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CIVIL RIGHTS

UNDER FEDERAL PROGRAMS

An Analysis of Title VI
of The Civil Rights Act of 1964

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The Civil Rights Act of 1957, as amended in 1960, 1964, and 1967, authorizes the U.S. Commission on Civil Rights to review Federal laws and policies with respect to denials of equal protection of the laws under the Constitution. The Civil Rights Act of 1964 directs the Commission to serve as a national clearinghouse for civil rights information. Pursuant to these directives, this Commission publication is designed to explain Title VI of the Civil Rights Act of 1964 which requires nondiscrimination in federally assisted programs.

U.S. Commission on Civil Rights
Washington, D.C. 20425

Introduction

Congress has enacted legislation providing Federal funds to support public and private activities in such areas as health, education, employment, individual welfare, and the economic well-being of the total society.

Many citizens are not fully aware of the nature or extent of Federal assistance provided State and local governments, private institutions, businesses, and individuals. The average citizen probably knows about Social Security, veterans benefits, and a few other programs involving direct Federal administration. However, many other significant federally aided programs are administered by States, local governments, and private institutions which share in their costs. As a result, the degree of Federal support may not be easily apparent.

Federal financial assistance includes grants and loans, donations of equipment and property, detail of Federal personnel, sale, lease of or permission to use Federal property for nominal consideration, and any other arrangement by which Federal benefits are provided.

In all, more than 400 aid programs are sponsored in whole or in part by the Federal Government and there are many "sub-programs" within these. Major areas of Federal involvement include:

Aids to Education

- Construction and Improvement of College Facilities
- Grants for Research and Equipment
- Surplus Materials Distribution
- Support for Educational Programs in Low-Income Areas
- Provision of School Libraries and Other Instructional Materials
- Assistance for School Construction in Federally Impacted Areas
- Maintenance, Extension, and Improvement of Vocational Educational Programs
- Loans to College Students
- Grants To Assist High School Graduates To Attend College
- Part-Time Employment for College Students

Aids to Communities

- Urban Renewal Projects
- Airport Construction
- Air Pollution Control
- Economic Opportunity (Antipoverty) Programs
- Model Cities Programs

Aids to Communities

- Outdoor Recreation Assistance
- Urban Mass Transportation Programs
- Water and Sewer Facilities Grants
- Civil Defense Grants

Aids to Health

- Vocational Rehabilitation Grants
- Hill-Burton Hospital Construction Grants
- Research Grants
- Nurses Training Programs
- Loans to Medical Students
- Mental Health and Retardation Programs
- Public Health and Retardation Programs
- Public Health Programs
- Health Insurance for the Aged (Medicare)
- Medical Assistance Programs

Aids to Employment

- State Employment Offices
- Manpower Training Activities
- Economic Development Programs
- Loans to Small Businessmen
- Public Works Acceleration Projects
- Work Experience and Training Program
- New Careers Program
- Youth Opportunity Centers
- Neighborhood Youth Corps

Aids to Welfare

- Old Age Assistance
- Aid to Families With Dependent Children
- Aid to the Permanently and Totally Disabled
- Aid to the Blind
- Child Welfare Services
- Maternal and Child Health Programs
- Food Stamp and Commodity Distribution Programs

Aids to Agriculture

- Extension Services
- Watershed/Flood Control
- Conservation Projects

- Rural Electrification
- Forest Protection
- Farm Ownership Loans

Thus, citizens in all walks of life derive benefits directly or indirectly from services and other assistance provided by the Federal Government.

In 1967, the most recent year for which data are available, Federal aid amounted to almost 17 percent of State and local revenues. In fiscal year 1969 Federal aid to State and local governments is expected to exceed \$20 billion—a threefold increase in the past decade.

Summary of Rights Guaranteed by Title VI

All persons in the United States shall have the right to receive any service, financial aid, or other benefit under the appropriate federally aided program regardless of their race, color, or national origin.

