

Title VI Statute and Regulation

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d et. seq., states: "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."

Regulations implementing Title VI, provide in part at 45 C.F.R. Section 80.3 (b):

"(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program or the class of individuals to whom, or the situations in which such services, financial aid or other benefits, or facilities will be provided ... **may not directly, or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals 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, color or national origin.**" (emphasis added).

Title VI of the Civil Rights Act of 1964

Purpose

The purpose of Title VI of the Civil Rights Act of 1964 is to prohibit programs that receive federal funds from discriminating against participants on the basis of race, color or national origin.

Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000d, states: 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.**

The intent of the law is to ensure that all persons, regardless of their race, color or national origin, are allowed to participate in these federally funded programs. To ensure that the department meets its compliance responsibility, procedures have been established to provide for monitoring of Title VI compliance, activities and complaint processing in programs, directly or indirectly responsible to the department (i.e., the department's own programs, contracted services, and departmentally-funded community service organizations, all of which receive federal/state funding in whole or in part).

In 1993, the Tennessee General Assembly passed Pubic Chapter 502, which requires each entity of state government to develop a Title VI Implementation Plan to be reviewed annually. Governor Ned McWherter signed Executive Order No 56 which directed all state commissioners to review current programs for Title VI compliance. Both requirements remain in effect. The Title VI policy applies to all programs and facilities operated directly by the department and to all facilities and programs operated by individuals or groups under contract with the department.

Limited English Proficiency (LEP)

Overview

A recipient/covered entity whose policies, practices or procedures exclude, limit, or have the effect of excluding or limiting, the participation of any LEP person in a federally-assisted program on the basis of national origin may be engaged in discrimination in violation of Title VI. In order to ensure compliance with Title VI, recipient/covered entities must take steps to ensure that LEP persons who are eligible for their programs or services have meaningful access to the health and social service benefits that they provide. The most important step in meeting this obligation is for recipients of Federal financial assistance such as grants, contracts, and subcontracts to provide the language assistance necessary to ensure such access, at no cost to the LEP person.

The type of language assistance a recipient/covered entity provides to ensure meaningful access will depend on a variety of factors, including the size of the recipient/covered entity, the size of the eligible LEP population it serves, the nature of the program or service, the objectives of the program, the total resources available to the recipient/covered entity, the frequency with which particular languages are encountered, and the frequency with which LEP persons come into contact with the program.

The steps taken by a covered entity must ensure that the LEP person is given adequate information, is able to understand the services and benefits available, and is able to receive those for which he or she is eligible. The covered entity must also ensure that the LEP person can effectively communicate the relevant circumstances of his or her situation to the service provider.

Oral Language Interpretation

In designing an effective language assistance program, a recipient/covered entity must develop procedures for obtaining and providing trained and competent interpreters and other oral language assistance services, in a timely manner, by taking some or all of the following steps:

- Hiring bilingual staff who are trained and competent in the skill of interpreting;
- Hiring staff interpreters who are trained and competent in the skill of interpreting;
- Contracting with an outside interpreter service for trained and competent interpreters;
- Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting;
- Arranging/contracting for the use of a telephone language interpreter service.

Interpreters

(a) Use of Friends, Family and Minor Children as Interpreters

A recipient/covered entity may expose itself to liability under Title VI if it requires, suggests, or encourages an LEP person to use friends or family members as interpreters, as this could compromise the effectiveness of the service. Use of such persons could result in a breach of confidentiality or reluctance on the part of individuals to reveal personal information critical to their situations. In a medical setting, this reluctance could have serious, even life threatening, consequences. In addition, family and friends usually are not competent to act as interpreters, since they are often insufficiently proficient in both languages, unskilled in interpretation, and unfamiliar with specialized terminology. Departmental policy prohibits the use of minors as interpreters.

If after a recipient/covered entity informs an LEP person of the right to free interpreter services, the person declines such services and requests the use of a family member or friend, the recipient/covered entity may use the family member or friend, if the use of such a person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The recipient/covered entity should document the offer and declination in the LEP person's file. Even if an LEP person elects to use a family member or friend, the recipient/covered entity should suggest that a trained interpreter sit in on the encounter to ensure accurate interpretation.

