

CHAPTER 9. REFERRAL AND CONSOLIDATED COMPLIANCE EFFORTS
SECTION 1. REFERRALS

40. GENERAL. Sometimes a compliance review or investigation will reveal information which indicates possible noncompliance with Title VI in a program which is not within the jurisdiction of this Department, or other matters which cannot be handled under any of the civil rights authorities administered or enforced by the Office of Fair Housing and Equal Opportunity. Matters of this sort should be referred to the appropriate Office within HUD or to appropriate offices at the Federal, State or local level.
- a. Responsibility. All HUD employees have the responsibility to refer all matters with equal opportunity implications to the Office of Fair Housing and Equal Opportunity. The procedures for referring to the Office of FHEO may vary throughout the Department, however. FHEO staff have the responsibility to refer Equal Opportunity matters to other Federal departments and agencies, as appropriate.

Referrals by FHEO staff shall be made as follows:

FROM AS/FHEO TO:	FROM ARA/FHEO TO:	FROM AO/FHEO TO:
1. Other AS/HUD Programs	1. AS/FHEO	1. ARA/FHEO
2. Office of General Counsel	2. Other RO/HUD Programs	2. Other AO/HUD Programs
3. Inspector General	3. RO/Office of Regional Counsel	
4. Regional Administrator, attn: ARA/FHEO	4. Other Federal Offices at Regional Office level, (excluding	
5. Other Federal Offices at the Central Office level, (including Dept. of Justice through OGC)	referrals are made by AS/FHEO)	Justice Dept.,
	5. AO/FHEO	

- b. Matters Which Must be Referred. The following examples illustrate the types of matters which must be referred:

(1) Central and Regional Offices

Allegations of discrimination, or information otherwise acquired which indicates a probable failure to comply with the nondiscrimination requirements imposed by laws and Executive

Orders administered by HUD, must be immediately referred to the Office of AS/FHEO or the ARA/FHEO as appropriate.

Example:

A person directed a letter to the Assistant Secretary for Housing Management which alleged the isolation of minorities into a basement wing of a local housing authority. (Must be referred to AS/FHEO).

Example:

A local city improvement group directed a letter complaint to the Assistant Regional Administrator for Community Planning and Development which alleged racial discrimination in the 701 planning process and stated that proposed activity was designed to exclude a large number of Spanish Speaking persons. (Must be referred to ARA/FHEO).

- (a) Routine complaints which do not fall within the civil rights authorities administered by the Office of FHEO.

Example:

The Chairperson of Model Neighborhood Citizens Committee raised questions regarding the possible exclusion of lower-income persons from the Community Development Task Force which prepared the CD Block Grant Application. (Must be referred to CPD Staff).

Example:

The Director of a community organization alleged that the City did not comply with the citizen participation requirements of the Housing and Community Development Act. Complainant stated that: (1) while the City held two committee-of-the-whole meetings for the Board of Aldermen which were

billed as public hearings, it was evident that they were no more than "smoke-screens" and many of the recommendations offered by the groups and individuals that testified were not considered or included in the final package; (2) low and moderate income residents' priorities were completely

overlooked; and (3) instead of the plan being "developed" as a result of citizen input, city residents were only able to respond to a plan put together by City officials and department heads. (Must be referred to CPD Staff).

- (b) Routine complaints which arise in programs which are not administered by HUD.

Example:

Local residents alleged racial discrimination in the recruitment, hiring and assignment practices of the City Police Department. The Police Department has a substation which serves the urban renewal section of the City. (Must be referred to the Justice Department (LEAA) or the Office of Revenue Sharing, as appropriate) .

- (c) Equal Opportunity matters which require legal interpretations. Any equal opportunity matter which requires a legal interpretation or a determination of the legal impact upon HUD programs, activities, participants, or beneficiaries throughout the country must be referred to the Office of General Counsel by the AS/FHEO. Legal matters which arise in the Regional FHEO Office, and apply to HUD programs, activities, participants or beneficiaries in a specific Region should be referred to the Regional Counsel by the ARA/FHEO with a copy of the referral and response directed to the AS/FHEO.

- (2) Area Office.

Allegations of discrimination or information otherwise acquired, which indicates a probable failure to comply with Title VI of the Civil Rights Act of 1964 and the nondiscrimination requirements of Section 109 of the HUD Act of 1974, or any law or Executive Order enforced by the Office of Fair Housing and Equal Opportunity must be referred to the Regional staff for Regional determination of the civil rights compliance status of an applicant or recipient.

Example:

NAACP alleged that the City has discriminated against blacks in federally assisted programs.

Example:

Complainant alleged that low income minorities were systematically excluded from the planning process for the Community Development Block Grant program.

(3) Area Counsel.

