

Grievance Procedures for Complaints of Discrimination by Applicants or Beneficiaries of THDA Administered Programs

I. THDA Non-Discrimination in Services Policy

Tennessee Housing Development Agency (THDA) is committed to providing benefits to the public in a manner that ensures non-discrimination on the basis of race, color, national origin, religion/creed, disability, sex/gender, familial status and any other class protected under state and federal law, in particular Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 (“Fair Housing Act”), Tennessee Human Rights and Disability Acts (Tenn. Code Ann. §§ 4-21-601 et. Seq.), Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act and the Age Discrimination Act. THDA is committed to ensuring no qualified individual with a disability should, only by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. THDA’s non-discrimination policy ensures compliance with federal and state civil rights laws and enabling regulations by THDA employees, agents (contractors), and sub-recipients.

II. Grievance Procedures for Complaints Alleging Discriminatory Conduct or Actions

Applicants to, or beneficiaries of, THDA funded programs, including those programs administered by a contractor or sub-recipient/grantee, may file a discrimination complaint directly with THDA or with the appropriate jurisdictional agency. For consideration by THDA, a complaint must be filed, in writing, no later than 180 days after the last date of the alleged adverse action.

All individuals who contact THDA with a verbal complaint of discrimination are directed to submit their complaint in writing and provided THDA’s complaint form or a web link to access an online complaint form. Complaints submitted by email or mail that include sufficient information are considered written complaints regardless of whether THDA’s complaint form is completed. The

complaint must include the following information to allow THDA to conduct an initial review and determine jurisdiction:

- Name, address and contact information for the complainant.
- The name of the THDA program for which the complainant applied or is a participant.
- The name of the person or entity who the complainant alleges engaged in an adverse action(s) or decision (“respondent”)
- The date or dates on which the alleged adverse action(s) or event(s) occurred.
- The basis of the complaint (e.g., race, national origin, disability)
- A description of the adverse action that led the complainant to feel discrimination was a factor.
- Names, addresses and phone numbers of people who may have knowledge of the event where applicable.

The THDA Legal Division is responsible for intaking and maintaining a record and completing an initial review of all claims of discrimination. The purpose of the initial review is to determine if THDA is the appropriate entity to investigate the allegations. The following conditions must be established *prima facie*¹ for THDA to investigate a complaint of discrimination:

1. The complainant belongs to a protected class covered by Title VI, Title VIII (Fair Housing Act), Section 504 of the Rehabilitation Act or any other state or federal civil rights law, and
2. The complaint alleges an adverse action by THDA, an agent of THDA (contractor) or a sub-recipient of THDA funding, and
3. The complaint alleges a causal connection (nexus) between the protected status and the adverse action.

Where the above conditions are supported by an initial review:

- THDA’s Legal division is responsible for conducting an investigation in compliance with the grievance procedures herein.

¹ The claim is sufficiently established upon first observation through information submitted by the complainant in the initial written complaint.

- THDA's Assistant Chief Legal Counsel may decide it is appropriate to transfer a complaint to THDA's Internal Audit Division for investigation. In those cases, the investigation is administratively coordinated with the Legal division.

Where the above conditions are not established prima facie:

- THDA shall dismiss the claim of discrimination with a written notice to the complainant.
- Where a claim of discrimination is dismissed after an initial review but where a THDA program or activity or a THDA employee is named in the complaint, the complaint is transferred to the appropriate THDA division head for further review and response under program or division grievance procedures.

THDA reports or coordinates discrimination complaints and investigations with the appropriate jurisdictional authority where applicable. The Tennessee Department of Human Resources (DoHR) ensures compliance with Title VI, which prohibits discrimination based on race, color, and national origin by state agencies receiving Federal financial assistance. The Tennessee Attorney General Civil Rights Enforcement Division (CRED) is the jurisdictional authority for complaints alleging discrimination in Tennessee covered the Tennessee Human Rights Act. The Fair Housing Act designates the Department of Housing and Urban Development (HUD) as the jurisdictional agency for claims of housing related discrimination. HUD's Office of Fair Housing Enforcement (FHEO) is the investigative authority for complaints that involve violations of the Fair Housing Act. For other federal programs administered by THDA, the jurisdictional authority is the Office of Civil Rights for the relevant federal agency who funds the program or activity.

A. Complaint Intake, Review, and Investigation Procedures

A complaint that alleges discrimination covered by THDA's non-discrimination policy, including complaints that allege discrimination by a THDA contractor (agent), or sub-recipient, must be forwarded immediately, upon receipt, to THDA's Legal division. Complaints that allege

discrimination covered by THDA's non-discrimination policy are managed in accordance with the following procedures.

1. Upon receipt, the complaint is logged in an electronic file maintained in the Legal division. The log is updated as the case progresses from the initial review to final resolution. The log will include the name of the complainant, contact information, date of the alleged discrimination, nature of the alleged discrimination (and protected class), person or entity named (respondent), jurisdiction, final resolution, case notes.
2. THDA Legal completes an initial review within ten (10) business days of the date of receipt of the complaint. During the initial review, additional information may be requested from the complainant or applicable THDA program division.
 - a. Where it is determined in the initial review that the complainant does not belong to a covered protected class and/or where the causal connection between the protected class status and the adverse action is not sufficiently established (prima facie):
 1. The discrimination claim is dismissed and closed by THDA, and the complainant is notified in writing of the determination.
 2. Where it is determined a program review or resolution is appropriate, the complaint is transferred to the applicable THDA program division and processed in compliance with program specific grievance procedures.
 - b. Where it is determined in the initial review that the complainant belongs to a protected class covered by Title VI or other state or federal civil rights law and there is a prima facie connection between the protected status and the claimed adverse action, but it is determined that THDA, an agent of THDA (contractor) or a sub-recipient of THDA funding was not responsible for the claimed adverse action:
 1. The discrimination claim is dismissed and closed by THDA. THDA is not the appropriate authority to investigate the claim of discrimination.