(b) Competence of Interpreters

In order to provide effective services to LEP persons, a recipient/covered entity must ensure that it uses persons who are competent to provide interpreter services. Competency does not necessarily mean formal certification as an interpreter, though certification is helpful. On the other hand, competency requires more than self-identification as bilingual. The competency requirement contemplates demonstrated proficiency in both English and the other language, orientation and training that includes the skills and ethics of interpreting (e.g. issues of confidentiality), fundamental knowledge in both languages of any specialized terms, or concepts peculiar to the recipient/covered entity's program or activity, sensitivity to the LEP person's culture and a demonstrated ability to convey information in both languages, accurately. A recipient/covered entity must ensure that those persons it provides as interpreters are trained and demonstrate competency as interpreters.

Translation of Written Materials

- (a) The recipient/covered entity provides translated written materials, including vital documents, for each eligible LEP language group that constitutes ten percent or 3,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected by the recipient/covered entity's program;
- (b) Regarding LEP language groups that do not fall within paragraph (A) above, but constitute five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be directly affected, the recipient/covered entity ensures that, at a minimum, vital documents are translated into the appropriate non-English languages of such LEP persons. Translation of other documents, if needed, can be provided orally; and
- (c) Notwithstanding paragraphs (A) and (B) above, a recipient with fewer than 100 persons in a language group eligible to be served or likely to be directly affected by the recipient/covered entity's program, does not translate written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral translation of written materials.

Methods for Providing Notice to LEP Persons

A vital part of a well-functioning compliance program includes having effective methods for notifying LEP persons regarding their right to language assistance and the availability of such assistance free of charge. These methods include, but are not limited to:

- (a) Use of language identification cards, which allow LEP beneficiaries to identify their language needs to staff and for staff to identify the language needs of applicants and clients. To be effective, the cards (e.g., "I speak cards") must invite the LEP person to

identify the language he/she speaks. This identification must be recorded in the LEP person's file;

- (b) Posting and maintaining signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of entry. In order to be effective, these signs must inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services;
- (c) Translation of application forms and instructional, informational and other written materials into appropriate non-English languages by competent translators. For LEP persons whose language does not exist in written form, assistance from an interpreter to explain the contents of the document;
- (d) Uniform procedures for timely and effective telephone communication between staff and LEP persons. This must include instructions for English-speaking employees to obtain assistance from interpreters or bilingual staff when receiving calls from or initiating calls to LEP persons; and
- (e) Inclusion of statements about the services available and the right to free language assistance services, in appropriate non-English languages, in brochures, booklets, outreach and recruitment information and other materials that are routinely disseminated to the public.

Covered Entities

All entities that receive Federal financial assistance from HHS, either directly or indirectly, through a grant, contract or subcontract, are covered by this policy guidance. Covered entities include (1) any state or local agency, private institution or organization, or any public or private individual that (2) operates, provides or engages in health, or social service programs and activities and that (3) receives federal financial assistance from HHS directly or through another recipient/covered entity. Examples of covered entities include but are not limited to hospitals, nursing homes, home health agencies, managed care organizations, universities and other entities with health or social service research programs, state, county and local health agencies, state Medicaid agencies, state, county and local welfare agencies, programs for families, youth and children, Head Start programs, public and private contractors, subcontractors and vendors, physicians, and other providers who receive Federal financial assistance from HHS.

The term Federal financial assistance to which Title VI applies includes, but is not limited to, grants and loans of Federal funds, grants or donations of Federal property, details of Federal personnel, or any agreement, arrangement or other contract which has as one of its purposes the provision of assistance. (See, 45 C.F.R. Section 80.13(f); and Appendix A to the Title VI regulations, 45 C.F.R. Part 80, for additional discussion of what constitutes Federal financial assistance).

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. What constitutes a program or activity covered by Title VI was clarified by Congress in 1988, when the Civil Rights Restoration Act of 1987 (CRRRA) was enacted. The CRRRA provides that, in most cases, when a recipient/covered entity receives Federal financial assistance for a particular program or activity, all operations of the recipient/covered entity are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance is used only by one part.

