

## APPENDICES

The following appendices provide supporting documentation and reference materials for the ODOT Intermodal Title VI Program.

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### **A.1. ODOT Title VI Plan – Evidence of Approval**

Approval of the ODOT Intermodal Title VI Program is still pending. This document was prepared and reviewed by ODOT Office of Civil Rights staff is submitted to be considered for approval by the Oregon Transportation Commission at their meeting on September 18<sup>th</sup> in Salem, Oregon.

If approved, appropriate documentation of approval will be included in the final submission of this document.

## A2. ODOT Title VI Complaint Process and Complaint Form



Office of Civil Rights Title VI Program

### *Title VI of the Civil Rights Act of 1964 and Related Statutes*

## **Discrimination Complaint Process**

### **Introduction**

The Title VI (and related statutes) discrimination complaint procedures are intended to provide aggrieved persons an avenue to raise complaints of discrimination regarding the Oregon Department of Transportation's (ODOT) programs, activities and services as required by statute.

### **Purpose**

The purpose of the discrimination complaint procedures is to describe the process used by the Office of Civil Rights (OCR). These procedures cover all complaints filed under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination in Employment Act of 1967, Civil Rights Restoration Act of 1987, the Americans with Disabilities Act of 1990, Executive Order 12898 Environmental Justice, Executive Order 13166 Limited English Proficiency and applicable Department policies. Any person who feels that he or she has been subjected to discrimination on the basis of race, color, national origin, gender, age, disability, or because they are low income, has the right to file a complaint with the Department's Office of Civil Rights

Title VI Complaints must be filed within 180 days of the alleged discriminatory event or practice. Complaints must be filed in person or in writing. They should be directed to:

Office of Civil Rights  
Oregon Department of Transportation  
Attn. Title VI Officer  
355 Capitol St NE  
Salem, Oregon 97301

These procedures do not deny or limit the right of a complainant to file a formal complaint with an outside enforcement agency (BOLI, EEOC, U.S. Dept. of Transportation, FHWA, FTA, or U. S. Dept. of Justice) or to seek private counsel for complaints alleging discrimination. Every effort will be made to obtain early resolution of complaints at the lowest possible level.

## **Roles and Responsibilities**

- The Office of Civil Rights Manager and Title VI Officer, has overall responsibility for the discrimination complaint process and procedures.
- The Office of Civil Rights Manager, Title VI Officer and Civil Rights Field Coordinators serve as points of contact statewide for the public to initiate complaints of discrimination.
- The Office of Civil Rights is responsible for conducting an impartial and objective investigation, collect factual information and prepare a fact-finding report based upon the information obtained from the investigation.

In cases where the complainant is unable or incapable of providing a written statement, the complainant will be assisted in converting the verbal complaint into a written complaint. All complaints however must be signed by the complainant.

## **Filing of Formal Complaints**

### 1. APPLICABILITY

The complaint procedures apply to the beneficiaries of the Oregon Department of Transportation's programs, activities, and services, including but not limited to the public and other sub-recipients of Federal and State funds.

### 2. ELIGIBILITY

Any person who believes that he/she has been excluded from participation in, or have been denied benefits or services of any program or activity administered by the Department or its sub-recipients, consultants, and contractors on the basis of race, color, national origin, sex, age, or disability may bring forth a complaint of discrimination under Title VI and related statutes.

### 3. TIME LIMITATIONS AND FILING OPTIONS

Title VI complaints of discrimination may be filed with:

- The Office of Civil Rights of ODOT
- Federal Highway Administration
- Federal Transit Administration
- U.S. Department of Transportation

*In all situations, Oregon Department of Transportation Civil Rights staff must immediately forward Title VI discrimination complaints to FHWA or FTA.*

Complaints must be filed no later than 180 days after:

- The date of the alleged act of discrimination; or
- The date when the person(s) became aware of the alleged discrimination; or
- Where there has been a continuing course of conduct, the date on which the conduct was discontinued.

