

RESOLUTION #06032019-1

A RESOLUTION ESTABLISHING GRIEVANCE/COMPLAINT PROCEDURES FOR TITLE VI IMPLEMENTATION PLAN & POLICY

WHEREAS, in accordance with the requirements of Title VI of the Civil Rights Act of 1964, the City of New Castle hereby conforms to Title VI of the Civil Rights Act of 1964 (Title VI) and all related statutes, regulations, and directives, which provide that *no* person shall be excluded from participation in, denied benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation (USDOT) on the grounds of race, color or national origin;

WHEREAS, the City of New Castle does not discriminate on the basis of race, color, sex, disability, religion, age, veteran status or national or ethnic origin; in its hiring or any employment practices and complies with all regulations as outlined by the US Equal Employment Opportunity Commission and under Title I & II of the ADA;

WHEREAS, the State of Indiana requires municipalities to be in compliance with Title VI policy in order to receive federal monies that are directed through the State;

WHEREAS, the City Council desires to reinforce its practices of Title VI compliance with a policy manual and a grievance procedure;

WHEREAS, the City of New Castle has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any discriminatory action by the City of New Castle that is prohibited by the US Department of Justice regulations implementing Title VI of the Civil Rights Act of 1964;

WHEREAS, in the internal grievance procedure, *Executive Manager* is defined as the Mayor of the City of New Castle, the *Title VI Coordinator* is defined as the Human Relations Director, the *ADA Coordinator* is defined as the Director of Municipal Development & Planning and the *City Civil Director of Public Works and Safety* is defined as the same [City Civil Director of Public Works and Safety].

WHEREAS, after thoughtful consideration and in order to comply with the requirements of Title VI of the Civil Rights Act of 1964, the City of New Castle believes it is in the best interest of its citizens to adopt as its plan and its policy the grievance procedure set forth herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE, INDIANA, THAT:

1. The City of New Castle finds that it is necessary and serious to adopt a grievance procedure providing for prompt and equitable resolution of complaints alleging any discriminatory action by the City of New Castle that is prohibited by the United States Department of Justice regulations implementing Title VI of the Civil Rights Act of 1964.
2. In the City of New Castle's grievance procedure, the *Executive Manager* is defined as the Mayor of the City of New Castle.
3. The attached Title VI Grievance Procedures for the City of New Castle shall be adopted in its entirety by this Resolution.
4. The City of New Castle's Title VI Grievance procedure is as follows:

How to file a Title VI Complaint/Grievance

Any person who believes that he or she, individually, as a member of any protected class, or in connection with any disadvantaged business enterprise, has been excluded from participation in, denied benefits of, or otherwise subjected to discrimination under any City of New Castle service, program, activity, whether federally funded or not, may file a complaint under Title VI of the Civil Rights Act of 1964, as amended. It is the policy of the City of New Castle to comply with Title VI of the Civil Rights Act.

Step One: Complete the City of New Castle's Complaint/Grievance Form

Complaint forms can be found on the City's website (www.cityofnewcastle.net) or in the ADA/Title VI Coordinator's Office:

227 North Main Street
New Castle, Indiana 47362
Phone: 765-529-7605
Email: newcastlecoordinator@gmail.com
Fax: 765-521-6846

A grievance may be communicated in writing, by email, fax, telephone or in person, but *must* follow the format of the City of New Castle's complaint form in order to gather *all* pertinent information for complaint processing. A complaint may be submitted by a representative on behalf of another person.

Generally, a complaint should include pertinent information such as the *name, address and telephone number of the individual complaining (complainant) and a brief description of the alleged discriminatory conduct including the date, place of harm and any witnesses.*

Also, *the full name and address of the 'respondent'* - the person, agency, department, or program that allegedly discriminated against the complainant, is needed. An individual submitting a complaint alleging discrimination may also include any relevant evidence, including the names of witnesses and supporting documentation. If a form is deemed incomplete, additional information will be requested, and the requested information must be submitted within 30 calendar days. Failure to respond within *30 calendar days* may result in an administrative closure of complaint.

Additionally, at some point, the complaint *must* be reduced to writing and the complainant *must* sign an original copy of the completed complaint form in order for the City to begin the complaint process. A complainant's identity shall be kept confidential *except* to the extent necessary to conduct an investigation. All complaints shall be kept confidential.