2010 Census Data, State of Tennessee

Total Population	6,346,105
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Population by Ethnicity

Hispanic or Latino	290,059
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Non Hispanic or Latino	6,056,046
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Population by Race

White	4,921,948
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African American	1,057,315
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Asian	91,242
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American Indian and Alaska Native	19,994
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Native Hawaiian and Pacific Islander	3,642
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Other	141,955
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Identified by two or more	110,009
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<http://2010.census.gov/2010census/popmap/ipmtext.php?fl=47>

Title VI Coordinator Designation

Agency Name: _____

Agency Address: _____

Title VI Coordinator: _____

Phone Number: _____

Address (if different than Agency's): _____

Position within Agency: _____

Date Appointed: _____

Title VI Coordinator Responsibilities

The Contract agency's Title VI Coordinator will be responsible for educating staff of their responsibilities under Title VI, informing clients of their rights under Title VI, monitoring the agency for continued compliance with the Title VI regulation and maintaining and submitting all required documentation for Title VI compliance.

Such duties may include:

- Ensuring all new employees receive Title VI training during staff orientation;
- Conducting annual In-Service training for all employees;
- Ensuring procedures are in place to inform clients of their rights under Title VI;
- Displaying and distributing Title VI posters and brochures;
- Conducting internal monitoring activities to ensure staff compliance with Title VI;
- Maintaining complaint log and conducting investigations when necessary;
- Submission of the annual Title VI Compliance Plan report and other required documents to the Department of Human Services in a timely manner; and
- Other duties as necessary to ensure agency compliance with the Title VI regulation.

TRAINING

On-going training should be conducted for new employees and annual in-service training for current employees to keep them apprised of current Title VI laws and regulations. During this training process, employees should be provided with the following information: name and address of their area Title VI coordinator; the address of the DHS Title VI Coordinator; the address of the Tennessee Title VI Commission; the address of the U.S. Department of Health and Human Services; and the process to file a Title VI complaint.

Training rosters should be kept by all subrecipients, and should be available upon request for both internal and external monitoring.

Monitoring for Compliance

A. Contract Language

State and Federal Compliance. The Grantee shall comply with all applicable state and federal laws and regulations in the performance of this Grant Contract.

Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits or, or be otherwise subjected to discrimination the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

B. Internal/Contract Monitoring

The Department of Human Services currently has employees from on its program review team conducting routine compliance reviews of selected subrecipients. DHS' Title VI Coordinator will review a sample of the subrecipients that not reviewed by the Program Review Team.

COMPLAINTS PROCEDURES

The Department resolves Title VI complaints with due diligence in accordance with complaint guideline procedures as set forth by the U.S. Department of Health and Human Services, U.S. Department of Agriculture, and the Tennessee Human Rights Commission.

Complaint Procedures

Anyone alleging racial/ethnic discrimination against Department's personnel may file a complaint with the facility's local Title VI coordinator or directly with the Department's Title VI Coordinator. Complaints may also be filed with the Tennessee Human Rights Commission (state level); the Office of Civil Rights, United States Department of Agriculture; Office of Civil Rights, U.S. Department of Health and Human Services; and/or the Department of Justice (federal level). A complaint may be filed at both the state and the federal levels, separately or concurrently, at any time during the process.

The procedure for filing a Title VI Complaint with the Department is as follows:

- A. Instruct the complainant to submit the complaint in writing, preferably on Form HS-2631, *DHS Civil Rights Complaint Form*. The form may be filled out by the complainant, her representative, or a Title VI coordinator. A verbal complaint may be taken, but then must be written up on Form HS-2631. Unless a complaint is already being filed at the state or federal level, it is preferred that all complaints be first filed at the local level - within thirty (30) days of the alleged discriminatory act, but no longer than one hundred eighty (180) days. Experience shows that complaints are more easily resolved at the point of origination.
- B. Record the complaint in the Title VI Complaint Log. List complainant identification and type/status of complaint.
- C. Send the original copy of the complaint to the Department Title VI Coordinator at the State Office (include all pertinent documentation). Give a copy of the complaint to the complainant and retain one (1) for facility files. The local Title VI coordinator must notify the Department Title VI Coordinator immediately when any complaint is filed.
- D. Mail a letter to the complainant acknowledging receipt of the complaint within five (5) calendar days of the date that complaint was received.
- E. Conduct fact-finding investigations within thirty (30) calendar days of receipt of the complaint. The local Title VI coordinator is responsible for this initial investigation.
- F. Report investigation findings to Departmental management within five (5) days of completion of investigation. If the report includes a finding of violation of Title VI, the facility should include any proposed remedial action in the *Report of Investigation*, Form HS-2632. Within five (5) calendar days after this report, the written findings will be given to the complainant. At this time, the complainant will also be informed of their right to appeal to the state or federal level if there is disagreement with investigation findings or the proposed remedial action.
- G. The complainant may also file an appeal with the U. S. Department of Health & Human Services or other federal agency:

U.S. Department of Health & Human Services
Office for Civil Rights
Atlanta Federal Center
61 Forsyth Street, S.W., Suite 3B70
Atlanta, GA 30303
Phone: (800) 368-1019/(404) 562-7886

To file a complaint or an appeal concerning a Supplemental Nutrition Assistance case, a client must contact:

U.S. Department of Agriculture
Food and Nutrition Service
61 Forsyth St. S.W.
Room 8T36
Atlanta, GA 30303
Phone (404) 562-1808

General Information

According to federal regulations, a federal complaint (to the U.S. Department of Health and Human Services, Department of Justice, or other federal agency) must be filed no later than one hundred eighty (180) calendar days after the alleged discrimination occurred. To allow a complainant time to file sequentially within the Department and externally to the Department (if desired) the complaint should be filed at the local or Departmental level no later than thirty (30) calendar days after the alleged discrimination occurred. If a complaint is filed beyond the thirty (30) calendar day period, the Department will still investigate and process the complaint if the filing is prompt enough to allow the Departmental proceedings to be concluded and still leave sufficient time for the complainant to file externally.

If a complaint is filed both within the Department and externally to the Department (state or federal level) during the same period, the external complaint supersedes the internal complaint filing; accordingly, the local or Departmental level complaint procedures will be suspended pending outcome of the external complaint.

A complainant has the right to withdraw their complaint or appeal request at any time. The withdrawal must be submitted in writing, preferably on Form HS-2633, *Withdrawal of Complaint or Appeal for Fair Hearing*.

Forms and Reports

- Form HS-2631, *DHS Civil Rights Complaint Form*, may be used for filing complaints. In lieu of using the complaint form, the complainant can prepare a letter describing the complaint.
- Form HS-2632, *Report of Investigation*, may be used to summarize and report the findings of an investigation; or the general outline of the form can be incorporated into a report structured by the investigator, if it addresses the essential issues outlined in the form.
- Form HS-2633, *Withdrawal of Complaint or Appeal for Fair Hearing*, should be used if a complaint or a request for appeal (to the state level) is withdrawn. A request for withdrawal must be in writing.
- Form HS-2634, *Appeal from Finding*, may be used to appeal a finding or the proposed remedial action by the agency, to the state level (Tennessee Human Rights Commission).
- *Title VI Compliance Plan Survey*, must be submitted annually by each agency to report facility demographics, including racial and ethnic data.



**STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES**

OFFICE OF GENERAL COUNSEL
CITIZENS PLAZA BUILDING
400 DEADERICK STREET
NASHVILLE, TENNESSEE 37243

TELEPHONE: 615-313-4731 FAX: 615-741-4165
TTY: 1-800-270-1349
www.state.tn.us/humanserv/

BILL HASLAM
GOVERNOR

RAQUEL HATTER, MSW, Ed.D.
COMMISSIONER

Civil Rights Complaint Form

**To: Department of Human Services
Civil Rights Compliance Officer
400 Deaderick Street 15th Floor
Nashville, Tennessee 37243**

Complainant's Name: _____

Complainant's Contact Information *

Mailing Address:

Phone Number(s):

Home: _____

Work: _____

E-Mail address: _____

Cell: _____

* We will use any information provided to contact you unless you ask us not to.

