



City of Corning Procedures for Filing a Civil Rights Complaint

Purpose

Complaints under this part are limited to allegations of violation of the provisions of Title VI of the Civil Rights Act of 1964 (and related statutes as identified in Section 1-2) and Title II of the Americans with Disabilities Act of 1990 and/or Section 504 of the Rehabilitation Act of 1973. The procedures are designed to provide due process for complainants and respondents relating to discrimination in federally funded programs and services.

Nondiscrimination Statutes

- **Title VI of the Civil Rights Act of 1964**, 42 U.S.C. 2000d, provides: No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Section 504 of the Rehabilitation Act of 1973**, 42 U.S.C. 794, et seq., provides: No qualified disabled person shall, solely by reason of their disability, be excluded from participation in, be denied the benefits of, be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.
- **Age Discrimination Act of 1975**, 42 U.S.C. 6101, provides: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- **Federal Aid Highway Act of 1973**, 23 U.S.C. 324, provides: No person shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or

be subjected to discrimination under any program or activity receiving Federal assistance under this Title or carried on under this Title.

- **The Civil Rights Restoration Act of 1987**, P.L. 100-209, provides: Clarification of the original intent of Congress in Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. The Act restores the broad, institution-wide scope and coverage of the nondiscrimination statutes to include all programs and activities of Federal-aid recipients, sub-recipients, and contractors, whether such programs and activities are federally assisted or not.
- **Title II of the Americans with Disabilities Act of 1990**, 42 U.S.C. 12131, et seq., provides: No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or local government.

Complaint Policy and Procedure

It is the Policy of the **City of Corning** to not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by Title VI of the Civil Rights Act of 1964 (Title VI) and related statutes, Section 504 of the Rehabilitation Act of 1973 (Section 504), or Title II of the Americans with Disabilities Act of 1990 (ADA). Any person that believes they have been subjected to prohibited discrimination or prohibited retaliation may file a Civil Rights Complaint.

The **City of Corning** will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishment of the objectives of the program with respect to certified firms. Any person/s who believe they have been subjected to unlawful discrimination by being denied the benefits of, access to, or participation in the programs and activities, or services of the **City of Corning** funded through NYSDOT may file a complaint. The complaint may be filed by the individual or their representative.

Timeframe for Filing Complaints

Complaints are required to be filed within 180 days of the last date of the alleged discrimination, unless the time for filing the complaint is extended. An extension may

be granted under any of the following circumstances:

- a. The complainant could not reasonably be expected to know the act was discriminatory within the 180-day period, and the complaint was filed within 60 days after the complainant became aware of the alleged discrimination;
- b. The complainant was unable to file a complaint because of incapacitating circumstances during the 180-day period, and the complaint was filed within 60 days after the period of incapacitation ended;
- c. The complainant filed a complaint alleging the same discriminatory conduct within the 180-day period with another Federal, State or local civil rights enforcement agency, and filed a complaint with the NYSDOT's Office of Civil Rights within 60 days after the other agency completed its investigation or notified the complainant that no further action would be taken;

Processing Complaints

The **City of Corning** will follow the protocol below for reviewing a complaint:

1. Acknowledge receipt of the complaint.
2. Determine if the City has jurisdiction to review the complaint.
3. Schedule interviews, if considered necessary to resolve the complaint.
4. Determine if other public or private entities are involved.
5. Issue a preliminary review finding.
6. Issue a final review finding.
7. Issue corrective action recommendations.
8. Issue sanction recommendations

Complaints filed under Title VI with the **City of Corning** in which the **City of Corning** is named as the respondent will be forwarded to the NYSDOT's Office of Civil Rights, or the Federal Highway Administration Headquarters Office of Civil Rights or the Federal Transit Administration Headquarters Office of Civil Rights for investigation.

Title VI complaints filed directly with NYSDOT its subrecipients, vendors or contractors will be processed by NYSDOT in accordance with the approved complaint procedures as required under 23 CFR 200.9(b)(3).

