

TITLE VI/NONDISCRIMINATION AND ADA IMPLEMENTATION PLAN

- **What**-NDDOT's process document outlining the Title VI/Nondiscrimination and ADA program
- **When**-Every five years implementation plan submitted to FHWA.
- **Why**- To ensure compliance with nondiscrimination. It gives NDDOT employees, recipients, sub recipients, and members of the general public easy to understand Title VI program.
- **Who**-NDDOT is responsible for submitting a Title VI nondiscrimination and ADA Implementation Plan to FHWA.

PUBLIC INVOLVEMENT PLAN

- NDDOT's Public Involvement Plan is a requirement to protect the public interest, and
 - Ensures compliance at all levels
 - Ensures everyone has the opportunity to comment on transportation programs and activities.
 - Requires a Data Collection Process for analysis of the program.
 - Provides for Access to programs, services, activities
 - Utilizes Request for Reasonable Accommodations for disabilities or language assistance
 - Utilizes telephonic Interpreter Service for language assistance

TITLE VI AND ADA COMPLIANCE

- What is ND DOT's role?
- Recipient-Entity or person who directly receives Federal financial assistance subjecting them to Title VI compliance (23CFR 200.5(n))
- Develop procedures, activities, implement and monitor program
- Title VI specialist are to be identified and are seen as the hub of the program;
- The director of NDDOT is held responsible for implementation of Title VI requirements (23 CFR 200.9)

TITLE VI AND ADA COMPLIANCE

- What is subrecipient's role?
- Subrecipient –Entity or person who indirectly receives Federal financial assistance subjecting them to Title VI compliance (23 CFR200.5(n))
- Subrecipients are required to complete Federal-aid project actions in accordance with all applicable Federal requirements. (23 CFR 635.105 (c)(2))

WHAT IS SUBRECIPIENT'S ROLE?

- Signed Assurances
 - Failure or refusal to furnish required assurance is grounds for termination, refusal to grant or continue Federal financial assistance. (49 CFR 21.13(b)&9c)
- Methods of Administration
 - Have procedures, policies, actions and mechanisms to provide reasonable guarantee for Title VI compliance

TITLE VI AND ADA COMPLIANCE

- Procedures to ensure Title VI contract provisions are included in Federally-funded contracts regardless of tier (Appendix A of USDOT order 1050.2A)
 - Nondiscrimination in selection and retention of subcontractors, procurement of materials and leases of equipment
- Project Engineers: Monitor's contractors for compliance
 - Prime Contractors Request to Sublet-signed receipt of App A&E
 - Prime Consultants Request to Sublet-signed receipt of App A&E

TITLE VI AND ADA NONCOMPLIANCE

- Consequences could be suspension or termination of Federal financial assistance and/or refusal to grant or continue Federal financial assistance
- What to do if you suspect noncompliance
 - Notify Assistant District Engineer (ADE)