2. The complainant is notified in writing of the closure and reason. Where appropriate or known, the notice includes the contact information for the appropriate jurisdictional agency(ies).
- c. Where it is determined in the initial review that the complaint is covered by Title VI (race, color, national origin basis) and there is a prima facie connection between the protected status and a claimed adverse action by THDA or its employees, an agent (contractor) or a sub-recipient/grantee of THDA, THDA Legal will coordinate an investigation with DoHR using the following procedures:
 1. THDA sends the complainant a notice to confirm receipt of the complaint within ten (10) days, which explains the process for investigation. The notice explains that the investigation will be coordinated with and includes contact information for DoHR.
 2. Where the respondent is a THDA sub-recipient agency, the sub-recipient is notified. The notice may include a request for information to facilitate the review.
 3. A notice of the complaint is sent to DoHR Title VI Compliance division with a copy of the original complaint within ten (10) business days of complaint receipt.
 4. If DoHR fails to notify THDA within ten (10) business days that their agency will investigate, THDA Legal initiates an investigation within thirty (30) days of the original date of complaint receipt. The THDA investigator will review case documents for the complainant and, where determined necessary for the investigation, may request documents for other applicants or participants of the same program, interview or otherwise collect necessary facts from the complainant, respondent, and any witnesses.
 5. THDA Legal will issue an investigative report or a detailed summary of the investigation, findings, determination, and any planned remedial actions and

- send a copy of the investigative report to DoHR no more than seventy-five (75) days after the date of complaint receipt.
6. Where the respondent is a THDA contractor or sub-recipient agency, THDA Legal will copy the agency on the investigative report or summary sent to the DoHR and will work with the sub-recipient agency to comply with any corrective actions identified by THDA or DoHR through the investigative process.
 7. THDA Legal will track the DoHR's response to THDA's investigation, which should be received within ten (10) days.
 8. Upon receipt of DoHR's response to the investigation and recommended corrective actions, or no more than ninety (90) days after the receipt of the complaint (whichever comes first), unless otherwise directed by the DoHR, THDA will send the complainant a notice of findings or determination. The notice summarizes the basis for determination and explains any actions, including corrective actions, to be completed by THDA to resolve the complaint, and includes information on how to file an appeal of the determination with THDA or DoHR, and the deadline to file an appeal.
- d. Where a complaint is not covered by Title VI but is covered by another state or federal non-discrimination law or THDA's non-discrimination policy, and there is a prima facie connection between the protected status and a claimed adverse action by THDA or its employees, an agent (contractor) or a sub-recipient/grantee of THDA:
1. Within thirty (30) days of the receipt of a complaint, THDA Legal will initiate an investigation.
 2. Where the respondent is a THDA sub-recipient agency, the sub-recipient is notified. The notice may include a request for information to facilitate the review.
 3. The THDA investigator will review case documents for the complainant and, where determined necessary for the investigation, may request documents for

other applicants or participants of the same program, interview or otherwise collect necessary facts from the complainant, respondent, and any witnesses.

4. Where the respondent is a THDA contractor or sub-recipient agency, THDA Legal will send a notice of findings and determination within seventy-five (75) days of the receipt of the complaint that summarizes the basis for the THDA determination and explains any actions, including corrective actions THDA requires of the contractor or sub-recipient agency to resolve the complaint and/or comply with THDA's non-discrimination policy.
5. Within ninety (90) days of the receipt of the complaint, THDA Legal will send a findings or determination notice to the complainant. The notice:
 - Summarizes the basis for the determination and explains any actions, including corrective actions that will be taken to resolve the complaint.
 - Includes information on how to file an appeal of the determination with THDA and the deadline to file an appeal.
 - Includes contact information for the appropriate jurisdictional agency(ies) should the complainant wish to file a complaint directly with a jurisdictional agency.
- e. Where it is determined that the complaint is covered under Section 504 of the Rehabilitation Act:
 1. The complaint is transferred to the Section 504 Coordinator for review and response under THDA's Section 504 procedures.
 2. A notice is sent to the complainant that explains the complaint was transferred and includes the contact information for the Section 504 Coordinator.
 3. The Section 504 Coordinator will initiate communication with the complainant and, where appropriate, seek resolution with the complainant through THDA's Section 504 procedures.

- If a resolution is reached through the Section 504 process, the discrimination complaint is closed with no further communication to the complainant.
 - If a resolution is not reached through the Section 504 process, a findings or determination notice is sent to the complainant closing the discrimination claim based on the Section 504 review process. The notice will explain how to appeal the determination with THDA and include the contact information for the appropriate jurisdictional agency should the complainant wish to seek further redress.
- f. Complaints that allege discrimination by a resident in a Section 8 project based (“low rent”) apartment are covered under THDA’s contract with HUD for Project Based Contract Administration (PBCA). The contract terms require THDA to transfer complaints alleging discrimination to HUD FHEO Division IV. Note: For complaints that are covered under Title VI, the Advisor emails a copy of the complaint to DoHR within ten (10) business days of the receipt of the complaint. The notification explains that the complaint was transferred to HUD FHEO Division IV, as per THDA’s Contract with HUD, and closed by THDA.
3. THDA’s Executive Director is responsible for all THDA appeal requests and decisions. The Executive Director may choose to assign the appeal to THDA’s Chief Legal Counsel.
4. THDA will fully cooperate with discrimination complaint investigations conducted by state and federal jurisdictional agencies.