Reviews of alleged violations commence within thirty (30) days of a complaint being received by the **City of Corning** to determine whether it contains all necessary information required for acceptance.

If the complaint is complete and no additional information is needed, the complainant will be sent a letter of acceptance.

If the complaint is incomplete, the complainant will be contacted in writing or by telephone to obtain the additional information. The complainant will be given 15 calendars days to respond to the request for additional information.

When the **City of Corning** has no jurisdiction over a complaint, the complaint will be referred to the appropriate agency. A referral letter will be sent to the appropriate agency along with the complaint and complaint related documents. A letter will be sent to the complainant stating that the complaint has been referred to another agency and that the **City of Corning** has completed a review and closed the complaint.

The **City of Corning** will strive to come to a complaint resolution within 90 days of receipt of the initial complaint.

Dismissals

A complaint may be dismissed for the following reasons:

1. The complaint was not filed in time;
2. The complainant failed to provide additional information required to process the complaint;
3. The complainant could not be contacted after reasonable attempts;
4. There is no statutory or alleged basis for the complaint, the **City of Corning** lacks jurisdiction in the matter, or the complainant does not allege any harm with regard to current programs or statutes;
5. The complaint has been investigated by another agency and the resolution of the complaint meets USDOT/FHWA regulatory standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT's standards;

6. The **City of Corning** obtains credible information at any time indicating that the allegations raised by the complainant have been resolved or are moot and there are no class-wide allegations or implications. In such a case, the **City of Corning** will attempt to ascertain the apparent resolution. If the **City of Corning** determines there are no current allegations appropriate for further complaint resolution, the complaint will be closed;
7. The complainant decides to withdraw the complaint. If the complaint included class allegations, the **City of Corning** may close out the entire complaint, pursue resolution of the class allegations, or use the information to target future compliance review activity;
8. The same complaint allegations have been filed with another Federal, State, or local agency, or through a respondent's internal grievance procedures, including due process proceedings, and the **City of Corning** anticipates that the respondent will provide the complainant with a comparable resolution process under comparable legal standards; e.g., all allegations were investigated, appropriate legal standards were applied, and any remedies secured meet USDOT's standards;
9. The **City of Corning** refers a complaint over which the **City of Corning** has jurisdiction to another agency that also has jurisdiction but may be better suited to conduct the investigation;
10. A complaint, because of its scope, may require extraordinary resources. In such instances, the **City of Corning** may consider treating such a complaint as a compliance review. Similarly, a compliance review may be the most effective means of addressing multiple individual complaints against the same respondent; or,
11. If the **City of Corning** selects this option, it should discuss the decision with the complainant, close the complaint, and initiate the review as soon as possible. The **City of Corning** should provide the complainant(s) with a copy of the resolution documents upon completion of the compliance review.

PART C: Complaint Details

Please check the appropriate box(es). Select the phrase that best represents what occurred.

DISCRIMINATION

i. I received negative comments, racial slurs, or other unwelcome remarks, or questions because of my: (select all that apply)

- Age
- Gender
- National Origin
- Race
- Religion
- Other

ii. I was denied equal access to: (select all that apply) because of my: (select all that apply)

- | | |
|---|---|
| <input type="radio"/> Contracting Opportunities | <input type="radio"/> Age |
| <input type="radio"/> Information | <input type="radio"/> Disability |
| <input type="radio"/> Programs | <input type="radio"/> Gender |
| <input type="radio"/> Public Transportation | <input type="radio"/> Limited English Lang. Proficiency |
| <input type="radio"/> Services | <input type="radio"/> National Origin |
| <input type="radio"/> Training | <input type="radio"/> Race |
| <input type="radio"/> Other | <input type="radio"/> Religion |
| | <input type="radio"/> Other |

In the space below, provide any other details regarding your complaint that you would like considered that have not already been addressed in this form.

PART C: Complaint Details- continued

HARASSMENT

i.

- I was:
- Harassed
 - Subjected to unfair worksite policies and practices
 - Subjected to unfair bidding practices
 - Other

ii.