A grievance concerning the **accessibility** of the City of New Castle's services, programs or activities should be addressed to the **ADA Coordinator**.

All other complaints alleging discrimination by the City of New Castle and its employees should be addressed to the **Title VI Coordinator**.

Note: It is the policy of the City of New Castle to comply with Title VI of the Civil Rights Act, to conduct a prompt and impartial investigation of all allegations of discrimination, and to take prompt effective corrective action when a claim of discrimination is substantiated.

Retaliation: No one may intimidate, threaten, coerce or engage in other discriminatory conduct against anyone because they have taken action, or participated in an action to secure rights protected by the civil rights laws. The City of New Castle, Indiana prohibits retaliation or intimidation against anyone because that individual has either taken action or participated in action to secure rights protected by policies of the City. Please inform the Title VI Coordinator if you feel you were intimidated or experience perceived retaliation in relation to filing this complaint.

Step Two: Acknowledgment

A grievance should be filed within 180 days of the grievant party becoming aware of the alleged violation. For **ADA** issues, the ADA Coordinator will send an acknowledgment of receipt of the complaint upon receipt (within seven (7) days), review and respond to the completed form within fifteen (15) working days.

For 'all' other discriminatory issues, the Title VI Coordinator shall review the completed form, acknowledge receipt of the complaint and respond within fifteen (15) working days.

Step Three: Processing & Informal Resolution

Following the filing of a grievance and the review of the form, the Title VI Coordinator shall examine deadlines, establish jurisdiction and determine whether, and to what extent, an investigation of the grievance is warranted. The Title VI Coordinator, or designee, shall speak with the complainant about the grievance and possible resolutions, if applicable.

If any complaint warrants a full investigation (finding of a substantiated complaint), the Title VI Coordinator will conduct a full investigation within *60 calendar days* of receipt of the completed complaint, and the Complainant will be notified in writing by certified mail. This notice will name the investigator and/or investigating agency.

Also, the party alleged to have acted in a discriminatory manner will also be notified by certified mail as of the complaint. This letter will also include the investigator's name and will request that this party (the respondent) be available for a possible interview or to write a position statement in order to respond to all aspects of the complaint's allegations and to state his or her position.

In the case of a *property or access* issue, any resulting investigation shall be conducted by the *ADA Coordinator or his/her designee*. If appropriate, the ADA Coordinator will arrange to meet with the grievant to discuss the matter and attempt to reach an informal resolution. The Title VI Coordinator will monitor the ADA investigation.

If the complaint is against the City's *ADA/Title VI Coordinator*, the Director of Public Works and Safety will investigate the complaint, and forward a copy of the complaint to the *City's Attorney* for recommendations.

Any informal resolution of a grievance shall be documented in the Title VI Coordinator/ADA Coordinator's file/log, and the case will be closed. [Complaints that fall outside of the City's jurisdiction will be referred to the appropriate governmental entity, logged as such, and the complainant will be duly notified.]

Additionally, the Title VI Coordinator will inform the Indiana Department of Transportation (INDOT) of *any* referrals, *all* complaints/investigations, and its subsequent findings and resolutions (informal/formal) within *30 days* of a completed complaint form and at the time of resolution.

RESOLUTION/CORRECTIVE ACTIONS FOR COMPLIANCE:

If the Title VI Coordinator recommends corrective action, the Coordinator will give the respondent/department *30 calendar days* to inform the Title VI Coordinator of the actions taken for compliance. Corrective action may include actions that the respondent/department will complete at a future date beyond the initial 30 days to respond, and the plan must include specific timeframes in which the respondent will complete the action.

The Title VI Coordinator shall monitor and log the respondent's corrective action compliance. (*Noting*, the Title VI Coordinator may have to work in conjunction with the ADA Coordinator, the City Director of Public Works and Safety and other City Department Heads to resolve complaints.)

Note: In the case of sub-contractors, if the respondent/sub-contractor has *not* taken the recommended corrective action within the *30-day* period allowed, the Coordinator will deem the respondent/subcontractor to be in *noncompliance* with Title VI and its implementing regulations. Noncompliance *not* corrected by informal means as described above may be subject to *sanctions* asked for under 49 CFR SS 21.13.

