

# Civil Rights Policy and Discrimination Complaint Process

<b>Policy #:</b> 23-004	<b>Issue Date:</b> 05/01/2023	<b>Last Revision:</b>
<b>Attachments</b> <ul style="list-style-type: none"><li>• CalRecycle 118 – Civil Rights Compliant Form (link when posted)</li></ul>		
<b>References</b> <p><u>Federal Law:</u></p> <ul style="list-style-type: none"><li>• <a href="#">Title VI, Civil Rights Act of 1964</a>, 42 U.S.C. § 2000d-2000d-7 – Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin.</li><li>• <a href="#">Section 504 of the Rehabilitation Act of 1973</a>, 29 U.S.C. § 794-794a – Nondiscrimination under Federal grants and programs on the basis of disability.</li><li>• <a href="#">Age Discrimination Act of 1975</a>, 42 U.S.C. §§ 6101-6107 – Age discrimination in Federally assisted programs.</li><li>• <a href="#">Sec. 13 of the Federal Water Pollution Control Act Amendments of 1972</a>, 33 U.S.C. § 1251, 1281 (Clean Water Act)</li><li>• <a href="#">40 C.F.R. Part 7</a> (§§ 7.10-7.180) - Nondiscrimination in programs or activities receiving Federal assistance from the Environmental Protection Agency, implementing regulations for Title VI, § 504, Age Discrimination Act, and Section 13 obligations.</li><li>• <a href="#">Title IX of the Education Amendments of 1972</a> (20 U.S.C. § 1681-1688) – Nondiscrimination on the basis of sex or blindness.</li><li>• <a href="#">40 C.F.R. Part 5</a> (§§ 5.100-5.605) – Nondiscrimination on the basis of sex in education programs or activities receiving federal financial assistance.</li></ul>		

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## State Law:

- [Cal. Const., Art. 1, § 31](#) - Nondiscrimination by the state on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.
- [Gov. Code, §§ 11135](#) et seq.; [11139.8](#) – Nondiscrimination by any person in programs or activities funded by the state on basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation.
- [2 C.C.R., §§ 11140-11200](#) – Nondiscrimination in state-supported programs and activities.
- [State Contracting Manual, Vol. 1, § 4.03](#), and [Vol. 2, §§ 1403.3, 1508](#) – For IT and non-IT service contracts, requiring the State's terms and conditions be utilized.

## A. Policy Statement

The policy of CalRecycle is to provide fair and equal access to the benefits of all programs or activities administered by CalRecycle. Accordingly, CalRecycle does not tolerate discrimination against any person(s) seeking to participate in, or receive the benefits of, any program or activity offered or conducted by CalRecycle. Members of the public who believe they were unlawfully denied full and equal access to any CalRecycle program or activity may file a civil rights complaint with CalRecycle under this policy. This nondiscrimination policy also applies, to the full extent authorized by law, to entities, including contractors, subcontractors, or grantees that CalRecycle uses 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 CalRecycle 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.

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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 or activity offered by CalRecycle.

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

CalRecycle's Director will have final authority and responsibility for compliance with this policy.

CalRecycle's Civil Rights Officer, on behalf of the Director, will coordinate this policy's implementation throughout CalRecycle. The Civil Rights Officer coordinates compliance efforts and receives inquiries concerning nondiscrimination requirements.

### D. Complaint Procedure

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

#### 1. Timeline for Filing a Complaint

The Complainant must ensure that his or her complaint is timely. To be timely, all complaints must be filed with CalRecycle no later than 365 days after: The date of the alleged act of discrimination; or, the date when the Complainant became aware of the alleged discrimination; or, the date of the last discrimination, if the same conduct continued over a course of time.

CalRecycle 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 CalRecycle's process for addressing complaints of discrimination, are met.

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## 2. Submitting the Complaint Form

To initiate a complaint, the complainant must complete CalRecycle's Civil Rights Complaint Form (CalRecycle 118), attached to this policy, and send it to CalRecycle's Civil Rights Officer within the time period discussed above. Email the completed Civil Rights Complaint Form to CalRecycle's Civil Rights Officer at [CivilRights@CalRecycle.Ca.Gov](mailto:CivilRights@CalRecycle.Ca.Gov).

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 CalRecycle that committed the alleged discriminatory act(s) or omission(s), whether that be CalRecycle, a contractor, subcontractor, or grantee, and whether the 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

CalRecycle'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. CalRecycle does not waive any statute of limitations that may apply as CalRecycle works with the complainant to resolve the complaint.

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

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## 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 CalRecycle has reached a determination on the merits of the discrimination complaint.

## 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 CalRecycle for action. The Civil Rights Officer will inform the complainant, either verbally or in writing, before facilitating the transfer.

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:
  - USPS Mail:  
U.S. Environmental Protection Agency  
Office of External Civil Rights

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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

CalRecycle 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, CalRecycle learns of information that so warrants, CalRecycle reserves the right to initiate a separate personnel investigation and to release information provided during the complaint process to appropriate CalRecycle personnel and outside parties including the State Personnel Board in connection with any such personnel investigation or proceeding.

### G. Retaliation Prohibited

CalRecycle 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 CalRecycle 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, other languages, large print) or another language or for any other questions regarding this policy, please contact CalRecycle's Civil Rights Officer by email at [CivilRights@CalRecycle.Ca.Gov](mailto:CivilRights@CalRecycle.Ca.Gov).

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*Original signed by:*

**Rachel Machi Wagoner, Director on May 5, 2023**