I was sexually harassed because I: (select all that apply)

- was subjected to unwelcomed sexual advances and/or sexually-charged comments
- am/was exposed to sexually explicit pictures/posters posted in common and/or public areas.
- Other

In the space below, provide any other details regarding your complaint that you would like considered that have not already been addressed in this form.

LANGUAGE ACCESS

Regarding barriers to equal access, select all that apply to your experience: (select all that apply)

- Written information related to instructions, directions, or vital information was not available in my native language.
- Translation services I requested were not made available to me for live or recorded events, presentations, or trainings.
- I was denied an accommodation to enter a building, or to access a facility or room in the building.
- There were no signs conspicuously posted notifying me of wheelchair accessibility.
- Readers and/or interpreters for the blind and/or hearing impaired I requested were not provided to me.

PART C: Complaint Details- continued

In the space below, provide any other details regarding your complaint that you would like considered that have not already been addressed in this form.

ADA

I could not access public transportation, a public facility, or public right of way because: (select all that apply)

- Of physical barriers (e.g. improper ramps, lack of equipment or crossing aids, etc.).
- The bus did not have chair lifts or there was no bus-lowering mechanism.
- The sidewalks, roadways or public facility was not maintained to allow access.
- The paratransit bus schedule does not accommodate my activities of daily living.
- The bus routes do not sufficiently deviate from routes to accommodate me.
- The vehicles, shelters, and/or other facilities are not accessible to me.

In the space below, provide any other details regarding your complaint that you would like considered that have not already been addressed in this form.

PART C: Complaint Details- continued

FRAUD

- i. I witnessed a disadvantaged business enterprise (DBE), a minority or women owned (M/WBE), or a service disabled veteran owned (SDVOB) firm not performing the contractual commercially useful function (CUF) on a NYSDOT contract.

The firm is: _____

Contractual services that were to be performed include: _____

- Check this box to attach any documents or photos that substantiate your complaint.

- ii. I have not been paid promptly for the work I have performed as follows: (select one)

- I have not received any payments
- I have received some and/or partial payments
- I received full payments, but they are late
- I received partial payments and they are late

- iii. My payment is _____ days late. Attach the following documentation to this complaint:

- Check this box to attach the signed contract/ agreement between your firm and the Prime Contractor that outlines the scope of services and payment or reimbursement schedules for services or supplies.
- Check this box to attach documentation to support that your firm fulfilled its obligations on the project, e.g. signed delivery slips, payroll reports, etc.
- Check this box to attach documentation or communications from the Prime Contractor regarding any payment issues or reasons why you have not been compensated.
- If you received partial payments, check this box to attach a listing of the payment dates and amounts received.

- iv. My firm was negatively affected by a removal or substitution for an approved item of work for project: _____ Location: _____
(Project No.)

PART C: Complaint Details- continued

Attach the following documentation to this complaint:

- Check this box to attach documentation to support the original scope of the project.
- Check this box to attach documentation or communications from the Prime Contractor regarding why your firm's scope of work was being removed from the project or why your firm was being replaced with another firm.
- v.** A Prime Contractor did not negotiate a bid with me/my firm in good faith.
 - Check this box to attach any documents or other information that substantiates your complaint.

In the space below, provide any other details regarding your complaint that you would like considered that have not already been addressed in this form.

PART D: Additional Information

- i. Were there any witnesses to the action or inaction leading to your complaint?
Yes No Unknown

Please provide the name(s) and contact information for any witnesses: (if any)

- ii. Was this complaint filed with another agency? Yes No

Filed with: (select one): Local Entity
 Private Entity
 Human Rights Commission
 Department of Justice
 USDOT-FTA

- iii. Were you the recipient of intimidation or retaliatory actions because you filed a complaint?
Yes No

PART E: Complaint Submission

Sign the Complaint form: _____ Date: _____

Completed forms should be submitted to:

City of Corning
500 Civic Center Plaza
Corning, NY 14830
Attn: Jennifer Miller, Director, Planning & Economic Development