Federal agencies responsible for administering Title VI programs have issued regulations approved by the President which describe the kinds of discriminatory practices prohibited and the rights of recipients and beneficiaries of Federal financial assistance. *Recipients* are the intermediaries or conduits through which Federal financial assistance flows to the beneficiaries. State Education Departments, State Employment Offices, Agricultural Extension Service Offices, universities, hospitals, and local housing authorities, are a few of the many kinds of recipients under Title VI. *Beneficiaries* are those individuals whom the federally assisted program has been designed to serve. The term has been used to refer both to those who are actually receiving services as well as those who potentially stand to benefit from the program. Elementary and high school pupils, applicants for employment services at local offices, farmers, college students, patients, and tenants are beneficiaries corresponding to the recipients listed above.

Specific discriminatory practices prohibited include:

- Segregation or separate treatment in any part of the program;
- Any difference in quality, quantity, or the manner in which the benefit is provided;
- Standards or requirements for participation which have as their purpose or which have the effect of excluding members of certain racial or ethnic minorities;
- Methods of administration which would defeat or substantially impair the accomplishment of the program objectives;
- Discrimination in any activity conducted in a facility built in whole or in part with Federal funds;
- Construction of a facility in a location with the purpose or effect of excluding individuals from the benefits of any program on the grounds of race, color, or national origin;
- Discrimination in any employment resulting from a program established primarily to provide employment;

- Discrimination in employment practices which has the effect of denying equality of opportunity to beneficiaries of the program.

Any person who believes discrimination because of race, color, or national origin exists in a federally aided program has the right to complain to the officials responsible for the program.

Complainants have the right to:

- Prompt investigation of their complaints;
- Corrective action, if the complaint is substantiated;
- Written notice, if the agency determines that action is not warranted.

If discrimination is found:

- Negotiation and persuasion will first be used in an effort to eliminate the prohibited practices;
- If these efforts fail, Federal assistance may be terminated or discontinued after a fair hearing;
- Other means authorized by law, including court action, may also be used to bring about a change in policy.

Despite its broad sweep, there are certain limitations to the scope of Title VI. Section 602 specifically excludes programs involving “a contract of insurance or guaranty.” Activities such as the Federal Housing Administration (FHA) home mortgage insurance program are thereby excluded. Employment practices are not covered by Title VI (except where a primary objective of the Federal financial assistance is to provide employment). Programs of Federal assistance which go directly from the Federal agency to the beneficiaries of the program (rather than through an intermediary agency) also do not come under Title VI. However, Executive Order 11246, which deals with equal employment opportunity; Executive Order 11063, which prohibits discrimination in Federal housing programs; and various other Federal laws and regulations fill some of these gaps.

“ . . . SIMPLE JUSTICE . . . ”

President Lyndon B. Johnson, explaining the basic reasons underlying the principle of equality under Federal programs, stated on December 10, 1964:

It is simple justice that all should share in programs financed by all, and directed by the government of all people.

Simple justice has not always governed the operation of Federal aid programs. As has been amply documented by the U.S. Commission on Civil

Rights in the course of hearings, State Advisory Committee meetings, studies and publications, many citizens, because of their race, color, or national origin, have been denied equal participation in programs supported by Federal funds. For example, the Commission found that in some circumstances:

- Elementary schools built and operated with Federal aid have discriminated in admission and treatment of students, and in hiring and assignment of faculty.
- Child care institutions, nursing homes, training facilities, and other vendors of service to programs which receive Federal financial assistance have discriminated against Negroes and other nonwhites.
- Physicians who provide service to beneficiaries of federally assisted programs continue to segregate patients in their offices and to make racial distinctions in the referral of patients to hospitals.
- Vocational training programs established with Federal funds have, in many instances, tended to train nonwhites only for menial and semi-skilled jobs, while providing whites with training for technical and skilled occupations.
- Employment offices financed entirely by Federal funds have refused to refer all job applicants to available openings on a nondiscriminatory basis, or have not taken adequate measures to insure that employers using their services do not discriminate.
- Agriculture Extension Service offices, which once were segregated, have continued to provide unequal services to Negroes even after the separate programs were administratively combined.
- Colleges and universities receiving Federal financial assistance have discriminated in awarding athletic scholarships.
- Employers receiving business loans from the Federal Government designed to increase employment opportunity have discriminated in their hiring policies.

