

# **LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT EXTERNAL COMPLAINT PROCEDURES (NON-EMPLOYEES)**

## **1. PURPOSE**

The Louisville and Jefferson County Metropolitan Sewer District (“MSD”) does not discriminate on the basis of race, color, national origin, religion, disability, age, sex, gender identity, sexual orientation, ethnicity or ancestry in administration of its services, programs or activities, and, MSD shall not retaliate, intimidate, threaten, coerce or discriminate against any individual or group for the purpose of interfering with any right or privilege granted under 40 CFR Parts 5 and 7, or because an individual filed a complaint or has testified, assisted or participated in any way in an investigation, or has opposed any practice made lawful under 40 CFR Part 5 and 7. Any claims of retaliation and intimidation related to complaint process will be handled promptly and fairly pursuant the procedures set forth below and in the same manner as other claims of discrimination.

Title 40 of the Code of the Federal Regulations, Parts 5 and 7, Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency, prohibits discrimination on the basis of race, color, national origin, age, sex or disability in programs or activities receiving federal assistance from the United States Environmental Protection Agency (EPA). It requires recipients of federal assistance from the EPA to:

- A. Collect, maintain and provide information showing compliance with 40 CFR Parts 5 and 7.
- B. Designate a person to be the Compliance Coordinator to coordinate efforts to comply with 40 CFR Parts 5 and 7.
- C. Adopt grievance procedures that assure the prompt and fair resolution of discrimination complaints alleging violations of 40 CFR Parts 5 and 7.
- D. Provide continuing and prominent public notice of nondiscrimination on the basis of race, color, national origin, age, sex or disability, and of the identity and contact information for the Compliance Coordinator.

## **2. RESPONSIBILITIES**

### Executive Director

MSD’s Executive Director will have final authority and responsibility for compliance with MSD’s policy and these procedures.

### Compliance Coordinator

Sherita Davis, Compliance Coordinator is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Parts 5 and 7 (Nondiscrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination laws). The Compliance Coordinator will also ensure that MSD is complying with state and federal reporting and record retention requirements, including those required by Code of Federal Regulations, title 40, section 7.10 et seq.

### **3. FILING OF COMPLAINT**

#### Filing of Complaint Procedures

A person (or the authorized representative of a person) who believes that they or a class of persons have been discriminated against may file a complaint with MSD. The complaint should be addressed to the Compliance Coordinator identified above in Section 2. Any complaints should:

- A. Be submitted in writing, however, in cases where the complainant is unable or incapable of providing a written statement, a verbal complaint should be submitted to the Compliance Coordinator at (502) 540-6352. The complainant will be interviewed by the Compliance Coordinator or designee, who, if necessary, will assist the person in converting verbal complaints to writing.

Appropriate assistance shall be provided to individuals with disabilities and individuals with limited English proficiency. MSD will accept complaints in alternative formats from individuals with disabilities.

- B. Be filed within 180 days of an alleged violation (except as otherwise indicated in the following paragraph below).
- C. Describe with specificity the action(s) by MSD that allegedly resulted in discrimination in violation of 40 C.F. R Parts 5 and 7.
- D. Describe with specificity the discrimination that allegedly occurred or will occur as the result of such action(s).
- E. Identify the parties impacted or potentially impacted by the alleged discrimination.

MSD may request additional information from the complainant if this information is needed to meet the complaint requirements described above. MSD may waive requirement 3.B. in its discretion in order to address allegations of potential discrimination caused by pending actions at

the earliest appropriate and feasible juncture, or, for good cause, to address complaints failed more than 180 days after an alleged violation.

Within 15 days of receiving a written complaint or receipt of requested additional information, MSD shall inform the complainant if the complaint has or has not been accepted for further investigation. If it determined that further investigation is not warranted, the reason for such determination shall be documented.

Written complaints may be emailed to [sherita.davis@louisvillemisd.org](mailto:sherita.davis@louisvillemisd.org) or mailed to:

**The Louisville and Jefferson County Metropolitan Sewer District (MSD)**  
**Attention: Sherita Davis, Compliance Coordinator**  
**700 West Liberty Street**  
**Louisville, Kentucky 40203**

Failure of the complainant to submit a complaint within 180 days may result in rejection or dismissal of the complaint, unless good cause exists to waive the allotted time requirement.