Date(s) of Unfair Treatment: _____

Tell us how you believe you have been treated unfairly by the Department of Human Services or anybody providing services on behalf of the Department of Human Services. Please state below the basis on which you believe these unfair actions were taken. See page 2, for additional space to respond:

_____ **Race/Color:** _____

_____ **National Origin:** _____

_____ **Sex:** _____

_____ **Religion:** _____

_____ **Age:** _____

_____ **Disability:** _____

_____ **Political Beliefs:** _____

Nondiscrimination--What if you think you have been treated unfairly? This section tells you what to do. In accordance with Federal law and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. Under Food Stamp Act and USDA policy, discrimination is prohibited also on the basis of religion or political beliefs. To file a complaint of discrimination, contact USDA or HHS. Write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington D.C. 20250-9410 or call (202)720-5964 (voice and TDD). Write HHS, Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (202)619-3257(TDD). USDA and HHS are equal opportunity providers and employers.



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INITIAL INVESTIGATION OF CIVIL RIGHTS COMPLAINT

Complainant's Name: _____

Complainant's Contact Information

Mailing Address:

Phone Number(s):

Home: _____

Work: _____

Cell: _____

E-Mail address: _____

Name and Location of Alleged Perpetrator:

Date Complaint filed: ____ / ____ / ____

Date(s) of Alleged Offense: ____ / ____ / ____

____ Race/Color: _____

____ National Origin: _____

____ Sex: _____

____ Religion: _____

____ Age: _____

____ Disability: _____

____ Political Beliefs: _____

Nature of the incident that led the complainant to feel discrimination was a factor (Please attach all supporting documents that are relevant to the complaint, *i.e.* any written statements provided by complainant or staff member that recounts the incident, video/audio recording. Include the following information for any individual who may have knowledge of the alleged discriminatory action - name, phone number(s), title, personal and business mailing and email address. (Attach additional pages if needed)

Name of Local Coordinator/Investigator:

Signature

Date: ____ / ____ / ____



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COMMISSIONER

WITHDRAWAL OF CIVIL RIGHTS COMPLAINT

**To: Department of Human Services
Civil Rights Compliance Officer
400 Deaderick Street, 15th Floor
Nashville, Tennessee 37243**

Complainant's Name: _____

Complainant's Contact Information

Mailing Address:

Phone Number(s):

Home: _____

E-Mail address: _____

Work: _____

Cell: _____

Reason for Withdrawal:

Signature: _____

Date: ____ / ____ / ____

Office Use:

Received by: _____

Date: ____ / ____ / ____

Nondiscrimination--What if you think you have been treated unfairly? This section tells you what to do. In accordance with Federal law and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. Under Food Stamp Act and USDA policy, discrimination is prohibited also on the basis of religion or political beliefs. To file a complaint of discrimination, contact USDA or HHS. Write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington D.C. 20250-9410 or call (202)720-5964 (voice and TDD). Write HHS, Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (202)619-3257(TDD). USDA and HHS are equal opportunity providers and employers.



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 COMMISSIONER

CIVIL RIGHTS COMPLAINT APPEAL

To: Department of Human Services
 Civil Rights Compliance Officer
 400 Deaderick Street, 15th Floor
 Nashville, Tennessee 37243

Complainant's Name: _____

Complainant's Contact Information *

Mailing Address:

Phone Number(s):

Home: _____

Work: _____

E-Mail address: _____

Cell: _____

Finding to be Appealed: _____

Signature: _____
 Complainant / Appellant

Date: ____ / ____ / ____

All appeals of civil rights complaints will be forwarded to and handled by the federal oversight agency. You can also file an appeal directly with the federal agency.

Note: Appeals of eligibility decisions will be forwarded to and handled by the Department's Division of Appeals and Hearings. See attached Appeal Sheet.

For Families First, Medicaid, or Child Support – HHS, Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (202)619-3257(TDD).

For Vocational Rehabilitation – U. S. Department of Education, Atlanta Office, Office of Civil Rights, 61 Forsyth St. S.W., Suite 19T70 Atlanta, GA. 30303-3104.

Please return the appeal form (HS-2634) within 30 days of receipt.

Office Use:
 Received by: _____ Date: ____ / ____ / ____