



## **DISCRIMINATION COMPLAINT PROCEDURES**

This policy is intended to establish a procedure under which complaints alleging discrimination in SANDAG's provision of services or SANDAG activities can be made by persons who are not employees of SANDAG.

### **Background**

It is SANDAG policy to comply with state and federal laws and regulations including the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964 (Title VI) and other federal and state discrimination laws. SANDAG prohibits discrimination by its employees, contractors, and consultants. SANDAG does not discriminate on the basis of race, color, sex, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, veteran status, or sexual orientation in conducting government business. Persons who believe they have been subjected to discrimination or have been denied access to services or accommodations required by law, have the right to use this grievance procedure.

The procedures below are the same for complaints of any type of prohibited discrimination; however, because SANDAG has a designated ADA Coordinator, a separate complaint form and contact information are referenced below for complaints relating to medical condition or disability. All other complaints under this policy should be addressed to the SANDAG Office of General Counsel, as described below.

### **Procedures**

#### 1. Applicability

This complaint procedure is applicable to all persons who are not employees of SANDAG. This includes, but is not limited to, visitors to SANDAG, members of the public viewing SANDAG publications, Board, committee, and working group members, vendors, or any other person transacting business with SANDAG or using SANDAG's services who believe that they have been subjected to discrimination by SANDAG employees, contractors, or consultant. In general, it is designed to address disputes, including but not limited to the following:

- 1.1 Disagreements regarding a requested service, accommodation, or modification of a SANDAG practice or requirement;
- 1.2 Inaccessibility of a program, publication, or activity; and
- 1.3 Harassment or discrimination prohibited by California or federal law.

2. Identification of Compliance Officer and ADA Coordinator

With the exception of laws relating to discrimination on the basis of medical condition or disability, the SANDAG Office of General Counsel is the Compliance Officer for this policy and is responsible for administering this complaint procedure as well as ensuring compliance with applicable laws. The Compliance Officer can be reached at: SANDAG, 401 B Street, Suite 800, San Diego, California 92101; (619) 699-1900.

The ADA Coordinator is the person responsible for administering this complaint procedure as well as ensuring compliance with applicable laws related to medical condition or disability. The ADA Coordinator can be reached at: SANDAG, 401 B Street, Suite 800, San Diego, California 92101; (619) 699-1900.

3. Preliminary Review Process

3.1 Informal Resolution - Prior to initiating the formal complaint procedure set forth below, and as a prerequisite to it, the complaining party shall contact the Compliance Officer or ADA Coordinator as applicable for assistance in resolving the matter informally as soon as is reasonably practicable, generally within approximately fifteen (15) calendar days of the time the grievant became aware of the SANDAG act or omission that is the subject of the complaint. If the Compliance Officer or ADA Coordinator is not successful in quickly achieving a satisfactory resolution (that is, generally within approximately thirty [30] calendar days), the Compliance Officer or ADA Coordinator will take the steps described in subparagraph 3.2.

3.2 Review Panel - The Compliance Officer or ADA Coordinator will convene an ad hoc review panel to review the issue(s) raised. The panel will consist of the following (or their designees): the Compliance Officer or ADA Coordinator as applicable, a member of the management staff, a Deputy Executive Director, and (depending upon the issues) such other personnel as may be appropriate. This panel will review the request, investigate and attempt to resolve the issues within approximately thirty (30) calendar days of the request for or initiation of a second review. No formal report need be issued by the panel, but the panel will document the outcome of its review in a letter to the complaining party. If the complaining party is not satisfied with the panel's disposition of the matter, the complaining party may file a formal complaint in accordance with the procedure described below.

4. Formal Complaint

If the procedure set forth above for preliminary review does not yield a successful resolution, then the complaining party may file a formal complaint in the following manner:

4.1 When To File Complaint - Complaints must be in writing and must be filed within ten (10) calendar days of the complaining party's receipt of notice of the end of the preliminary review process described above.