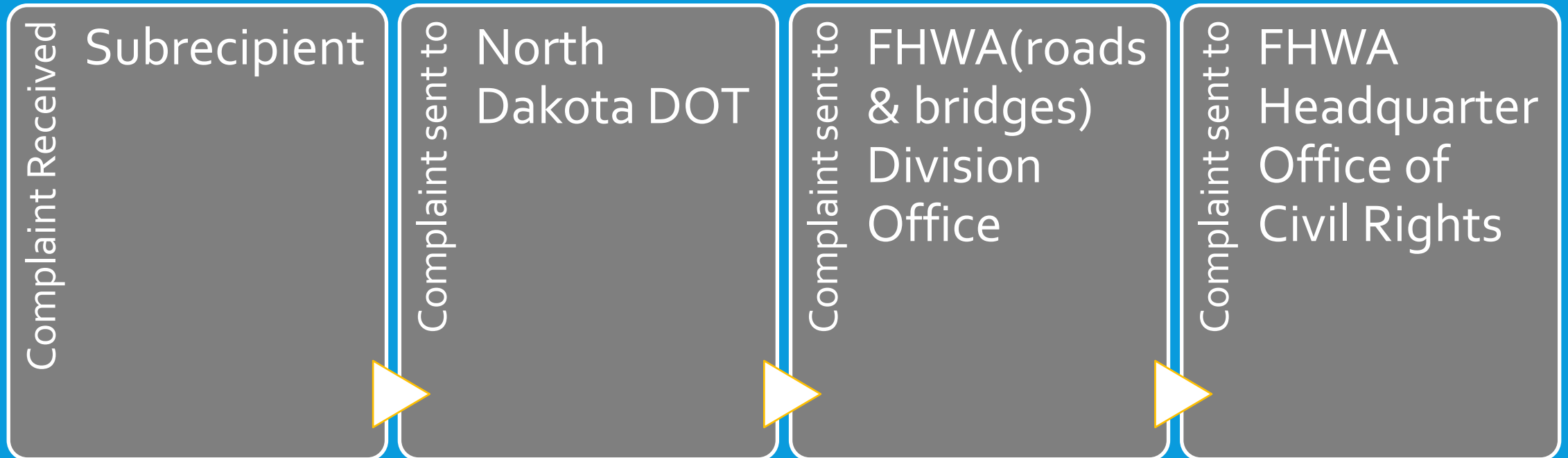
COMPLAINT OF DISCRIMINATION

- What is a complaint?
 - Allegation of wrongdoings for which attention, resolution, redress or any other corrective action may be sought.
- Civil Rights complaint
 - Refers to an unlawful, unfair or unequal treatment or impact to an individual (or group) based on certain distinguishing characteristics.

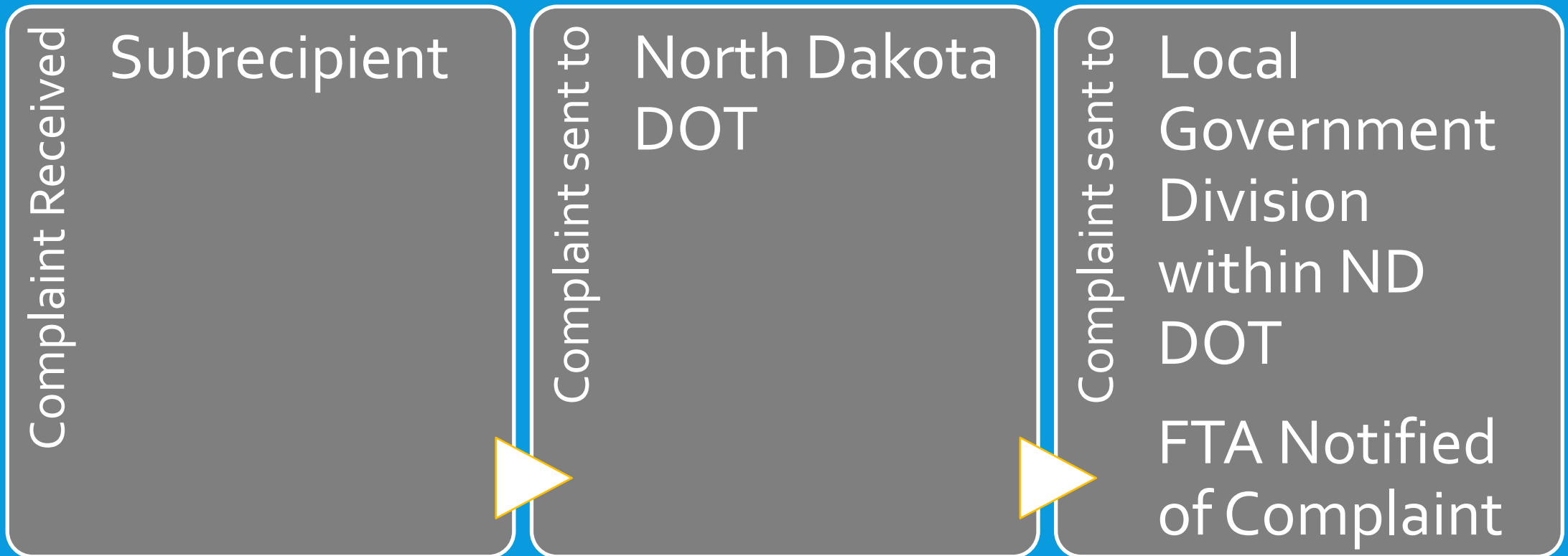
EXTERNAL COMPLAINT OF DISCRIMINATION

- Right to file a Complaint with one of the following: NDDOT, FHWA, FTA, USDOT, USDOJ, Subrecipient (e.g., city, MPO)
- 180 calendar days unless filing date extended by FHWA
- NDDOT's external complaints of Discrimination form
- Available in English at www.dot.nd.gov/forms/sfn51795.pdf
- Available in Spanish at www.dot.nd.gov/forms/sfn51795S.pdf

HOW ARE FHWA COMPLAINTS PROCESSED?