In addition to the legal and moral grounds for correcting such discriminatory practices, there are practical reasons for eliminating them from Federal programs.

A program of Federal financial assistance fails in its objectives if some citizens are excluded or provided with inferior service. Administrators of Federal programs are in a key position to carry out the promise of Title VI. The failure to do so invalidates the purpose of such programs. In a wider sense, it feeds the present racial crisis and further undermines the faith of millions of Americans in their Government and in the fair and proper administration of democratic institutions.

Federal payments to State and local governments, to private institutions, and business play an important role in financing the many educational, health, welfare, and economic programs required for the country's continued growth and development. When any person is denied the benefits of these programs because of race, color, or national origin, or when the program is operated without adequate consideration for the need to overcome the effects of past discrimination, the fabric of our democratic society is weakened and our progress as a Nation is retarded.

EVOLUTION OF FEDERAL POLICY

The principle of equality under Federal programs was reflected in presidential actions long before the Civil Rights Act of 1964 became law. In the past 20 years, every President of the United States has directed the elimination of discrimination in a number of Federal programs and activities. Areas covered by Presidential orders include: equality of treatment in the Armed Services; employment by the Federal Government, by Government contractors, and on construction projects financed with Federal funds; and equality of opportunity in federally aided housing.

Other actions taken through departmental regulations have prohibited discrimination in particular programs. These include activities under the Manpower Development and Training Act (MDTA), teacher-training institutes, mental health and mental retardation projects, apprenticeship programs, and employment in State agencies administering certain Federal programs.

Prior to the passage of the Civil Rights Act of 1964, all of these orders and regulations depended on executive initiative which was supported by a growing body of judicial decisions. These court rulings, based on constitutional requirements, held that no person, because of race or color, could be denied the benefits of a program receiving Federal assistance. However, these Presidential orders, departmental regulations, and court rulings were limited to particular Federal activities or only to parts of Federal programs. In addition, in the years immediately prior to 1964, attempts made in Congress to amend specific Federal aid proposals in order to prohibit discrimination were unsuccessful.

By adopting Title VI of the Civil Rights Act, Congress wrote into law the right of all persons to participate in and receive the benefits of any federally aided program or activity without discrimination on account of race, color, or national origin.

ADMINISTRATION OF FEDERAL PROGRAMS

The effective administration of Federal programs depends on the cooperative efforts of both the Federal Government and the recipients of Federal aid. The aims of these programs cannot be fully achieved until they are equally available to all citizens.

In drafting the Civil Rights Act of 1964, Congress attempted to provide every possible means for voluntary compliance with the Act. Regulations, issued pursuant to Title VI, reflect this congressional intent by directing Federal officials to seek the cooperation of recipients and to provide guidance and assistance to help them comply voluntarily with the Act.

As a first step in the implementation of Title VI, all concerned should fully understand the types of discrimination which must be eliminated.

In order to be eligible for assistance under Federal programs, a recipient must give assurances that:

**No person shall be
excluded from participation,
denied any benefits, or
subjected to discrimination
on the basis of
race, color, or national origin**

Types of discrimination prohibited by Title VI are best illustrated by specific examples. In some of the illustrations listed below discriminatory treatment is an end result of program administration even though there may have been no conscious attempt to discriminate. This, for example, might be the case in a training program which excludes all persons below a certain educational level, a large percentage of whom happen to be Negro.

A recipient of Federal financial assistance violates his assurance to comply with Title VI if, because of race, color, or national origin the recipient:

(1) Denies an individual any service, financial aid, or other benefit under the program;

EXAMPLES:

- A federally supported State employment office refuses to place a qualified job applicant because of his race.
- A redeveloper of land in an urban renewal project area denies an apartment or office space to an applicant because of his race, color, or national origin.
- A federally assisted civil defense unit refuses to accept members of a particular race or ethnic group as candidates for the auxiliary police or fire company.