4.2 What To File - A complaint must be in writing and include the information requested in one of the two attached forms entitled:

- Discrimination Complaint Form
- Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 Discrimination Complaint Form

Complainant also must attach a copy of the letter from the Review Panel setting forth the outcome of the preliminary review procedure described above.

- 4.3 Where To File Complaint - The complaint shall be filed with the Compliance Officer or ADA Coordinator as applicable, at SANDAG, 401 B Street, Suite 800, San Diego, California 92101; Fax number (619) 699-1995; TTY (619) 699-1904.

Notice of Receipt - Upon receipt of the complaint, the Compliance Officer or ADA Coordinator as applicable, will review the complaint for timeliness and appropriateness for this grievance procedure, and will provide the complaining party with written notice acknowledging its receipt.

- 4.4 Investigation - The Compliance Officer, ADA Coordinator, or his or her designee shall promptly initiate an investigation. In undertaking the investigation, the Compliance Officer or ADA Coordinator may interview, consult with, and/or request a written response to the issues raised in the complaint from any individual the Compliance Officer or ADA Coordinator believes to have relevant information, including staff and members of the public. The Compliance Office or ADA Coordinator also may hold an informal hearing at his or her discretion.

- 4.5 Representation - The complaining party and any party against whom the grievance is directed shall have the right to have a representative. The party shall indicate whether he or she is to be assisted by a representative and, if so, the name of that representative. For purposes of this procedure, the representative may be an attorney so long as the Office of General Counsel serves as the Compliance Officer or is otherwise present during proceedings.

- 4.6 Findings And Notification - Upon completion of the investigation, the Compliance Officer or ADA Coordinator will prepare and transmit to the complaining party, and to any party against whom the complaint is directed, a final report containing a summary of the investigation, written findings and a proposed disposition. This transmission will be expected within forty-five (45) calendar days of the filing of the formal complaint. The deadline may be extended by the SANDAG General Counsel for good cause. The final report shall also be provided, where appropriate, to any person whose authority will be needed to carry out the proposed disposition or to determine whether any personnel action is appropriate.

- 4.7 Final Disposition - The disposition proposed by the Compliance Officer or ADA Coordinator shall be put into effect promptly. The complaining party or any party against whom the complaint or the proposed disposition is directed may appeal. The appeal to the Executive Director (as set forth below) will not suspend the implementation of the disposition proposed by the Compliance Officer or ADA

Coordinator, except in those circumstances where the Executive Director decides that good cause exists making the suspension of implementation appropriate.

5. Urgent Matters

Whenever the application of any of the time deadlines or procedures set forth in this complaint procedure creates a problem due to the nature of the complaint, the urgency of the matter, or the proximity of the upcoming event, the Compliance Officer or ADA Coordinator as applicable, will, at the request of the complaining party, determine whether an appropriate expedited procedure can be fashioned.

6. Remedies

Possible remedies under this complaint procedure include corrective steps, actions to reverse the effects of discrimination or to end harassment, and measures to provide a reasonable accommodation or proper ongoing treatment. As stated above, a copy of the Compliance Officer's or ADA Coordinator's report may, where appropriate, be sent to appropriate persons to determine whether any personnel action should be pursued.

Appeal

- 6.1 Within ten (10) calendar days of the issuance of the final report, the complaining party or any party against whom the complaint is directed may appeal to the Executive Director the Compliance Officer's or ADA Coordinator's determination.
- 6.2 An appeal is taken by filing a written request for review with the SANDAG Executive Director, 401 B Street, Suite 800, San Diego, California 92101; Fax number (619) 699-1995; TTY (619) 699-1904.
- 6.3 The written request for review must specify the particular substantive and or procedural basis for the appeal, and must be made on grounds other than general dissatisfaction with the proposed disposition. Furthermore, the appeal must be directed only to issues raised in the formal complaint as filed or to procedural errors in the conduct of the complaint procedure itself, and not to new issues.
- 6.4 The review by the Executive Director or his or her designee normally shall be limited to the following considerations: Were the proper facts and criteria brought to bear on the decision? Were improper or extraneous facts or criteria brought to bear on the decision that substantially affected the decision to the detriment of the complaining party? Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the complaining party? Given proper facts, criteria, and procedure, was the decision one that a person in the position of the decision-maker might reasonably have made?
- 6.5 A copy of the Executive Director's written decision will be expected within thirty (30) calendar days of the filing of the appeal and shall be sent to the parties, the Compliance Officer or ADA Coordinator, and, if appropriate, to persons whose authority will be needed to carry out the disposition. The deadline may be extended by the Executive Director for good cause. The decision of the Executive Director on the appeal is final.