4. TYPE OF COMPLAINTS

All Title VI and related statute complaints are considered formal as there is no informal process. Complaints must be in writing and signed by the complainant. Complaints must include the complainant's name, address and phone number and be detailed to specify all issues and circumstances of the alleged discrimination.

5. COMPLAINT BASIS

Allegations must be based on issues involving race, color, national origin, sex, age, disability, or income. The term "basis" refers to the complainant's protected group status.

| Protected Group Categories | Definition  | Examples   |
|----------------------------|---|--|
| Race                       | An individual belonging to one of the accepted anthropological racial groups; or the perception, based on physical characteristics that a person is a member of a racial group.             | Black, White, Hispanic, Asian, Native American Indian, Filipino, or Pacific Islander   |
| Color                      | Color of skin, including shade of skin within a racial group.   | Black, white, light brown, dark brown, etc.  |
| National Origin            | National birth site. Citizenship is not a factor. Discrimination based on language or a persons accent is covered by national origin.   | Mexican, Cuban, Japanese, Vietnamese, Chinese  |
| Sex                        | Gender  | Women and men  |
| Age                        | Persons of any age  | 21 year old person   |
| Disability                 | Physical or mental impairment, permanent or temporary, or perceived.  | Blind, deaf, mobility limitations, etc.  |
| Socio-Economic             | Individuals and segments of communities (neighborhoods) that are below the HHS Poverty line index that are subject to provisions contained in Executive Order 12898 – Environmental Justice | Low-Income individuals and members of communities that may be subjected to adverse impacts or denied the benefits from transportation decision-making because of their socio-economic status |

## Complaint Processing

### 1. INITIAL CONTACT

The Office of Civil Rights Manager, Title VI Officer and Civil Rights Field Coordinators serve as the Department's resources for members of the public who wish to file a discrimination complaint under Title VI and related statutes. As resources, The Office of Civil Rights Manager, Title VI Officer and Civil Rights Field Coordinators staff provides complainants with:

- An explanation of their filing options.
- The discrimination complaint process.

### 2. THE COMPLAINT REVIEW PROCESS

- a. The Office of Civil Rights reviews the complaint upon receipt to ensure that relevant information is provided, the complaint is timely, and meets jurisdiction.
- b. The complaint shall be investigated unless:
  - The complaint is withdrawn.
  - The complainant fails to provide required information after numerous requests.
  - The complaint is not filed timely.
  - Any issues that do not involve discrimination, or are not based on a protected basis will be directed to the appropriate entity. Under no circumstance is the complainant discouraged from filing a complaint.
- c. Upon determination that the complaint warrants an investigation: The complainant is sent a letter, acknowledging receipt of the complaint, the name of the investigator, and is provided with his/her rights under Title VI and related statutes.
- d. The respondent is notified by mail that he/she has been named in a complaint and is provided with his/her rights under Title VI and related statutes. The letter also reveals the investigator's name and informs the respondent that he/she will be contacted for an interview.
- e. A letter is sent to the appropriate manager when the complainant(s) or respondent(s) are located in a Region office. Program managers will be informed that a complaint was filed; the letter will list the

names of the parties involved, the basis of the complaint and the assigned investigator.

- f. Title VI Officer is responsible for the overall Title VI program implementation. This Title VI Officer is appointed by the Manager of the Office Civil Rights who reports directly to the Director of the Oregon Department of Transportation.

## Investigation

### 1. INVESTIGATION PLAN

The investigator shall prepare a written plan, which includes, but is not limited to the following:

- Names of the complainant(s) and respondent(s);
- Basis for the complaint;
- Issues, events or circumstances that caused the person to believe that he/she has been discriminated against;
- Information needed to address the issue;
- Criteria, sources necessary to obtain the information;
- Identification of key people;
- Estimated Investigation time line;
- Remedy sought by complainant(s)

### 2. CONDUCTING THE INVESTIGATION

- The investigation will address only those issues relevant to the allegations in the complaint.
- Confidentiality will be maintained as much as possible.
- Interviews will be conducted to obtain facts and evidence regarding the allegations in the complaint. The investigator will ask questions to elicit information about aspects of the case, which the witness can provide firsthand information.
- Interviews can be tape recorded with the interviewees consent.
- A chronological contact sheet is maintained in the case file throughout the investigation.

