



Department of

**Veterans Services**

**Title VI of the  
Civil Rights Act of 1964**

# Course Outline

- Overview of Title VI
- Theories of discrimination
- LEP/National Origin
- State agency obligations



*Learning Objectives*

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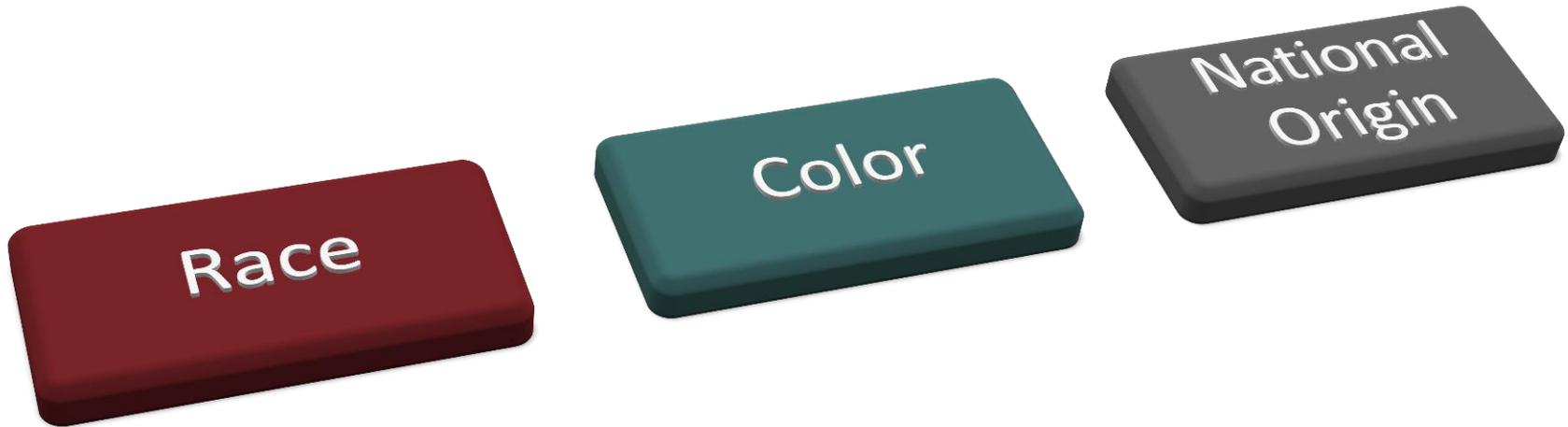
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**What is Title VI of the  
Civil Rights Act of 1964?**

# What is Title VI?

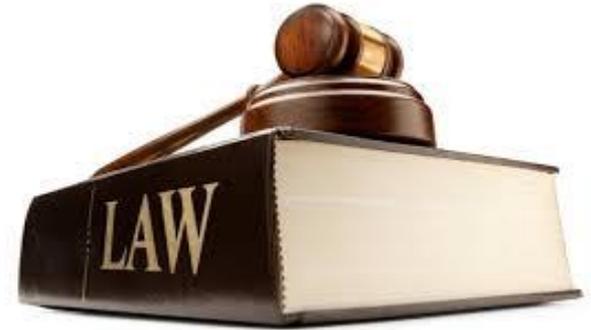
- Title VI prohibits discrimination on the basis of:



# Federal Law

- 42 U.S.C. § 2000d provides,

No person in the United States shall, on the ground 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.



# Tennessee Law

- Tenn. Code Ann. § 4-21-904



It is a discriminatory practice for any state agency receiving federal funds making it subject to Title VI of the Civil Rights Act of 1964, ... or for any person receiving such federal funds from a state agency, to exclude a person from participation in, deny benefits to a person, or to subject a person to discrimination under any program or activity receiving federal funds, on the basis of race, color, or national origin.

# Scope of Coverage - Employment

- While Title VI was not meant to be the primary vehicle to prohibit employment discrimination, it does not forbid employment discrimination by recipients in certain situations.