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

EXAMPLES:

- An agricultural extension agent encourages and teaches white farmers, but not Negro farmers, to grow a variety of crops to increase their income.
- In the “free” school lunch program children of low-income families, most of whom are nonwhite, are made to eat at different times, sit apart from children paying for their lunches, or are otherwise specially identified.

(3) Subjects an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

EXAMPLES:

- A commodity distribution program has different distribution days during the week for whites and nonwhites in the community.
- An agriculture extension service program assigns white workers to serve white rural residents and Negro workers to serve Negro rural residents.

(4) Restricts an individual in any way in the enjoyment of services, facilities, or any other advantage, privilege, or benefit provided to others under the program;

EXAMPLES:

- A federally aided hospital admits all patients but by placing severe restrictions on practice by Negro physicians, deprives certain hospitalized patients of equal access to treatment by doctors of their choice.
- A federally aided recreation area, prior to the opening of the season, encourages members of one race to reserve all cabins and camp facilities, thereby preventing members of other races from enjoying full utilization of such facilities.

(5) Treats an individual differently in determining whether he satisfied any admission, enrollment, quota, eligibility, membership, or other requirement or condition which is a prerequisite to the service, financial aid, or other benefit provided under the program;

EXAMPLES:

- A State employment office imposes a special examination on Negro applicants before referring them to fill job requests for “high school graduates.”

● A federally assisted employment or training program screens applicants on the basis of culturally biased aptitude or ability tests. Such testing devices are frequently based on the cultural patterns and language usage of the majority group and are therefore weighted against minority group applicants.

(6) Uses any criteria or methods of administration which would defeat or substantially impair accomplishment of the program's objectives for individuals of a particular race, color, or national origin, or which would subject such individuals to discrimination;

EXAMPLES:

● In selecting sites for construction of facilities such as libraries and schools, the recipient chooses locations which tend to reinforce patterns of segregation and separate usage.

● A highway built with Federal assistance acts as a physical boundary to a neighborhood whose residents are predominantly of a minority group.

(7) Discriminates against an individual in any program or activity which is conducted in a facility constructed in whole or in part with Federal funds;

EXAMPLES:

● A hospital constructed or improved with Federal funds assigns patients to different rooms by race or discriminates in selection of student nurses in its training programs.

● A public housing authority assigns tenants to separate projects on the basis of race or perpetuates segregation by permitting "free choice" in a community where custom precludes integration.

● A sewage treatment plant built in part with Federal funds is constructed so that it serves only one section of the community, the overwhelming majority of whose citizens is white.

(8) Subjects an individual to discriminatory employment practices under any Federal program or activity whose primary objective is to provide employment.

EXAMPLES:

● A work experience and training program for persons receiving public assistance places nonwhites in menial and unskilled jobs and fails to provide training which would upgrade their employment skills.

● Employers receiving small business loans or other economic development assistance hire on a discriminatory basis.

- A manpower and development training program trains nonwhites for occupations which are or will soon become obsolete, while training whites for newer and more highly technical kinds of employment.

The above illustrations do not reflect the full scope of possible discriminatory practices. Nor do they include all the programs which are subject to Title VI. Whatever the federally aided programs may be and whatever form racial discrimination may take, the language of Title VI and the intent of Congress is to assure to every individual equal opportunity and access to Federal benefits.

COMPLIANCE UNDER TITLE VI

The purpose of Title VI is to achieve equal opportunity, not to withhold Federal assistance. However, if efforts fail to bring about full compliance, it is the responsibility of the administering agency to discontinue Federal funds to the offending recipient. Federal dollars must not help to support discriminatory programs or institutions. Title VI regulations provide the necessary framework for protecting the rights guaranteed to recipients and beneficiaries of Title VI programs. Provision is made for submission of periodic compliance reports, field reviews, investigation of complaints, informal adjustments, and, when necessary, more formal proceedings. Compliance with the broad spirit, as well as the letter of the law, is expected.

ASSISTANCE WITH VOLUNTARY COMPLIANCE

Recipients of Federal aid are to be given guidance and assistance to help them comply voluntarily with Title VI regulations. In public and private meetings and in instructions which accompany required nondiscrimination agreements, Federal aid recipients are to be assisted in making the changes necessary to bring their operations into compliance with Title VI.