### 3. INVESTIGATION REPORTING PROGRESS

- Within 30 days of receiving the complaint, the investigator prepares an investigation report and submits the report and supporting documentation to the Office of Civil Rights Manager for review.

- The Office of Civil Rights Manager reviews the file and investigation report. Subsequent to the review, the Office of Civil Rights Manager, makes a final determination of “probable causes” or “no Cause” and prepares a final decision letter for signature.
- OCR shall prepare and submit a written report, outlining the following complaint details:
  - a. Date of written complaint;
  - b. Complaint basis (race, color, national origin);

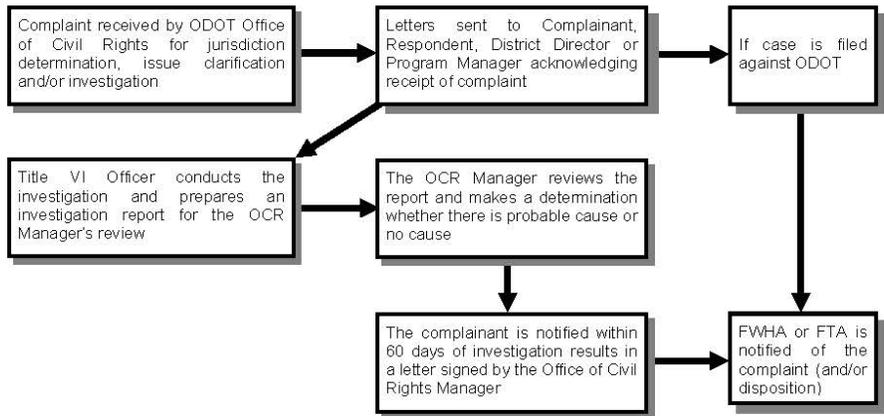
**Reporting Requirements**

A copy of the complaint, together with a copy of the report of investigation, is forwarded to the appropriate federal agency (FHWA or FTA) within 60 days of the date the complaint was received.

**Records**

All records and investigative working files are maintained in a confidential area within the Office of Civil Rights. Records will be kept for three years internally then archived for a period of ten years.

**Complaint Process Flow Chart**



## Authorities

***Title VI of the Civil Rights Act of 1964, (42 USC 2000d to 2000-4):***

Title VI of the 1964 Civil Rights Act provides that no person in the United States shall, on the grounds of race, color, or national origin (including Limited English Proficiency), be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance.

***The Civil Rights Restoration Act of 1987, (Pub. L. No. 100-259):***

The Civil Rights Restoration Act of 1987 broadens the scope of Title VI by expanding the definitions of terms "programs or activities" to include all programs or activities of Federal Aid recipients, sub-recipients, and contractors.

***23 CFR 200 and 49 CFR 21:***

23 CFR 200 and 49 CFR 21 are administrative Regulations from USDOT and FHWA that specify requirements for state DOTs to implement Title VI policies and procedures at the state and local levels.

***Federal Aid Highway Act of 1973, (23 USC 324):***

The Federal Aid Highway Act of 1973 provides that no person on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

***Age Discrimination Act of 1975, (42 USC 6101):***

The Age Discrimination Act of 1975 provides that no person in the United States shall, on the basis age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

***Americans With Disabilities Act of 1990, (Pub. L. No. 101-336):***

The Americans With Disabilities Act of 1990 provides that no qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a state or a local government.

***Section 504 of the Rehabilitation Act of 1973:***

Section 504 of the Rehabilitation Act of 1973 provides that no qualified handicapped person, shall, solely by reason of his/her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance.

