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Compliance Officer's MANUAL

**a handbook of compliance procedures
under Title VI of the Civil Rights
Act of 1964**

Prepared by the

United States Commission on Civil Rights

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TITLE VI

COMPLIANCE OFFICER'S MANUAL

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MANUAL FOR TITLE VI COMPLIANCE OFFICERS

1. INTRODUCTION

Title VI of the Civil Rights Act of 1964 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.

More than a score of Federal departments and agencies are responsible for achieving compliance with this mandate. The U.S. Attorney General in his "Guidelines" letter of December 27, 1965, asked the U.S. Civil Service Commission, with the assistance of the U.S. Commission on Civil Rights, to develop and conduct a Title VI training program for agency compliance officers. This Manual, prepared by the Commission on Civil Rights under its authority to serve as a national clearinghouse for civil rights information, is designed to assist such training by providing criteria for conducting and reporting Title VI compliance reviews and investigations. It is essential that agencies also utilize other existing training programs and resources to help with this task. Each agency must develop its own training with regard to its particular functions, programs, and recipients. Both generic and specialized training should be flexible and responsive to the lessons of field experience.

This Manual is designed to serve a broad purpose. The need for a comprehensive guide in an area that is new to many agencies has become increasingly urgent. A number of Federal departments already have a cadre of persons who are trained, highly skilled, and experienced in techniques of investigation, program review, and analysis. For them the problem lies in adapting and translating these skills to the realm of civil rights compliance. For many this transition will be a fluid and natural one. Administrators have recognized for years that a primary criterion of the success of any Federal program is its ability to reach all persons for whom such program was designed by Congress. Frequently, the basic purpose for which Federal financial assistance has been authorized has been frustrated in varying degrees by invidious distinctions based on race, color, or national origin. Discriminatory practices at all levels of administration have reduced the effectiveness of hundreds of Federal programs over the years. Countless persons at all levels of government who are dedicated to improving and expanding services are beginning to find in Title VI a strong ally and a useful tool for program building. For them there is no conflict of loyalty, no confusion of purpose. The skill and thoroughness which have provided the basis for constructive program reviews, analyses, audits, and investigations prior to passage of the Civil Rights Act of 1964 can be applied to civil rights compliance reviews and investigations under the Title VI requirement.

This Manual is intended solely as a guide. It should be used only to the extent it can be helpful—as an aid, not a strait jacket. For some agencies it may serve as a basic handbook; for others it may supplement existing materials. The Commission urges that it be freely adapted, supplemented, or discarded as agency needs dictate.

The suggested procedures may have to be adjusted to reflect agency philosophy and practice. This Manual is not designed to usurp the obligations of agency officials to establish agency policy. Rather, it is designed to serve as a ready reference to acceptable compliance procedures. These procedures are concerned primarily with fact gathering although many agencies view negotiation or conciliation as a major role of compliance field staff. If an agency desires to add negotiation or conciliation duties to those of the compliance officer, it should certainly do so.

Agencies that consider “review” and “investigation” as fundamentally different processes, believe that different objectives are pursued, separate approaches and techniques are necessary, and that different training is required. The Commission believes, however, that “reviews” and “investigations” are basically the same when Title VI compliance is at issue. In fact, throughout the Manual the terms “review” or “investigation” and “reviewer” or “investigator” are used almost interchangeably. The primary distinction between reviews and investigations is one of origin rather than objective. Reviews are made periodically and are regular, systematic inspections. Investigations are triggered by specific information or allegations. The compliance review is by nature detailed and far-ranging. It must do more than furnish a general picture of a recipient’s operations. It must clearly establish the fact of full compliance or equally clearly document the nature and degree of noncompliance. The fact finding and the evidence gathering phases of a compliance review must be able to withstand the same rigorous examination as an investigation. Both investigations and reviews may at some future time provide the basis for an administrative hearing. An investigation may be prompted by a complaint, *prima facie* evidence of noncompliance listed in a compliance report form or other report submitted by a recipient, or some other type of information or allegation. In practice, investigations must be sharply focused and should substantiate or disprove a particular contention. However, an investigation which does not go beyond this and fails to include a wider appraisal of a recipient’s overall operations would appear to be an uneconomical use of resources, and, in some instances, a wasted opportunity to help the recipient achieve compliance. At the very least, an investigation, whose scope is too narrow, might result in findings made out of context or conclusions based on less than all the relevant evidence. Some agencies have not yet developed routine compliance review programs and continue to be complaint-investigation oriented. For them, the on-site investigation is the only method used to determine compliance. Under these circumstances it is especially important that the inquiry be broad and thorough.