Step Four: Formal Resolution/Written Determination

If an informal resolution of the grievance is *'not'* reached in Step Three (3), within *60 calendar days* of receipt of the grievance, a written determination as to the validity of the complaint, and description of the resolution, if appropriate, shall be *forwarded* by the Title VI Coordinator/ADA Coordinator to the Executive Manager's Office and the Council to review for approval or direction.

Step Five: Final Determination and Resolution

The final written determination will include a description of the complaint, a summary of the investigation and the findings, and if appropriate, recommendations and resolutions/corrective actions. All parties will be properly notified of the outcome of the City's investigative report.

The Title VI/ADA Coordinator shall communicate the final determination and resolution to the grievant within *90 days* of the receipt of the complaint, *unless* the Executive Manager/City Council authorizes additional time for further consideration of the grievance. *Any* extension of time will be communicated to the grievant. *Any* request for reconsideration of the response to the grievance shall be at the discretion of the Executive Manager/City Council.

Further, these procedures are part of an administrative process that does *not* provide for punitive damages or compensatory remuneration for the complaint. However, the City will make every effort to facilitate voluntary and early resolution of complaints at the lowest level possible. The City may exercise the option of informal resolution at any stage of the process.

In regards to *ADA complaints*, the resolution of any specific grievance will require consideration of various circumstances, such as the specific nature of the complaint, the nature of the services accessed, programs or facilities at issue; the essential eligibility requirements for participation; the health and safety of others; disparate conditions, and the degree to which an accommodation/modification would constitute a *fundamental* alteration to the service, program or facility, or cause *undue* hardship on the City of New Castle.

Any resolution by the City of New Castle of any 'one' ADA grievance does '*not*' constitute a precedent upon which the City of New Castle is bound to, or upon which other complaining parties may rely.

Other discriminatory complaints will examine *potential* disparate conditions as well as more *intentional* acts of discrimination. Accordingly, *any* resolution by the City of New Castle of any 'one' grievance does '*not*' constitute a precedent upon which the City of New Castle is bound to, or upon which other complaining parties may rely.

If the grievant is *not* satisfied with the results of the investigation of the alleged discriminatory practice (s), she/he shall be advised of their *right to appeal* the City's decision. Appeals must be filed within seven (7) days after the City's final resolution. *Unless* new facts *not* previously considered come to light, reconsideration of the City's determination will *not* be available.

Use of the City of New Castle's grievance procedure is *not* a prerequisite to the pursuit of other remedies. The grievant may seek private counsel or file a complaint directly with the US Department of Justice (DOJ), Indiana Department of Transportation (INDOT) or other appropriate state or federal funding agency.

The foregoing complaint resolution procedure will be implemented in accordance with the Department of Justice guidance manual entitled "Investigation Procedures Manual for the Investigation and Resolution of Complaints Alleging Violations of Title VI and Other Nondiscrimination Statutes," available online at: <http://www.justice.gov/crt/about/cor/Pubs/manuals/complain.pdf>

Complaints may also be filed with the following government agencies:

US Department of Justice

Civil Rights Division
950 Pennsylvania Avenue, N.W.
Office of the Assistant Attorney General, Main Washington, D.C. 20530
(202) 514-4609
(TTY) (202) 514-0716

Indiana Department of Transportation

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

Indiana Civil Rights Commission 100 N.

Senate Ave., Room N103 Indianapolis, IN 46204
Toll Free: 1 (800) 628-2909
Hearing Impaired: 1 (800) 743-3336 Phone:(317)232-
2600
Fax:(317)232-6560

File Maintenance/Recordkeeping

The City of New Castle's ADA Coordinator and the Title VI Coordinator shall maintain their appropriate grievance files/logs for three (3) years, and the Title VI Coordinator shall maintain a yearly filing log with *all* dispositions.

This resolution shall become effective immediately 'from and after' its date of passage by the City Council and the signature of the Mayor;

All Resolutions or parts of Resolutions which are 'inconsistent' with this Resolution are hereby repealed to the extent of such inconsistency.

APPROVED AND ADOPTED THIS 3rd day of June, 2019.

Greg York, Presiding
Officer, Common Council, City
of New Castle, Indiana

ATTEST:

Christy York,
Clerk Treasurer

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NAY

APPROVED BY ME THIS 3rd DAY OF June, 2019.

Greg York, Mayor
City of New Castle, Indiana

ATTEST:

Christy York,
Clerk Treasurer

ATTACH A COPY OF TITLE VI COMPLAINT FORM