



U.S. Department of Transportation
Pipeline and Hazardous Materials
Safety Administration

Compliance with External Statutes

July 27, 2023



Purpose of Training

To ensure all recipients, sub-recipients,
and contractors are:

- aware of the provisions of External Civil Rights rules, laws, and regulations, and
- aware of their responsibilities under these provisions.



What is Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) -

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.



What is Environmental Justice (EJ)?

In the Presidential memorandum accompanying Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," signed by President Clinton, he identified Title VI as one of several Federal laws that should be applied "to prevent minority communities and low-income communities from being subject to disproportionately high and adverse environmental effects."

Recipients are prohibited from using methods which discriminates against people on the basis of race, color or national origin – including addressing disproportionate adverse impacts on minority and low-income populations.



What is Limited English Proficiency (LEP)?

Title VI prohibits discrimination by Recipients of Federal financial assistance on the basis of race, color, and national origin, including the denial of meaningful access for limited English proficient (LEP) persons.

Recipients should take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.



What is Sec. 504 of the Rehabilitation Act?

The Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors.



What is the Age Discrimination Act?

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.



What is Title IX of the Educational Amendments?

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.



Definitions

- Federal Financial Assistance (FFA) – Assistance that non-Federal entities receive from the federal government in the form of grants, cooperative agreements, donations of property, loans, or other financial assistance.
- Recipient – An entity or individual that receives FFA directly from a federal agency.



Definitions (cont.)

- Sub-recipient – an entity or individual that receives FFA from a recipient to carry out a program. Does not include individuals who are the ultimate beneficiaries of the FFA.
- Contractor – an entity or individual that, under a contract, provides property or services needed to carry out the project or program under a federal award.



Definitions (cont.)

- Beneficiaries - A person or group of persons who receive or enjoy the benefits, services, resources, and information, or to participate in the activities and programs, being funded in whole or part by the FFA.



Discriminatory Practices Under External Civil Rights Regulations

- Denying an individual any program services, financial aid, or benefits on the basis of a protected characteristic;
- Providing a different service, aid, or benefit, or providing them in a manner different than they are provided to others, based upon a protected characteristic; or
- Segregating or treating individuals separately on the basis of a protected characteristic in any matter related to receiving any program service, aid, or benefit.



Disparate Treatment vs. Disparate Impact

- Disparate treatment means direct discrimination against an individual or group of people.
- Disparate impact means discrimination that occurs as a result of a neutral policy which appears harmless on the surface, but negatively affects a group of people.



Retaliation

Retaliation occurs when a recipient or another person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with any right or privilege secured by external civil rights regulations, or because a person made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under external civil rights regulations.



Best Practices to Comply with External Civil Rights

Recipients/Sub-recipients/Contractors may:

- Appoint a Title VI/Civil Rights Coordinator;
- Develop a External Civil Rights Policy Statement and post in visible areas;
- Acquire signed Title VI assurances;
- Track disadvantaged/DBE status of sub-recipients, subcontractors, and beneficiaries of Federal Financial Assistance; and
- Include Title VI Assurances in all contracts.



Develop a Public Participation Plan

Engage the Public with the opportunity to make them aware of projects or services and to provide input in the decision-making process through:

- Public Meetings/Hearings in centralized locations;
- Advertisement with Local Media Resources and Minority Newspapers;
- Direct Mailings;
- Public Service Announcements;
- Website; and
- Radio and Television.



Minority Representation on Planning Boards & Commissions

The inclusion of minorities on planning boards and commissions is critical in establishing an equal access planning system. Recipients cannot “deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.”



Have a Written Title VI/Civil Rights Complaint Process and Complaint Log

Include:

- How to file a complaint;
- Instructions that the complaint must be filed within 180 days of the alleged occurrence or when the alleged discrimination became known to the complainant;
- Procedure stating that the complaint must be in writing and signed by the person making the complaint;
- Process for determining the jurisdiction, acceptability, and the need for additional information upon receipt in order to investigate the merit;
- Commitment to take final action within 90 days; and
- Provide appeal instructions.



Develop an LEP Plan

Who are Limited English Proficiency (LEP) Persons?

Persons who do not speak English as their primary language, and who have a limited ability to read, speak, write or understand English.



Determining LEP Persons

1. Number or proportion of LEP persons served;
2. Frequency of contact with the program or activity;
3. Nature and importance of the program; and
4. Resources available.



Evaluate Current Practices

- Identify actions already being taken and existing tools that can be used to provide meaningful access;
- Inventory existing materials that have been translated into other languages;
- Develop staff awareness, and
- Prepare a LEP Plan.



Actions by PHMSA

PHMSA will:

- Conduct compliance reviews – either an on-site review or desk audit review.
- Make a compliance determination – finding of no deficiency, finding of deficiency or finding of noncompliance.
- Work with Recipients to ensure compliance.
- Investigate and adjudicate complaints alleging that a Recipient has violated the civil rights regulations.
- Encourage Recipients to utilize small disadvantaged businesses when contracting.



Non-Compliance

Failure or refusal to comply with Title VI of the Civil Rights Act of 1964, other applicable Civil Rights Laws, and implementing departmental regulations.



Sanctions for Non-Compliance

- **Withholding** of payments to the recipient under the contract until the recipient complies, and/or
- **Cancellation, termination or suspension** of the award, in whole or in part.



PHMSA External Civil Rights Contact Information

If you have questions or need additional information regarding external civil rights laws (Title VI, Rehabilitation Act or Age Discrimination Act compliance), please contact:

Rosanne Goodwill

PHMSA Civil Rights Director

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Phone: 202-366-9638

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CONGRATULATIONS

YOU HAVE JUST CONCLUDED
EXTERNAL CIVIL RIGHTS TRAINING