

TITLE VI: EXPECTATIONS AND RESPONSIBILITIES

KENTUCKY TRANSPORTATION CABINET

OFFICE FOR CIVIL RIGHTS AND SMALL BUSINESS DEVELOPMENT

Objectives

- ❖ Understand Title VI Authorities/Law
- ❖ Understand compliance with Title VI
- ❖ Discuss Components of a Title VI Implementation/Program Plan

What is Title VI

Federal Law

The Civil Rights Act of 1964

“No person in the United States shall on the ground of race, color, or national origin be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance.” (42 USC 2000d)

Nondiscrimination Laws and Executive Orders

- Title VI of the Civil Rights Act of 1964*
- Civil Rights Restoration Act* (1987)
- Rehabilitation Act (1973)
- American with Disabilities Act (1991)
- Age Discrimination Act (1975)
- Uniform Act (1970)
- Federal Aid Highway Act (1973)
- Executive Order – 13166: Limited English Proficiency (LEP)
- Executive Order - 12898: Environmental Justice (EJ)

What is Discrimination?

The act (action or inaction), whether intentional or unintentional, through which a person in the U.S. solely because of distinguishing protected attributes, is subjected to disparate treatment or impact, in any program or activity receiving Federal financial assistance from FHWA Under 23 USC.

Types of Discrimination

- Denial of Program Service, Financial Aid, or Benefits
- Providing Different Types of Program Services, Financial Aid
- Providing Groups Services in a Different Manner
- Segregating or separately treating Individuals or groups in any matter relating to the receipt of any program service, financial aid or benefit
- Imposing impacts to groups for the benefit of another group

Disparate Treatment

Refers to actions that result in situations where similarly situated persons are intentionally treated differently than others because of their race, color, national origin, etc.

Disparate Impact

Refers to actions in which the recipient in violation of agency regulations, uses a unbiased procedure or practice that has adverse effects on members of a group based on race, color, national origin, etc; such practice lacks a substantial legitimate justification.

Disparate Impact or Disparate Treatment

A public transit system ends service at 10:00 P.M., yet late night customers are primarily Hispanic because many people in the Hispanic community depend on public transportation for late shift employment.

A: Disparate Impact

Minority & Women Representation on Planning Boards & Commissions

Including minorities and women on planning boards and commissions is key to for creating an equal access planning system. Sub-recipients cannot deny someone the opportunity to participate as a member of a planning or commission board

Compliance

Who **MUST** comply?

Recipients of federal financial aid must comply with the various Title VI nondiscrimination laws and regulations.

A recipient is any entity or individual to whom Federal assistance is provided (23 CFR 200.5(n)).

sub-recipients and contractors regardless of tier are **REQUIRED** to prevent discrimination and ensure nondiscrimination in all of their programs and activities.

Compliance

Federal aid or Federal assistance can be in the form of:

- A grant and direct funding
- Grant or donation of Federal property
- Equipment and training
- Detail of Federal personnel
- Sale, lease, permission to use Federal property

Compliance

In order to be in compliance with Title VI sub-recipients and contractors must:

- Appoint a Title VI Coordinator
- Develop a Title VI Implementation Plan
 - Limited English Proficiency
 - Environmental Justice
 - Public Participation Plan
- Provide Title VI training for all of it's employees
- Develop a Title VI Policy Statement
- Have signed Title VI Assurances
- Have a grievance/complaint procedure in place
- Monitor sub-recipients and sub-contractors for Title VI compliance

Compliance

Development of Title VI Implementation Plan

- The plan communicates how the organization/agency will implement Title VI requirements such as LEP and EJ
- The plan also discusses procedures, strategies, activities and goals to ensure nondiscrimination
- Identifies the Title Coordinator
- Contains the Complaint/Grievance procedures, Title VI Policy Statement and signed Assurances

Compliance

Limited English Proficiency (LEP)

Executive Order 13166 requires Federal agencies, including those agencies who receive Federal funds, to examine the services they provide identify any need for services to those with Limited English Proficiency (LEP) and develop and implement a system to provide those services so LEP persons can have meaningful access to them.

Compliance

Who is a LEP Person?

A person who does not speak English as their primary language and has limited ability to read, speak, write and understand English

How does your organization/agency assist customers that do not speak English?

Compliance

In order to determine the most effective way to service LEP populations in your area a Four Factor Analysis needs to be conducted.

1. Number of LEP persons eligible to be served or likely to be encountered by the program or recipient.
2. Frequency with which LEP Persons come into contact with your program.
3. The nature and importance of the program, activity or service provided by the program to people's lives.
4. The resources available to the recipient for LEP outreach, as well as the cost associated with that outreach.

Compliance

Safe Harbor Provision means that if an organization/agency provides written translations under this provision, such action will be considered strong evidence of compliance with the organization/agency written translation obligations.

- ❖ Safe Harbor applies to the translation of written documents ONLY
- ❖ Safe Harbor requires written translations of vital (critical) documents for LEP group that meets the threshold

Compliance

Safe Harbor for written translations:

Size of Language Group	Recommended Provision of Written Language Assistance
1,000 or more in the eligible population in the service area or among current beneficiaries.	Translated vital documents.
More than 5% of the eligible population or beneficiaries <i>and</i> more than 50 in number.	Translated vital documents.
More than 5% of the eligible population or beneficiaries <i>and</i> 50 or less in number.	Translated written notice* of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries and less than 1,000 in number.	No written translation is required.

Compliance

Environmental Justice

- Identifying, and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low income populations
- To ensure the full and fair participation by all potentially affected communities in the transportation decision making process.
- To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Noncompliance

If a recipient is found to be noncompliant by FHWA the following sanctions can occur:

- Federal informal action
 - Preferred mechanism
- Federal corrective action plan
- Federal funding termination
- Federal government can terminate funding
- for actual or threatened non-compliance
- Hearing rights

Noncompliance

If the sub-recipient is found to be noncompliant by KYTC the following sanctions can occur

- State informal action
 - Preferred mechanism
- State corrective action plan
- Financial penalties for “responsible entities”
 - Withhold funding
 - Termination or suspension of the contract/grant in whole or in part

Questions

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