# Title VI and Employment Discrimination



- If a “primary objective” of the Federal financial assistance to a recipient is to promote employment, then the recipient’s employment practices are subject to Title VI.
- Otherwise, refer to Title VII of the Civil Rights Act of 1964, which covers employment discrimination based on race, color, national origin, religion, and sex. This is addressed in the State’s Policy on Workplace Discrimination and Harassment.

# What must occur for Title VI to apply?

- The program or activity
  - Must be located in the United States
  - Must provide a service
  - Must receive direct (recipient) or indirect (sub-recipient) federal financial assistance

# What is Federal Financial Assistance (FFA)?

- Award or grant of money;
- Loans, below fair market value subsidies;
- Any federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance;
- Surplus property;
- Training; and
- Detail of federal personnel.



# What is a recipient?

A “recipient” receives FFA and/or operates a program or activity (e.g. a state, local or municipal department/agency, or other entity)

## *Primary Recipient -*

Transfers or distributes assistance to another recipient or subrecipient

## *Subrecipient –*

Distributes assistance to an ultimate beneficiary (e.g., contractors, subcontractors or grantees)

# Beneficiaries

Individuals and/or entities who directly or indirectly receive an advantage through the operation of a federal program.

# Examples of discriminatory practices

- Denying an individual any service, financial aid, or benefit.
- Providing a different service, aid or benefit, or providing them in a manner different that they are provided to others.
- Segregating or treating individuals separately in any manner related to receiving programs, services, or benefits.
- Retaliation.
- National Origin/Limited English Proficient (LEP) Discrimination.

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# Theories of Discrimination

# Disparate Treatment



- Intentional discrimination against an individual.
- Must show that a challenged action was “motivated by an intent to discriminate.”

# Evidence of Discriminatory Intent

- May be direct or circumstantial and may be found in various sources, including statements, historical background of events in issue, or a departure in standard procedure

# Elements of Disparate Treatment

- The aggrieved person was a member of a protected class;
- That person applied for, and was eligible for a federally assisted program that was accepting applicants;
- That despite the person's eligibility, s/he was rejected; and
- The recipient selected, or continued to accept applicants of the complainant's qualifications.

# Disparate Treatment

- Once the elements are established, the recipient has to show there was a “legitimate, nondiscriminatory reason” for the challenged action.
- It is then up to the investigating agency to determine whether there is sufficient evidence to establish that the recipient’s reason was a pretext for discrimination.

# Disparate Impact

- Discrimination that occurs as a result of a neutral policy which appears harmless on the surface, but negatively affects a group.
- Focus concerns the consequences of a recipient's practices, rather than intent.



# Elements of Disparate Impact

- The recipient's facially neutral policy or practice caused a disproportionate and adverse effect on members of a protected class
- Requires a comparison of the effects of the policy or practice on the relevant protected class relative to the effects on others
- May be shown through statistics or other evidence of a significant adverse impact upon the relevant protected class

# Disparate Impact

- After the elements are established, the investigating agency must then determine whether the recipient can articulate a “substantial legitimate justification” for the challenged practice.

# Substantial Legitimate Justification

- To prove, the recipient must show that the challenged policy was necessary to meet a goal that was legitimate, important, and integral to the recipient's institutional mission.

# Disparate Impact

- If the recipient provides a substantial legitimate justification, the inquiry then focuses on whether a less discriminatory alternative was available.

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# National Origin/ Language Discrimination

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# National Origin/Language Discrimination

The Supreme Court in *Lau v. Nichols*, 414 U.S. 563 (1974) provided that failure to provide information in languages other than English could result in discrimination on the basis of national origin where failure to do so results in a significant number of LEP beneficiaries being unable to fully realize the intended benefits of the federally assisted program or activity.

# Basic Principle...

Provide “meaningful opportunity” to  
access a program or activity

# Executive Order 13166 (2000)

Presidential order that required each federal agency to develop LEP guidance that sets forth compliance standards recipients must follow to ensure that programs and activities that are normally provided in English are accessible to LEP persons.

# Four – Factor Analysis

- The number or proportion of LEP persons in the eligible service population;
- The frequency with which LEP individuals come in contact with the program;
- The importance of the service provided by the program; and
- The resources available to the recipient.



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# 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 Title VI, or because a person made a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under Title VI.