***Executive Order 12898:***

Executive Order 12898 regards federal actions to address Environment Justice in minority populations and low income populations.

***Executive Order 13166:***

Executive Order 13166 regards the improvement of access to services for persons with limited English proficiency.

**Federal Transit Administration  
Office of Civil Rights  
Complaint Form**

**Section I**

Name: \_\_\_\_\_

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

Telephone Numbers:

(Home) \_\_\_\_\_ (Work) \_\_\_\_\_

Electronic Mail Address: \_\_\_\_\_

Accessible Format Requirements?

Large Print \_\_\_\_\_ Audio tape \_\_\_\_\_

TDD \_\_\_\_\_ Other \_\_\_\_\_

**The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly abide by Title VI of the Civil Rights Act of 1964, Executive Order 12898, "Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations," and the Department of Transportation's Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries.**

**In the FTA complaint investigation process, we analyze the complainant's allegations for possible Title VI and related deficiencies by the transit provider. If deficiencies are identified they are presented to the transit provider and assistance is offered to correct the inadequacies within a predetermined timeframe. FTA also may refer the matter to the U.S. Department of Justice for enforcement.**

**Section II**

Are you filing this complaint on your own behalf?

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

[If you answered "yes" to this question, go to Section III.]

If not, please supply the name and relationship of the person for whom you are complaining:

\_\_\_\_\_

Please explain why you have filed for a third party. \_\_\_\_\_

\_\_\_\_\_

Please confirm that you have obtained the permission of the aggrieved party if you are filing on behalf of a third party.

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

**Section III**

Have you previously filed a Title VI complaint with FTA? Yes \_\_\_\_ No \_\_\_\_

If yes, what was your FTA Complaint Number? \_\_\_\_\_

[Note: This information is needed for administrative purposes; we will assign the same complaint number to the new complaint.]

Have you filed this complaint with any of the following agencies?

Transit Provider \_\_\_\_ Department of Transportation \_\_\_\_

Department of Justice \_\_\_\_ Equal Employment Opportunity Commission \_\_\_\_

Other \_\_\_\_\_

Have you filed a lawsuit regarding this complaint? Yes \_\_\_\_ No \_\_\_\_

If yes, please provide a copy of the complaint form.

**[Note: This above information is helpful for administrative tracking purposes. However, if litigation is pending regarding the same issues, we defer to the decision of the court.]**

**Section IV**

Name of public transit provider complaint is against:

\_\_\_\_\_

Contact person: \_\_\_\_\_ Title: \_\_\_\_\_

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

**On separate sheets, please describe your complaint. You should include specific details such as names, dates, times, route numbers, witnesses, and any other information that would assist us in our investigation of your allegations. Please also provide any other documentation that is relevant to this complaint.**

*Section V*

May we release a copy of your complaint to the transit provider?

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

May we release your identity to the transit provider?

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

Please sign here: \_\_\_\_\_

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

[Note - We cannot accept your complaint without a signature.]

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**Please mail your completed form to: Title VI Program Coordinator, FTA Office of Civil Rights, East Building, 5<sup>th</sup> Floor – TCR, 1200 New Jersey Ave., S.E., Washington, D.C. 20590**

## A3. Tri-Met FTA Complaint Resolution



U.S. Department  
of Transportation  
Federal Transit  
Administration

Headquarters

5<sup>th</sup> Floor – East Bldg., TCR  
1200 New Jersey Avenue, SE  
Washington, DC 20590

July 17, 2014

Christopher Winter  
Co-Executive Director  
Crag Law Center  
917 SW Oak Street, Suite 417  
Portland, OR 97205

Re: FTA Complaint No. 2014-0048

Dear Mr. Winter:

This letter responds to the complaint filed against Tri-County Metropolitan Transportation District of Oregon (TriMet) by your organization on behalf of Organizing People and Activating Leaders (OPAL) and the Center for Intercultural Organizing (ICO). The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring that providers of public transportation are in compliance with Title VI of the Civil Rights Act of 1964, as implemented by the U.S. Department of Transportation (DOT) at 49 CFR Part 21; FTA Circular 4702.1B, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients”; and Executive Order 13166, “Improving Access to Services to Persons with Limited English Proficiency (LEP).”

