

## **NYSERDA Title VI Policy and Procedures**

### **I. Summary**

The New York State Energy Research and Development Authority (NYSERDA or the Authority) is committed to ensuring that no person is excluded from participation in, denied the benefits of, or subjected to discrimination under any program, activity, or service the authority provides. NYSERDA incorporates into its operations the requirements of all applicable State and Federal laws and executive orders to prohibit any discriminatory practices, procedures, and policies. All administrators, managers, supervisors, and employees are directed to comply with these laws and orders; NYSERDA requires subrecipients of federal assistance to follow Title VI requirements through contract terms as well. For employment-related discrimination matters, please refer to NYSERDA's Equal Opportunity / Affirmative Action Policy, located NYSERDA's Personnel Handbook. A Title VI-related nondiscrimination policy is necessary because NYSERDA is a direct recipient of Federal financial assistance and distributes federal assistance to subrecipients to carry out various programs. All recipients and subrecipients are required to comply with Title VI of the Civil Rights Act of 1964, as well as related federal nondiscrimination statutes and regulations. Throughout this policy, "Title VI" or "Title VI/nondiscrimination requirements" will refer to all related federal nondiscrimination authorities.

### **II. Background**

Title VI of the Civil Rights Act of 1964 is the overarching federal civil rights law that prohibits discrimination based on race, color, or national origin, in any program, service or activity that receives federal assistance. Specifically, Title VI assures that "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination under any program or activity receiving federal assistance." Nondiscrimination prohibitions have been further broadened and supplemented by related federal statutes, regulations, and executive orders to include sex, age, disability, or limited-English proficiency; additionally, New York State laws and Executive Orders also inform NYSERDA's practices and procedures. A list is available at Section IV, Related References.

As a recipient or subrecipient of federal assistance from agencies including the U.S. Department of Energy (DOE), the U.S. Department of Transportation (DOT), the U.S. Department of Labor (Labor), the U.S. Department of Health and Human Services (HHS), The Department of The Interior (DOI) and the Environmental Protection Agency (EPA), whether issued directly or administered through state agencies including, for example, the New York State Department of Transportation or New York State Office of Temporary and Disability Assistance (OTDA), this policy is issued in accordance with Federal Title VI regulations and related nondiscrimination authorities and explains how NYSERDA will comply with the Federal Title VI/nondiscrimination requirements to which it is subject. It is the policy of the Authority to prevent and eliminate discrimination in all its operations and services as well as all aspects of employment. Under this policy, NYSERDA shall plan, develop, and implement its programs and activities so that no person is subjected to unlawful discrimination.

Subrecipients of Federal funds that flow through NYSERDA are also required to comply with Title VI/Nondiscrimination requirements.

### **III. Procedures**

This policy will be conspicuously placed on Authority bulletin boards and websites and made available to all organizations and entities doing business with the Authority. A copy shall also be provided to contractors and subrecipients.

A Nondiscrimination Coordinator has been appointed within NYSERDA to manage all Title VI Complaints. The Nondiscrimination Coordinator will receive and investigate complaints, communicate with the complainant, and maintain a record of all Title VI complaints received with any relevant investigation details. Records will be maintained in accordance with NYSERDA's record retention schedules.

Any person who believes they have suffered from prohibited discrimination when accessing a program, service or activity of NYSERDA, including its New York Green Bank, may contact the Nondiscrimination Coordinator by submitting a Complaint Form (i) via email, (ii) by mailing a copy of the completed complaint form to the Nondiscrimination Coordinator, or (iii) by faxing a copy of the completed complaint form to the Nondiscrimination Coordinator using the contact information provided below. A copy of the [complaint form is on NYSERDA's website](#).

Email: [TitleVI@nyserda.ny.gov](mailto:TitleVI@nyserda.ny.gov)

U.S. Mail:

Attn: Nondiscrimination Coordinator  
17 Columbia Circle  
Albany, NY 12203

Phone: (518) 862-1090

Fax: Attn: Nondiscrimination Coordinator, (518) 862-1091

A complaint may also be made directly to a federal agency from which NYSERDA received federal funds. Relevant contacts are provided in Table 1, annexed to this policy.

#### **Complaint Process:**

1. Within 180 days of the alleged discrimination, a complainant may submit a written complaint to the NYSERDA Nondiscrimination Coordinator or an appropriate Federal agency, unless the time for filing is extended by the Nondiscrimination Coordinator for good cause.
2. Complaints must include the complainant's name, information regarding the NYSERDA program or action with which complainant is concerned, the dates of the alleged discrimination, and contact information.
3. NYSERDA will follow the Preliminary Inquiry process identified below.
4. The Nondiscrimination Coordinator will keep a complaint log containing the complaint form information and outcome of any investigation.

