

# COMPLAINT RESOLUTION PROCEDURE TO ENSURE NON-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES PARTICIPATED IN BY THE CITY OF AUSTELL, GEORGIA

## *Purpose, Scope, and Responsibilities*

### **Purpose**

This procedure covers all formal complaints and informal charges filed by an individual or group of individuals under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Civil Rights Restoration Act of 1987, and the Americans With Disabilities Act of 1990, relating to any program or activity administered by the City of Austell as to sub-recipients, consultants, and contractors. Intimidation or retaliation of any kind is prohibited by law. These procedures do not deny the right of the complainant to file formal complaints with other state or federal agencies, or to seek private counsel.

### **Definitions**

An informal charge is defined as any verbal or written communication received by customer service staff from members of the public referencing a general complaint regarding the inequitable distribution of benefits, services, amenities, programs or activities financed in whole or in part with federal funds.

A formal complaint is defined as any written complaint of discrimination on the basis of race, color, national origin or sex filed by an individual or group; signed by the complaining party on the City of Austell's complaint form seeking to remedy perceived discrimination by facially neutral policies, practices or decisions, which have an adverse impact which resulted in inequitable distribution of benefits, services, amenities, programs or activities finance in whole or in part with federal funds. Such complaints include, but are not limited to, allegations of:

- Failing to provide comparable services.
- Policies and practices that act as arbitrary and unnecessary barriers to equal opportunity.
- Denied opportunity for equitably participation.
- Provision of fewer services or benefits and/or inferior services or benefits to members of a protected group.
- Differential exposure of protected groups to environmental hazards.
- Patterns of disparate treatment.
- Disproportionate adverse effects on social and economic parameters (for example, access to services, healthcare facilities, employment opportunities and community cohesion).

This procedure explains each stage of the complaint processing process for formal and informal Title VI charges, communicates the rights and responsibilities of the complainant, and states the responsibilities of the City of Austell.

Informal charges and formal complaints should be filed within 180 calendar days of the event which forms the basis of the claim; of if the concern is an ongoing one, the charge/complaint should be filed within 180 calendar days of the last occurrence.

This procedure does not preclude the right of any Complainant to file complaints directly with the Federal Highway Administration, or to seek private legal representation.

The time required to process investigations will vary depending on the complexity of the issue; however, every effort will be made to ensure a speedy resolution of all complaints at the lowest possible level within 60 business days.

The option of informal mediation meeting(s) between the affected parties may be utilized for resolution.

Compliance with Title VI is the responsibility of every City of Austell employee. Austell Public Works is responsible for compliance, monitoring and reporting, investigation, and program administration. However, each department may be assigned a representative to handle such items.

### **Responsibility**

Austell Public Works is responsible for intake of informal Title VI charges and submission of those complaints to the appropriate department to handle resolution, follow up to ensure that resolution/proposed resolution occurs, and communicate specifics of the resolution/proposed resolution to Austell Public Works.

Austell Public Works is responsible for tracking the complaints to ensure that the affected department(s) has taken the recommended action to remedy any determination of discrimination and communicating findings to the Complainant. Austell Public Works is also responsible for reporting trends, action plans, and non-compliance to the Mayor and City Council.

## ***Processing Informal Charges***

### **Intake**

Intake of an informal charge is generated through communication, generally presented verbally to City of Austell staff.

Any City of Austell employee who receives an inquiry or complaint of this type shall direct the Complainant to report the concern directly to Austell Public Works by telephone at (770) 944-4325 via e-mail to [duane@austell.org](mailto:duane@austell.org), or by mail to 5000 Austell-Powder Springs Road, Suite 105; Austell, Georgia 30106.

Upon receipt of an informal charge, the charge shall be record in a database and number should be assigned to be used for tracking purposes. After input of the charge into its database, Austell Public Works shall promptly identify the appropriate department(s) to resolve the issue and forward the charge directly to that department's representative. The charge shall review the matter to determine Title VI applicability, enter the charge into Title VI Complaint database, investigate merits of alleged violations (if needed), and monitor response dates. If determination is made that the matter is outside the scope of Title VI, Austell Public Works will notify the Complainant within a reasonable period.

## **Processing of Charge and Resolution**

If the matter is determined to be within the scope of Title VI, the affected department's representative, within five business days of receipt, will forward the charge to the staff member most appropriate to address the issue. The affected department will consult with Austell Public Works and offer a proposed resolution. Within five business days of receiving written notification of a proposed resolution, representatives will offer suggestions, if any, to modify the proposed resolution. The affected department will communicate its written or verbal findings to the customer within 30 business days and explain any steps being taken to resolve the matter, and will forward copies of this communication to the affected department(s) and will update the database to include this information.

Every effort shall be made to process and resolve informal charges within 30 business days.

## **Appeal**

There is no right to appeal resolution of an informal charge. However, the party reserves the right to file a formal complaint within 180 business days.

## ***Processing Formal Complaints***

### **Intake**

Intake of formal complaints is generated through verbal or written communication of a concern presented to City of Austell staff. Any City of Austell employee who receives a complaint of this type will direct the complaint to Austell Public Works. Austell Public Works will provide a formal complaint form to the Complainant. Complainant must sign and submit the completed complaint form back to Austell Public Works.

### **Processing**

Austell Public Works shall review the matter to determine Title VI jurisdiction, determine if the matter merits investigation, and monitor response dates. A number shall be assigned for complaint tracking and enter the complaint into the Title VI Complaint database.

Jurisdiction will be determined based upon information provided in the written complaint. A complaint shall be investigated unless:

- It fails to state facts which could establish intentional unequal treatment as described in the Definitions section of this procedure.
- Complainant is not a primary beneficiary of the federal aid received by the City of Austell.
- If determination is made that the matter is outside the scope of Title VI, Austell Public Works will notify the affected department's representative in writing within a reasonable period.

## **Investigation, Determination, and Recommendation**

If jurisdiction is determined to exist and investigation is warranted, Austell Public Works will take the following steps:

- Identify the basis of the alleged unequal treatment.
- Ascertain when and where the alleged unequal treatment occurred.
- Identify and interview all relevant parties, review documents, and make site visits to obtain factual information.

Upon conclusion of a thorough investigation, the department's representative will prepare a report to summarize findings and suggest appropriate corrective action along with proposed resolution. The investigative report should be submitted to Austell Public Works within 50 business days. Austell Public Works will maintain a record of all discussions and retain all documents relating to the investigation in a confidential file.

## **Communication of Findings and Complaint Resolution**

Austell Public Works will accept, reject, or modify the investigative report and consult with the affected department to convey the preliminary findings and develop a proposal for resolution. Austell Public Works will prepare a written determination and submit the determination to the City Attorney for review and analysis of legal sufficiency. Once the final determination is ready for release, Austell Public Works and the City Attorney will meet with the representative of the affected department(s) to communicate the final determination and recommendations, if any, for corrective action. Austell Public Works will provide written notification to the Complainant of the investigation findings and the City of Austell proposed resolution, if any. Austell Public Works will forward copies of this communication to the affected department(s).

If cause is found to indicate a potential occurrence of non-compliance, Austell Public Works will communicate this information to the Mayor and City Council before releasing its findings to the complainant.

## **Appeal**

Austell Public Works will explain to the Complainant their right to appeal to the Federal Highway Administration or seek private legal representation.