# Elements of Retaliation

- The complainant was engaged in a protected activity;
- The recipient knew of the complainant's protected activity;
- The recipient took some adverse action against the complainant; and
- There was a causal connection between the protected activity and the adverse action.

# Retaliation

- Once the elements are established, the recipient must show it had a “legitimate, non-discriminatory reason” for the action.
- The investigating agency must then determine if the recipient’s reasons were pre-textual.

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# Filing a Complaint

# Filing a complaint

- There is a 180-day statute of limitations
- Individuals may file a complaint with the
  - Agency Title VI Coordinator
  - Tennessee Human Rights Commission
  - U.S. Department of Justice





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# State Agency Obligations

# Obligations



- Annually submit a Title VI Implementation Plan
- Handle complaints regarding discriminatory practices, including maintenance of a log of complaints received and notice of right to file a complaint
- Ensure public notification of relevant programs or activities
- Ensure minority participation on planning boards and advisory bodies

# Bottom Line!!!

“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.”

(President John F. Kennedy, in his message calling for the enactment of Title VI, 1963)

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**Assess Your  
Understanding**

Please take a few moments to answer the following review questions to assess your understanding of Title VI of the Civil Rights Act of 1964. Once you have selected your answer choice, advance to the next slide to see the correct response for each question.

If you need further guidance on Title VI and its implementing regulations, please contact Deanna Day, [Deanna.Day@tn.gov](mailto:Deanna.Day@tn.gov), Tennessee Department of Veterans Services (615) 741-4951.

# Assess Your Understanding

1. Which of the following is not a protected class under Title VI?
  - A. Race
  - B. Sex
  - C. National Origin
  - D. Color

# Assess Your Understanding

1. Which of the following is not a protected class under Title VI?

B. Sex

If you chose answer B., excellent! Title VI prohibits discrimination based on a person's race, color, or national origin. Sex is not a protected class under Title VI.

42 U.S. C. § 2000d

# Assess Your Understanding

2. Which statement below is true?
- A. Disparate treatment occurs when a discriminatory practice is motivated by intent.
  - B. Disparate treatment occurs as a result of a neutral policy which appears harmless on the surface, but negatively affects a group.

# Assess Your Understanding

2. Which statement below is true?

A. Disparate treatment occurs when a discriminatory practice is motivated by intent.

A., is the correct answer! A claim of disparate treatment must show that an individual acted with intent or motive to discriminate.

# Assess Your Understanding

3. For Title VI to apply, the agency must be:
  - A. Providing services to individuals in poverty
  - B. A non-profit/501(c)(3)
  - C. A direct recipient of state funding
  - D. Either a direct or indirect recipient of federal funding

# Assess Your Understanding

3. For Title VI to apply, the agency must be:

D. Either a direct or indirect recipient of federal funding

The correct answer is D! For Title VI to apply, the agency must be either a direct or indirect recipient of federal financial assistance.

# Assess your Understanding

4. Who is a Limited English Proficient person?
- A. A person who does not speak English as their primary language and has limited ability to speak, write or understand English
  - B. A person from the United States that cannot read
  - C. A person who does not speak English at all
  - D. Answers A and C

# Assess Your Understanding

4. Who is a Limited English Proficient person?

D. Answers A and C

Limited English Proficient (LEP) persons are people who do not speak English as their primary language and who have limited ability to read, speak, write or understand English

# Assess Your Understanding

## 5. True or False.

Under a Limited English Proficiency (LEP) policy, only direct recipients of federal funding must take steps to ensure that all non-English speaking persons receive the same access to programs benefits.

# Assess Your Understanding

## 5. True or False.

Under a Limited English Proficiency (LEP) policy, only direct recipients of federal funding must take steps to ensure that all non-English speaking persons receive the same access to programs benefits.

False

Direct recipients *and* sub-recipients of federal financial assistance are required to take reasonable steps to ensure LEP persons having *meaning access* and an equal opportunity to participate in programs, services, and benefits.

# Great Job!!!

You have completed the Title VI training course. Please click the link below to print your certificate of completion link below to certify you have completed the required training.

[Certificate of Completion](#)

**Title 6 Training must be completed by June 30, 2016.**