**Preliminary Inquiry:** NYSERDA will conduct a preliminary inquiry to determine the need for further investigation.

1. The Nondiscrimination Coordinator will review the complaint and will notify the complainant in writing that a preliminary inquiry is underway to determine the need for further investigation.
2. NYSERDA may solicit additional information from the complainant as needed. If additional information is requested and not received, the case may be closed. The case may also be closed if the complainant no longer wishes to pursue their case.
3. If the preliminary inquiry by NYSERDA indicates that an investigation is warranted, NYSERDA may request an interview with the complainant.
4. If the preliminary inquiry indicates an investigation is not warranted, the complainant will be notified in writing of the reasons why and factors considered and advised that the case will be closed.
5. If it becomes clear that NYSERDA lacks jurisdiction over a complaint, for example if the alleged discriminatory conduct did not arise from a NYSERDA program, the complaint will be referred to the appropriate agency, if known. NYSERDA will send a referral letter to that agency along with the complaint form and other documents. NYSERDA will also send a letter to the complainant stating that the complaint has been referred to that agency, will provide its contact information, and will indicate that NYSERDA has closed the complaint.

NYSERDA will protect personally identifiable information and other sensitive information from public disclosure in accordance with New York law.

NYSERDA will not restrict an individual in any way based on race, color, national origin, sex, age, disability, or limited English proficiency from the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under any of its programs, regardless of the funding source for the program. Individuals may not be subjected to criteria or methods of administration which cause adverse impact or have the effect of defeating or substantially impairing accomplishment of the objectives of the program, because of their protected class. NYSERDA will not tolerate intimidation, threats, coercion, or discrimination against any individual or group, either (1) for the purpose of interfering with any right or privilege guaranteed under law or regulations or (2) because the individual has filed a complaint or has testified, assisted, or participated in any way in an investigation, proceeding or hearing or has opposed any NYSERDA action or decision. NYSERDA will take reasonable measures to provide access to Authority services to individuals with limited ability to speak, write, or understand English and/or to those with disabilities.

All employees must assist in the prevention and elimination of any nondiscrimination practices and are encouraged to report allegations of discrimination to the NYSERDA Nondiscrimination Coordinator for review and appropriate action.

The Nondiscrimination Coordinator will regularly review pertinent NYSERDA programs and activities to ensure compliance with Title VI requirements, provide technical assistance in the implementation of Title VI requirements, and identify areas for improvement. Programs and

subrecipients will also be expected to self-monitor their programs and activities to help ensure nondiscrimination in accordance with their contract obligations.

#### **IV. Related References:**

Federal and State nondiscrimination laws are the cornerstones of the Authority's commitment to ensuring equal opportunity and fair and equitable programs and services to the public. Those laws and regulations include, but are not limited to:

##### **Federal Laws, Executive Orders, Title VI Implementing Regulations**

- **Civil Rights Act of 1964** - Prevents discrimination in federally assisted programs; provides relief against discrimination in public accommodations; protects constitutional rights in public facilities and public education; enforces the constitutional right to vote. **Title VI** - Prohibits discrimination on the grounds of race, color or national origin in programs and activities receiving federal financial assistance.
- **Section 504 of the Rehabilitation Act of 1973** - Prohibits discrimination on the basis of physical or mental disability in every federally assisted program or activity in the country.
- **Age Discrimination Act of 1975** - Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- **Civil Rights Restoration Act of 1987/1988** - Specifies that recipients of federal funds must comply with civil rights laws in all areas, not just in a particular program or activity that receives federal funding. It applies to all federal laws.
- **Americans with Disabilities Act (ADA) of 1990** – Federal law prohibiting discrimination against people with disabilities in employment, public access to services, transportation, public accommodations, and telecommunications services.
- **Title IX of the Education Amendments of 1972 (Title IX)** – Prohibits sex (including pregnancy, sexual orientation, and gender identity) discrimination in any education program or activity receiving federal financial assistance.
- **Executive Order No. 12898** – Requires Federal agencies to make achieving Environmental Justice (EJ) part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations.
- **Executive Order No. 13166** – Requires each Federal agency to examine the services it provides and to develop and to implement a system by which persons with limited English proficiency (LEP) can meaningfully access those services; and work to ensure that recipients of federal financial assistance provide meaningful access to their LEP applicants and beneficiaries.
- **40 CFR Part 7** – Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency
- **40 CFR Part 5** – Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Assistance

- **6 CFR Part 21** – Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of Homeland Security
- **43 CFR Part 17** – Nondiscrimination in Federally Assisted Programs of the Department of the Interior
- **49 CFR Part 21** – Nondiscrimination in Federally Assisted Programs of the Department of Transportation
- **10 CFR Part 1040** – Nondiscrimination in Federally Assisted Programs or Activities of the Department of Energy

### **New York State Laws**

- New York State Human Rights Law Article 15 (1945) - Guarantees nondiscrimination in the State of New York on the basis of race, creed, color, national origin, sex, marital status, age, disability and or sexual orientation.
- New York State Law Article 15-A (1988) - An act to amend the executive law and the state Finance law, in relation to participation by minority group members and women with respect to state contracts.
- New York State Law Article 17-B (2014) An Act to amend the executive law, in relation to expanding opportunities for service-disabled veteran-owned business enterprises.
- Sexual Orientation Nondiscrimination Act (2003) - This Act amends the Executive Law to include sexual orientation.