HOW ARE FTA COMPLAINTS PROCESSED?



EXTERNAL COMPLAINT OF DISCRIMINATION

- Observe or receive verbal report of discriminatory activity?
 - Notify ADE immediately
 - Record notes in your diary
 - Contact Civil Rights Division 701-328-2978 or email civilrights@nd.gov
- Be aware of behavior and language on the jobsite
 - The public is watching so set a good example!

EXTERNAL COMPLAINT EXAMPLES

- What are examples of external complaints?
- Title VI/Nondiscrimination
 - Making negative/derogatory comments regarding minorities on a work site
 - Commenting on a person's disability as they pass by a work site
- ADA
 - Bus drivers passing by riders using wheelchairs waiting at a bus stop
 - Personnel refusing to allow a rider's service animal in a station or on a vehicle
 - Vehicle operators not announcing stops or identifying routes

WHAT DOES NOT CONSTITUTE AN EXTERNAL COMPLAINT?

- Title VI/Nondiscrimination
 - An anonymous complaint
 - Inquiries seeking advice or information
 - Newspaper articles (e.g. FYIs)
- ADA
 - Comfort while riding(e.g., driving style)
 - Lack of or limited fixed route service (e.g., not serving a particular location or limited evening or weekend service)

TITLE VI/NONDISCRIMINATION AND ADA PROGRAM

- Permeates all the divisions of the ND DOT including:
 - Planning
 - Project Development
 - Right-of-Way
 - Construction & Construction Related
 - Local Government

TITLE VI/NONDISCRIMINATION AND ADA SUMMARY

- Title VI/nondiscrimination and ADA is not a threat-It's an opportunity.
 - Gives serious attention to the effects of transportation decisions on the people and communities.
- More than just paperwork it's our Civic duty
- Moral and Ethical-Treat others like you would want to be treated!
- IT IS THE RIGHT THING TO DO!!!!!!!!!!

REVIEW OF LEARNING OUTCOMES

- Discussed the definition, purpose and intent of Title VI/nondiscrimination and ADA.
- Explained the roles, requirements and responsibilities of FHWA,FTA, State DOT's and subrecipients with Title VI/nondiscrimination and ADA.
- Title VI and Title II complaints and the complaint process reviewed.

RESOURCES

- Federal-aid Essentials For Local Public Agencies
<http://www.fhwa.dot.gov/federal-aidessentials/catmod.cfm?category=civilrig>
- USDOJ Title VI Overview website, [Title VI Of The Civil Rights Act Of 1964 42 U.S.C. § 2000d Et Seq. \(justice.gov\)](http://www.justice.gov/civilrights/titlevi)
- Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs, June 1996 – A Report of the U.S. Commission on Civil Rights
<http://catalog.hathitrust.org/Record/003102564>
- [dot_order_1050_2a_standard_dot_title_vi_assurances \(faa.gov\)](http://www.faa.gov/air_traffic/tfaa/dot_order_1050_2a_standard_dot_title_vi_assurances)
- [Civil Rights/ADA | FTA \(dot.gov\)](http://www.dot.gov/civilrights/ada_fta)

QUESTIONS, CONCERNS, COMMENTS SUGGESTIONS?

- Contact Atiana Beck, Title VI/ADA Program Administrator
- NDDOT Civil Rights
- atbeck@nd.gov
- 701-328-2978

REFERENCES

- Title VI: Nondiscrimination in the Federal-Aid Program Powerpoint- 2018 MINK Workshop Des Moines, IOWA Mohamed Sulaiman Dumbuya
- [Discrimination | Definition of Discrimination by Merriam-Webster \(merriam-webster.com\) retrieved 2/18/2021](#)
- [Discrimination – Wikipedia retrieved 2/18/2021](#)
- [FTA Circular 4710.1 - Americans With Disabilities Act Guidance \(dot.gov\) retrieved 2/23/2021](#)
- [Americans with Disabilities Act \(ADA\) Overview and Authorities - Civil Rights | Federal Highway Administration \(dot.gov\) Retrieved 2/23/2021](#)
- [FTA Circular 4702.1B: Title 6 Requirements and Guidelines for Federal Transit Administration Recipients \(dot.gov\) Retrieved 2/23/2021](#)