2. REFERENCES

Civil Rights Act of 1964, Public Law 88-352, 78 Stat. 241, hereinafter referred to as "Civil Rights Act"; Agency Regulations Implementing Civil Rights Act, hereinafter referred to as "Title VI Regulations", or simply, "the Regulations"; Attorney General's Guidelines for Enforcement of Title VI (December 27, 1965), hereinafter referred to as "Guidelines". (Exhibit 1)

3. TERMS USED

"Agency" means any of the several Federal departments or independent agencies having Title VI responsibilities. (Exhibit 2)

"Compliance Officer" includes compliance reviewer or investigator; the term also refers to the agency representative authorized to review policy, practices, and facilities of Title VI recipients for compliance. It should be noted that in some agencies comparative terms, such as "Compliance Review Officer", "Investigator", "Civil Rights Investigator", or "Compliance Coordinator" are used. These titles often reflect more than mere difference in terminology between agencies. The "Compliance Officer" may be the person who receives compliance reports and reviews data submitted. Field investigations may or may not be a part of his activities. He may or may not have authority to attempt to effect voluntary compliance in the field. On the other hand, the role and responsibilities of persons in different agencies may be very similar although their job titles are different.

"Vendor" refers to an individual, group, public or private organization or institution, political entity, or commercial enterprise which, pursuant to any contract, agreement, or other arrangement with a recipient, furnishes a service which is used by or available to a beneficiary of the program.

NOTE: The Title VI Regulations define a number of other terms.

When used in this Manual, such terms carry the same meaning as in the regulations.

4. APPLICABILITY

Title VI regulations require agencies to make periodic compliance reviews and to investigate complaints to determine recipient compliance. The principles set forth in this Manual are intended for use in either of these inquiries.

5. AGENCY RESPONSIBILITY

Each agency has primary responsibility for enforcement of nondiscrimination in its Title VI programs. This responsibility must be exercised positively, not merely reactively, in response to complaints of discrimination. Regular inspections and reviews are necessary to ensure that recipients are meeting the requirements of Title VI. The ultimate success of Title VI depends largely on how effectively compliance is monitored in the field.

6 TITLE VI

The Civil Rights Act of 1964 became law on July 2, 1964. It contains eleven separate Titles. Each Title deals with a different subject, such as voting rights, public accommodations, public facilities, equal employment opportunity, and federally assisted programs. Title VI is concerned with nondiscrimination in federally assisted programs.

Section 601 requires that discrimination based on race, color, or national origin be eliminated from programs receiving Federal financial assistance.

Section 602 requires that each agency which provides Federal financial assistance promulgate regulations to effectuate the provisions of Section 601 and prescribes methods whereby compliance may be effected or funds terminated following a hearing.

Section 603 provides for judicial review of actions taken under Section 602.

Section 604 provides that enforcement action under Title VI cannot be utilized in instances of discriminatory employment practices except where a primary objective of the Federal financial assistance is to provide employment. It is important to note, however, that discriminatory employment practices may affect the kind and quality of services supported by Federal financial assistance and therefore may come under the purview of Title VI.

And, finally, Section 605 states that Title VI shall not affect any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

The scope of Title VI is widespread, reaching into almost every facet of American life. Approximately 200 programs and numerous sub-programs are sponsored or financed in whole or in part by the Federal Government. During fiscal 1966, payments by the Federal Government to public and private recipients totaled nearly \$20 billion. Federal payments form a substantial part of the total revenues collected by States and political subdivisions thereof.

6.1 REGULATIONS

Each agency which provides financial assistance to a program has issued regulations, approved by the President, to carry out the objectives of Title VI. The drafting and issuance of these regulations were coordinated to achieve a maximum degree of uniformity.

Among other things, these regulations:¹

- Define Federal financial assistance, and the recipients who are affected.
- Spell out specific forms of discrimination which are prohibited with examples in various agency programs.

¹ Agency nondiscrimination regulations should be consulted for precise requirements and total coverage.

- Require certain promises (assurances and statements of compliance) designed to ensure nondiscrimination in the operation of each program receiving Federal financial assistance from the agency.
- List the procedures for effecting compliance and for handling complaints of discrimination.
- Provide a list of agency programs and activities covered by Title VI.
- Require that agency officials issue necessary implementing instructions and procedures.
- Set forth the procedures to be followed in the case of noncompliance.

6.2 DISCRIMINATORY PRACTICES PROHIBITED

Specifically prohibited discriminatory practices in federally assisted programs include, but are not limited to, the following:

- Denial to an individual of any service, financial aid, or other benefit provided under the program.
- Distinctions in quality, quantity, or manner in which the benefit is provided.
- Segregation or separate treatment in any part of the program.
- Restriction in the enjoyment of any advantages, privileges, or other benefits provided to others.
- Different standards or requirements for participation.
- Methods of administration which directly or through contractual relationships would defeat or substantially impair the accomplishment of effective nondiscrimination.
- Discrimination in any activities conducted in a facility built in whole or in part with Federal funds.
- Discrimination in any employment resulting from a program which has a primary purpose of providing employment.

6.3 COMPLIANCE PROCEDURES

Compliance procedures outlined in the regulations begin by requiring certain promises from each applicant for Federal financial assistance and continue through the termination or refusal to grant such assistance or other action in the event these promises are not obtained or are subsequently breached. Basically two types of promises are found at the initial or "paper" phase of compliance. These are assurances and statements of compliance. In addition, a school or school system may satisfy the "paper" requirement by (a) promising to comply with a court order (including any future modification) to desegregate or by (b) submitting to the Commissioner of Education an acceptable plan for desegregation.²

² See the "Revised Statement of Policies for School Desegregation Plans under Title VI of the Civil Rights Act of 1964", March 1966 (Published by U.S. Department of Health, Education, and Welfare).