COMPLIANCE REPORTS

Records, including data, by race, on program participation and other information designed to show the extent of compliance with Title VI agreements must be maintained by recipients and reports must be submitted on a regular basis. In the absence of onsite reviews, well designed and carefully prepared compliance reports should provide a good indication of the extent of Title VI compliance. Although reliance should not be placed on reports alone, they may prove useful in revealing evidence of gross discrimination.

Compliance reports can also be an aid in determining priorities for field reviews.

FIELD REVIEWS

Reviews by designated officials should be conducted on a scheduled basis to insure compliance by recipients. Compliance reports, books, and other records should be reviewed during these regular field visits. Minority group leaders should be interviewed and, in general, procedures suggested in the U.S. Commission on Civil Rights *Compliance Officer's Manual* should be followed. In addition, recipients should undertake procedures to assure themselves that their program is operated in compliance with Title VI.

COMPLAINTS

An individual or organization may challenge any unlawful discriminatory practice in a Federal program or activity. All complaints should be filed with the appropriate Federal agency and should include names (including names of witnesses), places, dates, a description of the discriminatory act, and any other information which would help the agency to investigate the complaint.

INVESTIGATION AND ADJUSTMENT

When a complaint is filed or when a field review, complaint, or any other information indicates a violation of Title VI, a prompt and thorough investigation should be conducted. If a violation is found, informal persuasion and conciliation will be used to secure the elimination of the prohibited discriminatory practices. During the entire process, names of complainants should be kept confidential to the fullest possible extent.

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual because he has made a complaint, testified, or assisted in a Title VI investigation, proceeding, or hearing.

FORMAL ENFORCEMENT PROCEEDINGS

If efforts at persuasion fail to correct the situation, formal means for resolving violations of Title VI regulations should be instituted.

Termination of Funds

Title VI authorizes “the termination of or refusal to grant or continue assistance” under any Federal program in which there has been a violation of nondiscrimination requirements. This action may be taken only after:

- (1) the recipient has been given an opportunity for a fair hearing and a finding is made that Title VI has been violated, and
- (2) appropriate congressional committees have been notified 30 days before any termination of assistance.

A recipient may seek judicial review of the final order issued by the agency.

Other Formal Actions Authorized by Law

Rather than follow internal administrative proceedings, an agency may take other formal actions authorized by law, including:

- (1) Referral to the Department of Justice for appropriate legal action.

If there is a formal contract with a nondiscrimination agreement between the Government and the recipient, the appropriate legal action may be a civil suit to enforce the agreement or to invoke any other contractual remedies.

If the recipient is a public institution, such as a public hospital or a public school, the appropriate legal action may be a civil rights suit to secure a court order barring the unlawful practices under Title III or IV, respectively, of the Civil Rights Act of 1964.

- (2) Referral to State or local authorities responsible for enforcing similar nondiscrimination standards.

When a recipient’s violation of Title VI involves discriminatory employment practices, the case may be referred to a State or local fair employment practices commission or comparable body.

LIMITATIONS ON COMPLIANCE PROCEEDINGS

Compliance proceedings may only be directed against “recipients” of Federal aid who are conducting a program for the benefit of others. A “recipient” does not include the individual who ultimately receives the service, financial aid, or other benefit under the program.

A farmer receiving Federal aid is not required to adopt nondiscriminatory policies in the operation of his farm. However, the State extension service

is a “recipient” and must not discriminate against farmers eligible for assistance under the extension service program.

An individual receiving unemployment insurance is likewise not a recipient. The State unemployment insurance office, however, is a Title VI “recipient” and must not discriminate against applicants for assistance and service.

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The Civil Rights Act of 1964 directs the U.S. Commission on Civil Rights to serve as a national clearinghouse for civil rights information. Accordingly, Commission resources are available to assist interested persons seeking information on Federal laws and programs and applicable civil rights policies.

Title VI

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Sec. 601. 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.

Sec. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Sec. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

Sec. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

Sec. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

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