In the FTA complaint investigation process, we analyze allegations for possible Title VI deficiencies by the transit provider. If deficiencies are identified, they are presented to the transit provider to correct them within a predetermined timeframe. If FTA cannot resolve the apparent violations of Title VI or the DOT Title VI regulations by voluntary means, formal enforcement proceedings may be initiated against the public transportation provider, which may result in the suspension or termination of Federal funds. FTA also may refer the matter to the U.S. Department of Justice for enforcement.

### **Allegations**

The complaint alleges that TriMet failed to comply with FTA’s Title VI Circular, when TriMet implemented a change to its transfer policy and did not conduct a fare equity analysis. The complainants believe that TriMet’s transfer policy not only failed to comply with FTA’s Title VI Circular, but the transfer change also resulted in a disparate impact.

### **Facts**

According to the information provided by the complainants and TriMet, a transfer change occurred on June 13, 2012. Prior to implementing the transfer change policy, TriMet sought technical assistance from FTA on a proposed fare change and major service change. In this request, TriMet mentioned to FTA that it was also going to standardize its transfer policy. Consequently, TriMet adopted a standardized two hour transfer policy for all modes of transit service and days of the week. TriMet worked with the complainants to determine whether the two hour transfer window could be extended to three hours, and as of December 11, 2013, there was a proposal to extend the transfer policy to two and a half hours.

Re: FTA Complaint No. 2013-0119  
Page 2

Nevertheless, the complainants filed a Title VI complaint regarding the transfer policy on December 27, 2013 with FTA.

### **Analysis<sup>1</sup>**

For purposes of corrective actions, the relevant FTA Title VI Circular is Circular 4702.1B, which became effective on October 1, 2012. In making a determination, FTA recognizes that TriMet is currently considering new changes to the transfer policy at the center of this complaint.

#### *Transfer Policy*

At the time of the transfer policy change, FTA required grantees to comply with FTA Circular 4702.1A, which required grantees to “evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact.” (Circular 4702.1A, Ch. V, sec. 4). Essentially, Circular 4702.1A recommended options a grantee should utilize to ensure fare changes did not have a discriminatory impact. (id.)

However, the revised Title VI Circular, FTA Circular 4702.1B, requires a specified approach to fare equity analyses. Yet, Circular 4702.1B did not become effective until October 1, 2012, well after the June 13, 2012 transfer policy change date. Given the timing of the events, TriMet did not have any formalized requirement to analyze the effects of the transfer policy. Furthermore, the TriMet material indicates that though never formally analyzing the possible effects of a transfer policy, public participation occurred during the process to modify the transfer policy. TriMet attempted to work with the complainants to expand the Transfer policy, and TriMet has a history of proactively seeking Title VI technical assistance.

TriMet indicated a proposed Ordinance will alter the transfer policy, but the ordinance is postponed until FTA determines whether a fare equity analysis is required for a transfer policy change. TriMet expressed a willingness to conduct a fare equity analysis, if FTA determines a transfer policy requires a fare equity analysis. FTA Circular 4702.1B does not explicitly state that a transfer policy is considered a fare medium. Nevertheless, as the Title VI Circular states “compliance with this Circular does not relieve a recipient from the requirements and responsibilities of the DOT Title VI regulation at 49 CFR part 21.” (Circular 4702.1B, Ch. II, sec. 2).

