



NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding, or hearing conducted by the Department of Transportation (DOT) are afforded certain rights and protections. This document provides an overview of these rights and protections.

- A recipient may not force its employees to be represented by the recipient's counsel nor may a recipient intimidate, threaten, coerce or discriminate against any employee who refuses to reveal to the recipient the content of an interview. An employee does, however, have the right to representation during an interview with DOT. The representative may be the recipient's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.
- The laws and regulations governing DOT's compliance and enforcement authority state that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under DOT's jurisdiction, or has asserted rights protected by statutes DOT enforces.
- Information obtained from the complainant or other individual which is maintained in DOT's investigative files may be exempt from disclosure under the Privacy Act or under the Freedom of Information Act if release of such information would constitute an unwarranted invasion of personal privacy.

Two laws govern personal information submitted to any Federal agency, including DOT: the Privacy Act of 1974 ([5 U.S.C. § 552a](#)) and the Freedom of Information Act ([5 U.S.C. § 552](#)).

THE PRIVACY ACT protects individuals from misuse of personal information held by the Federal Government. The law applies to records that are kept and that can be located by the individual's name or social security number or other personal identification system. Persons who submit information to the government should know the following:

- DOT is authorized to investigate complaints of discrimination on the basis of race, color, national origin, sex, disability, age, and religion against recipients of Federal financial assistance. DOT may also conduct reviews of federally funded recipients to assess their compliance with civil rights laws.
- Information that DOT collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. DOT staff may need to reveal certain information to persons outside the agency in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. DOT also may be required to reveal certain information to any individual who requests it under the provisions of the Freedom of Information Act (*see below*).
- Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. Except in the instances defined in DOT's regulation at 49 CFR Part 10, DOT will not release the information to any other agency or individual unless the person who supplied

the information submits a written consent. One of these exceptions is when release is required under the Freedom of Information Act (*see below*).

- No law requires a complainant to give personal information to DOT, and no sanctions will be imposed on complainants or other individuals who deny DOT's request. But if DOT fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.
- The Privacy Act permits certain types of systems of record to be exempt from some of its requirements, including the access provisions. It is the policy of DOT to exercise authority to exempt systems of records only in compelling cases. DOT may deny a complainant access to the files compiled during the agency investigation of his or her civil rights complaint against a recipient of Federal financial assistance. Complaint files are exempt in order to aid negotiations between recipients and DOT in resolving civil rights issues and to encourage recipients to furnish information essential to the investigation.
- DOT does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a recipient that violates the laws, or unless such information is required to be disclosed under the Freedom of Information Act (FOIA) or the Privacy Act. DOT will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under FOIA, the Privacy Act, or otherwise required by law.

THE FREEDOM OF INFORMATION ACT gives the public access to certain files and records of the Federal Government. Individuals can obtain items from many categories of records of the Government—not just materials that apply to them personally. DOT must honor requests under the Freedom of Information Act, with some exceptions. DOT generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the agency to do its job. Also, any Federal agency may refuse a request for records compiled for law enforcement purposes if their release could be an “unwarranted invasion of privacy” of an individual. Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a “clearly unwarranted invasion of privacy.”