### **New York State Executive Orders**

- On October 8, 2021, Governor Kathy Hochul issued **Executive Order 6** that authorized the continuation of certain prior Executive Orders related to equal opportunity and nondiscrimination in all State programs, including the following:
- **Executive Order No. 17 (Governor Mario M. Cuomo, 1983)** - Establishing State policy on private institutions which discriminate. Directs that State officials and employees shall not sponsor, organize, attend, or participate in any meeting or other activity, the purpose of which is related to State business, in any private establishment or facility that does not afford full membership rights and privileges to any person because of age, race, creed, color, national origin, sex, disability or marital status.
- **Executive Order Nos. 26 and 26.1 (Governor Andrew M. Cuomo, 2011, 2021)** - Directs State agencies that provide direct public services to translate vital documents in the ten most common non-English languages spoken by individuals with limited-English proficiency in the State of New York, based on United States census data, and relevant to services offered by each of such agencies. Each of these agencies must provide interpretation services between the agency and an individual in his or her primary language with respect to the provision of services or benefits.
- **Executive Order No. 177 (Governor Andrew M. Cuomo, 2018)** - Prohibiting State contracts with entities that support discrimination.

**Table 1**  
**You Can Also File a Civil Rights Complaint With a Federal or State Agency Listed Below**

<p><b>U.S. Department of the Energy Office of Civil Rights and Diversity</b>  <a href="https://www.energy.gov/diversity/civil-rights">https://www.energy.gov/diversity/civil-rights</a>  <b>Email:</b> <a href="mailto:civilrights@hq.doe.gov">civilrights@hq.doe.gov</a>  <b>Fax:</b> (202) 586-1009  <b>U.S. Mail:</b>  Office of Civil Rights and Diversity  U.S. Department of Energy  Room 5B-168  1000 Independence Avenue, SW  Washington, DC 20585  <b>Phone:</b> (202) 586-2218</p>	<p><b>U.S. Environmental Protection Agency External Civil Rights Compliance Office</b>  <a href="https://www.epa.gov/external-civil-rights">https://www.epa.gov/external-civil-rights</a>  <b>Email:</b> <a href="mailto:Title_VI_Complaints@epa.gov">Title_VI_Complaints@epa.gov</a>  <b>Fax:</b> (202) 565-0196  <b>U.S. Mail:</b>  U.S. Environmental Protection Agency  Mail code 2310A  1200 Pennsylvania Avenue, NW  Washington, DC 20460  <b>Phone:</b> (202) 564-3316</p>
<p><b>U.S. Department of Transportation</b>  <a href="https://www.transportation.gov/civil-rights">https://www.transportation.gov/civil-rights</a>  <b>Fax:</b> (202) 366-5575  <b>U.S. Mail</b>  Departmental Office of Civil Rights  1200 New Jersey Ave, S.E.  Washington, DC 20590  United States</p>	<p><b>U.S. Department of Health and Human Services</b>  <a href="https://www.hhs.gov/civil-rights/index.html">https://www.hhs.gov/civil-rights/index.html</a>  <b>Email:</b> <a href="mailto:OCRMail@hhs.gov">OCRMail@hhs.gov</a>  <b>U.S. Mail:</b>  200 Independence Avenue, SW  Room 509F, HHH Building  Washington, D.C. 20201  1-800-368-1019, 800-537-7697 (TDD)</p>
<p><b>U.S. Department of the Interior- Office of Civil Rights</b>  <a href="https://www.doi.gov/pmb/eo">https://www.doi.gov/pmb/eo</a>  <b>US Mail:</b>  Office of Civil Rights  Department of the Interior  1849 C Street, NW  Washington, DC, 20240  <b>Phone:</b> (202) 208-3100</p>	<p><b>Federal Emergency Management Agency- Office of Equal Rights</b>  <a href="https://www.fema.gov/about/offices/equal-rights">https://www.fema.gov/about/offices/equal-rights</a>  <b>Email:</b> <a href="mailto:FEMA-EqualRights@FEMA.dhs.gov">FEMA-EqualRights@FEMA.dhs.gov</a>  <b>US Mail:</b>  Office of Equal Rights  500 C Street, SW  4th Floor - 4SW-0915  Washington, D.C. 20472-3535  <b>Phone:</b> (833) 285-7448  <b>TTY:</b> (800) 462-7585</p>
<p><b>New York State Division of Human Rights</b>  <a href="http://www.dhr.ny.gov/complaint">http://www.dhr.ny.gov/complaint</a>  <b>E-mail:</b> <a href="mailto:complaints@dhr.ny.gov">complaints@dhr.ny.gov</a>  <b>Fax:</b> (718) 741-8322  <b>U.S. Mail:</b>  Division of Human Rights  One Fordham Plaza, 4th Floor  Bronx, NY 10458</p>	<p>If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.</p>