MSD is committed to taking reasonable steps to provide meaningful access to its external complaint process for individuals with limited English proficiency and provide individuals with disabilities the right to request reasonable modifications or auxiliary aids or services needed to obtain equal access to and enable participation in the MSD's grievance process. Any requests for reasonable accommodations, should be directed to the Compliance Coordinator. MSD will work to ensure that individuals have full access to the complaint filing and investigative process.

#### **4. DETERMINATION OF JURISDICTION AND INVESTIGATIVE MERIT**

MSD, based on information in the complaint and other information available, will determine if it has jurisdiction to pursue the matter and whether the complaint has sufficient merit to warrant an investigation. A complaint shall warrant investigation unless:

- It clearly appears to on its face to be frivolous or trivial; or lacks an identifiable path to resolution; or does not provide enough clarity to warrant investigation;
- Within the time allotted for making the determination of jurisdiction and investigative merit, MSD voluntarily concedes noncompliance and agrees to take appropriate remedial action or reaches a resolution with the complainant;
- Within the time allotted for making the determination of jurisdiction and investigative merit, the complainant withdraws the complaint;
- It is not timely and good cause does not exist for waiving the timing requirement under section 3.B.

If MSD determines that the complaint warrants investigation, MSD shall review the alleged facts to determine the course of the investigation. The investigation may include interviews of MSD employees, other relevant witnesses, or others named in the complaint. The preponderance of the evidence standard will be applied during the analysis period of the complaint.

If warranted, MSD may attempt to conciliate and resolve the complaint through a mutually agreeable solution. Any such informal resolution must be signed by the MSD Division/Department that is the subject of the complaint and the complainant.

## **5. DISPOSITION OF COMPLAINTS**

Within 120 days of the completion of the investigation, the Compliance Coordinator shall make a preliminary written findings as to the complaint. Such preliminary findings shall be either:

- a. a finding that the respondent (MSD) is in compliance with applicable nondiscrimination law or policy; or
- b. a finding that the respondent (MSD) is in violation of applicable nondiscrimination law or policy.

Upon a finding of compliance, the Compliance Coordinator shall prepare a closure letter summarizing the allegations and investigative process and stating that the complaint file shall be closed and shall send copies thereof to the complainant. A preliminary finding of compliance shall result in MSD's closure of the complaint file.

Upon a finding of violation, the Compliance Coordinator shall prepare a letter of remediation summarizing the allegations and investigative process and explaining actions the respondent (MSD) shall take in order to come into compliance. The letter shall prescribe a reasonable time for MSD to complete the remedial actions set forth therein.

Within 120 calendar days of completion of the investigation, MSD shall notify the complainant in writing of the findings of the investigation and any recommendations for resolution.

## **6. RECORDS RETENTION**

The Compliance Coordinator shall maintain copies of complaints and documentation related to the investigation and resolution thereof for a period of not less than two years or for the period consistent with MSD's record retention schedule, whichever is longer.

## **7. APPEAL**

The complainant may appeal the decision of MSD by writing to the Executive Director within 15 calendar days after the date of the closure letter. All appeals shall be sent to the Compliance Coordinator. The Executive Director or designee shall issue a written decision in response to the appeal no later than 30 calendar days after its receipt.

*The above procedures do not limit or deny the right of the complainant to file a complaint with state or federal agencies, or to seek private counsel for complaints alleging discrimination, intimidation, or retaliation of any kind that is prohibited by law. MSD's decision to take actions to resolve a complaint should not be construed to constitute an admission that any discrimination has occurred, and any written documents prepared by MSD in response to a complaint to constitute an offer of compromise subject to the Federal Rules of Evidence and equivalent state rules.*

# *EXTERNAL COMPLAINT FORM (NON-DISCRIMINATION)*

Please use this form to enter details of a complaint.

## **Person Alleging Discrimination**

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First Name:  
Last Name:  
Address:  
City:  
State:  
Zip:  
Phone #:  
Email address:

## **Person Reporting the Complaint** (if different than person alleging discrimination)

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First Name:  
Last Name:  
Address:  
City:  
State:  
Zip:  
Phone #:  
Email address:

## **Complaint Details**

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Date and Time of Incident:  
Complaint Description:

(Maximum 2000 characters).

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## **Remedies**

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How would you like to see this complaint resolved?  
Have you filed a complaint about the incident(s) with another federal, state, or local agency or with a court?  
If yes, with what agency or court did you file?  
If yes, when did you file? (mm/dd/yyyy)