Area FHEO matters which require a legal interpretation or a determination of the legal impact upon HUD programs, activities, participants, or beneficiaries at a local level, must be referred to the Area Counsel, with a copy of the referral and response directed to the ARA/FHEO and AS/FHEO.

a. Matters Which Must be Referred but Jurisdiction Retained in HUD/FHEO:

Refer: (1) FHEO Central and Regional Office Staff Must

(a) routine complaint where there is concurrent jurisdiction between HUD and another Federal agency or department, for example, a complaint which alleges discrimination in the use of General Revenue Sharing Funds and CDBG funds;

(b) any FHEO matter which has reached the administrative hearing process and in which there may be the need to coordinate the Federal approach to the resolution of the matter;

(c) any FHEO matter which falls within the authority and responsibility of the Office of Inspector General;

(d) any FHEO matter in which a suit has been filed against the Department (although referred by the AS/FHEO to the Office of General Counsel); and

- (e) any FHEO matter which requires a policy decision or change in existing policy or practice shall be referred to AS/FHEO.

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(2) Area Office

Any complaint which arises as a result of the application process under the Housing and Community Development Act of 1974, which alleges discrimination against minorities and women in the planning process of the CD Block Grant program, states matters which are useful for an FHEO evaluation of the significance of facts which would (or may) contradict or challenge the applicant's certification of nondiscrimination, and indicates that the activities to be undertaken with CD Block Grant funds are plainly inappropriate to meet the needs and objectives identified by the applicant. (The allegation of discrimination in the planning process should be investigated by the ARA/FHEO, with the balance of the complaint referred to the Area Office for its consideration in evaluating the application).

SECTION 2. CONSOLIDATED COMPLIANCE EFFORTS

41. GENERAL. An occasion may arise where a Title VI case is developed independently by Federal departments or agencies, or where a complaint of Title VI violation involves more than one Federal department or agency. Such a case should be consolidated in a manner to achieve effective coordination and maximum uniformity in the administration and enforcement of Title VI between the Federal agencies involved.

- a. Determination to Consolidate. Decisions to consolidate the types of cases referenced above should be based on such factors as:
 - (1) whether an agency, program or activity receives financial assistance in whole or in part from HUD and other Federal departments or agencies;
 - (2) whether the basis for action rests on discrimination, segregation or disparate

treatment of persons on account of race,
color, or national origin;

- (3) whether HUD provides financial assistance to a recipient whose operation and/or activity directly support another agency(s) which receives financial assistance from Federal agencies or departments other than HUD;

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- (4) whether the same or related facts are needed by HUD and other Federal departments or agencies to establish a recipient's compliance or apparent noncompliance with Title VI; and
- (5) whether compliance in the program or activity may be enforced under HUD's Title VI Regulation.

Responsibility to Consolidate Complaints. The responsibility to determine whether to consolidate the investigation of a Title VI complaint with another Federal department (civil rights staff) is that of the ARA/FHEO, subject to the concurrence of the AS/FHEO.

- d. Procedure for Consolidation. Procedures for consolidating and conducting consolidated Title VI investigations or compliance reviews shall be established on a individual case basis depending upon the procedures of the other Federal departments involved. The procedures established shall not exceed the authority of the AS/FHEO under HUD's Title VI Regulation, or abrogate established HUD policy with respect to the administration of its Title VI program.

SECTION 3. MISCELLANEOUS

42. ACCEPTABILITY OF ASSURANCE REQUIREMENTS. Applicants for, and recipients of HUD financial assistance may be subject to requirements for assuring compliance with Title VI (or Section 109 of the HCDA of 1974) from each Federal department or agency providing a funding source.

- a. Major Types of Assurance. Receipt of HUD financial assistance is conditioned on the filing of four (4) major types of assurances.
 - (1) Standard Title VI. Those general Title VI assurances which must accompany every HUD application or contract.

- (2) CD Block Grant Certification. A properly executed certification of compliance with the nondiscrimination provision - Section 109 of the HCDA of 1974, which also includes a certification of Title VI compliance.
- (3) Institutions of Higher Education. In matters which involve institutions of higher education the AS/FHEO must be satisfied that the institution's program or designated parts of programs for which HUD financial assistance is sought does not discriminate against persons on the basis of race, color, or national origin (see 24 CFR 1.5(d)(1), Appendix 1.2).
- (4) Elementary and Secondary Schools. In matters which involve elementary and secondary schools, the requirements of Title VI will be deemed to be satisfied if such a school or school system: (1) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order; or (2) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and HUD's Title VI Regulation within the earliest practicable time, and provides reasonable assurance that it will carry out such plans (See 24 CFR 1.5(e) and also 32 F.R. 3233, HUD Assignment of Compliance Functions under Title VI of the Civil Rights Act of 1964 to HEW, Appendix 1.2 and 1.6).