7. Title VI Complaints

SANDAG operates programs without regard to race, color, and national origin in compliance with Title VI of the Civil Rights Act. In order to comply with 49 CFR Section 21.9(b), recipients and subrecipients of Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) funding such as SANDAG are required to develop procedures for investigating and tracking Title VI complaints and to make the procedures for filing a complaint available to members of the public upon request. This policy contains the procedures that members of the public should follow in order to request additional information regarding SANDAG's nondiscrimination obligations or file a discrimination complaint against SANDAG. Any person who believes himself or herself or any specific class of persons to be subjected to discrimination prohibited by Title VI also may file a written complaint with the FTA or FHWA. A complaint should be filed no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by FTA or FHWA. Title VI complaints regarding federally funded programs at SANDAG can be sent to the applicable funding agency below:

Federal Transit Administration Office of Civil Rights  
Attention: Title VI Program Coordinator  
East Building, 5th Floor - TCR  
1200 New Jersey Ave., SE  
Washington, DC 20590

Federal Highway Administration  
Attention: Office of Civil Rights  
1200 New Jersey Avenue, SE  
8th Floor E81-105  
Washington, DC 20590

8. Confidentiality

SANDAG will take reasonable measures to protect the privacy of the complaining party and those individuals who may be the subject of a complaint. SANDAG cannot guaranty privacy, however, particularly if disclosure is necessary for a complete investigation or is required by law.

Adopted June 2003  
Amended November 2004  
Amended January 2010  
Amended February 2012  
Amended October 2013  
Amended January 2017

## Discrimination Complaint Form

Instructions: If you believe SANDAG has engaged in discrimination against one or more persons based on a basis other than medical condition or disability, please fill out this form completely, in black ink or type. Sign and return to the address on page 2. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Person Discriminated Against: (if other than the complainant) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

When did the discrimination occur? Date: \_\_\_\_\_

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary):

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Has a complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

If Yes:

Agency or Court: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Additional space for answers:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Return to:

Discrimination Compliance Officer – Special Office of General Counsel

SANDAG

401 B Street, Suite 800

San Diego, CA 92101

Phone: (619) 699-1900; Fax: (619) 699-1995

TTY: (619) 699-1904

**Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 Discrimination Complaint Form**

Instructions: If you believe SANDAG has engaged in discrimination against one or more persons based on medical condition or disability, please fill out this form completely, in black ink or type. Sign and return to the address on page 2. Alternative means of filing complaints, such as personal interviews or a tape recording of the complaint, will be made available for persons with disabilities upon request.

Complainant: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Person Discriminated Against: (if other than the complainant) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: Home: \_\_\_\_\_ Business: \_\_\_\_\_

When did the discrimination occur? Date: \_\_\_\_\_

Describe the acts of discrimination providing the name(s) where possible of the individuals who discriminated (use space on page 3 if necessary):

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Has a complaint been filed with another bureau of the Department of Justice or any other Federal, State, or local civil rights agency or court?

Yes: \_\_\_\_\_ No: \_\_\_\_\_

If Yes:

Agency or Court: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date Filed: \_\_\_\_\_

Additional space for answers:

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Return to:

ADA Coordinator

SANDAG

401 B Street, Suite 800

San Diego, CA 92101

Phone: (619) 699-1900; Fax: (619) 699-1995

TTY: (619) 699-1904