DOT Title VI regulation states in part, “[a]recipient, in determining the types of services, financial aid, or other benefits . . . may not, through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, or national origin.” (49 CFR Section 21.5(b)(2)). A transfer fare policy can be viewed as a benefit/financial aid imparted on riders, which has financial reverberations on the rider, as well as the transit agency. A transfer policy directly affects a rider’s ability to access a transit system. The transfer policy relates to the amount a rider will

<sup>1</sup> A change to the transfer policy is not a service change. The service implications are a secondary effect of any transfer policy change. The direct nexus is with fare/fare mediums. A transfer policy limits or expands a customer’s ability to access a transit system via a fare medium. The service availability at no point diminishes or increases; merely the fare’s access potential is affected. Furthermore, while a service equity analysis must be conducted, if there is a major service change, a fare equity change will be conducted regardless of the precise transfer policy change. Thus, there still exists a formal approach to ensure any change to a transfer policy complies with Title VI. As a result, FTA focused on whether TriMet complied with the fare equity requirements, and not whether TriMet complied with the necessary service equity requirements.

Re: FTA Complaint No. 2013-0119  
Page 3

spend on a ride and may affect his/her choice in which fare medium to purchase. Due to the nexus a transfer policy has with accessing a transit system, FTA views a change to a transfer policy the same as a change to any fare medium. As a result, a transfer policy change requires a fare equity analysis to determine whether a proposed change will result in a disparate impact and/or disproportionate burden.

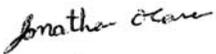
FTA recommends that TriMet seek technical assistance for any proposed transfer policy change. Please note that technical assistance is available as long as the transfer policy has not received final board approval, or the equivalent. Additionally, any fare equity analysis requires ridership data. This data is necessary to conduct a compliant fare equity analysis. It is imperative that TriMet identify whether it must update its ridership data to better understand its transfer usage. Fare data is normally collected via surveys, and there may be a need to amend any current surveys to capture the transfer usage data.

### **Conclusion**

FTA does not find TriMet noncompliant with FTA's Title requirements for the 2012 transfer policy change. We are therefore requiring no corrective action and are closing the complaint as of the date of this letter. Nevertheless, continued Title VI compliance will require TriMet to conduct a fare equity analysis for any future changes to the transfer policy. FTA is able to assist TriMet, and making this technical assistance available, if it desires to seek such technical assistance.

If you have any questions, please contact Jonathan Ocana at (202) 493-0314 or via e-mail at [jonathan.ocana@dot.gov](mailto:jonathan.ocana@dot.gov). Please include the FTA complaint number in any correspondence regarding this complaint.

Sincerely,

 for

Dawn Sweet  
Acting Title VI Team Leader  
Office of Civil Rights

cc: FTA Region 10

## A.4. ODOT Title VI Nondiscrimination Statement - English

**Oregon Department of Transportation****Title VI Nondiscrimination  
Statement**

The Oregon Department of Transportation ensures compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, part 21; related statutes and regulations to the end that no person shall be excluded from participation in or be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Department of Transportation on the grounds of race, color, sex, disability or national origin.

**Any person who believes he or she has been discriminated against should contact:**

Oregon Department of Transportation  
Office of Civil Rights  
355 Capitol St NE, Salem OR 97301  
TELEPHONE (503) 986-3169

[http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/title\\_vi.shtml](http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/title_vi.shtml)

#### A.4. ODOT Title VI Nondiscrimination Statement – Spanish

### Departamento de Transporte de Oregon

## Declaración de no discriminación según el Título VI

El Departamento de Transporte de Oregon garantiza el cumplimiento del Título VI, 49 CFR, parte 21 de la Ley de Derechos Civiles (*Civil Rights Act*) de 1964, leyes y reglamentos relacionados con el fin de que ninguna persona sea excluida de los beneficios o se le nieguen los mismos, o sea víctima de discriminación por motivos de raza, color, sexo, la discapacidad o nacionalidad en cualquier programa o actividad que reciba ayuda financiera del Departamento de Transporte de los Estados Unidos.

**Cualquier persona que crea haber sido víctima de discriminación debe comunicarse con:**

Oregon Department of Transportation  
Office of Civil Rights  
355 Capitol St NE, Salem OR 97301  
TELÉFONO (503) 986-3355

[http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/title\\_vi.shtml](http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/title_vi.shtml)