6.31 ASSURANCES

In most programs, Federal financial assistance is conditioned on the fact that the applicant will provide assurances that the program or facility to be benefited will be operated without discrimination.

Although the particular form of assurance is specified by each agency, in substance, the assurance is a promise that the applicant or recipient will comply with the Title VI regulations, and will take immediate steps to effectuate this compliance. The assurance obligates the applicant or recipient for the period during which Federal financial assistance is extended. In cases of assistance involving real or personal property the assurance obligates not only the recipient but also any subsequent transferee for the period during which possession or ownership is retained or during which the property is used for a purpose for which the assistance has been given. The assurance further acknowledges that the Federal financial assistance is extended in reliance on the representations and agreements made in the assurance and that the Federal Government has the right to seek its judicial enforcement.

6.311 STATEMENTS OF COMPLIANCE

In the case of a State administered continuing program, every application for Federal financial assistance must as a condition to its approval and the extension of such assistance:

1. Contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by the regulations or a statement of the extent to which it is not, at the time the statement is made, so conducted, and

2. Provide methods of administration for the program designed to assure that the applicant and all recipients under the program will comply with all requirements imposed by the regulations and include methods of administration which give reasonable assurance that any existing noncompliance will be corrected.

Acceptable methods of administration should include:

A Requirement that Beneficiaries be Informed of Their Rights—

A plan for notification to beneficiaries and potential beneficiaries of the program of the nondiscrimination policy of the Federal agency and the requirements of Title VI at all levels of administration in State programs receiving Federal financial assistance is required. Specific methods by which beneficiaries are to be informed of this policy should also be set forth, and may include public statements, letters, brochures, meetings with community groups and organizations, and releases to the news media.

Plans for Training and Orienting Staff Members—

These plans should include instructions to State staffs regarding non-discrimination policies, requirements of the Federal agency in implementing Title VI, techniques and methods for communicating this to all employees, other recipients or vendors (if any), and present and potential beneficiaries.

Procedures for Handling Complaints—

Procedures for informing all beneficiaries of their right to file complaints under the Federal agency's regulations, for setting up channels for handling complaints, and for notifying the Federal agency involved are required.

A Program of Compliance Review—

This should include an identification of the procedures whereby the State will periodically assess and report the progress that is being made in achieving and maintaining compliance in the program. An essential ingredient of this will be assigning staff responsibility and setting up standards for reports and record keeping as well as criteria for evaluating compliance progress.

Specific Steps Being Taken or Planned to Bring about Compliance—

These steps should include detailed identification of the actions being taken or planned, such as assignment of staff responsibility, dates and agenda of meetings and workshops, copies of instructions, meetings with vendors, etc. The emphasis should be on positive efforts to correct those practices which keep the program out of compliance. The plan should also include a timetable showing how long it will take to bring the total program into compliance.

6.32 REVIEW OF COMPLIANCE

As a normal part of the administration of programs covered by Title VI, agencies must designate personnel to review the activities of recipients to determine whether they are complying.

6.33 COMPLIANCE REPORTS

Each recipient is required to keep such records and submit to the agency responsible for the program complete and accurate compliance reports at such times and in such form as the agency may determine to be necessary to ascertain whether the recipient is complying with nondiscrimination requirements. In cases where primary recipients extend Federal financial assistance to another recipient, such other recipient may also be required to submit compliance reports.

6.34 METHODS FOR EFFECTING COMPLIANCE

Generally, compliance with Title VI regulations by recipients may be effected (1) by obtaining voluntary compliance, (2) through court enforcement, (3) by suspending, refusing, or terminating Federal financial assistance, (this method will not necessarily result in compliance, but may induce many recipients to abide by the law),³ and (4) by other lawful means such as those suggested by the "Guidelines".

6.341 VOLUNTARY COMPLIANCE

The Civil Rights Act and regulations require that efforts be made to the fullest extent practicable to obtain voluntary compliance before there can be a refusal, suspension, or termination of Federal financial assistance. Attempts to obtain voluntary compliance should not be unduly protracted, however. Intensive negotiation is likely to reveal whether an impasse has been reached, whether the recipient is actually using the process of negotiation for purposes of delay, or whether in fact specific headway is being made.

6.342 COURT ENFORCEMENT

Court action to achieve compliance may consist of:

- A suit to obtain specific enforcement of assurances, covenants running with federally provided property, statements of compliance, or desegregation plans filed pursuant to agency regulations.
- A suit to enforce compliance, with other titles of the 1964 Act, other Civil Rights Acts, or constitutional or statutory provisions requiring nondiscrimination.
- Initiation of, or intervention or other participation in, a suit for other relief designed to secure compliance.

NOTE: The "Guidelines" advise that the possibility of court enforcement not be rejected without consulting the Department of Justice.

6.343 SUSPENSION, TERMINATION, OR REFUSAL OF FEDERAL FINANCIAL ASSISTANCE

Before an order suspending, terminating, or refusing to grant or to continue Federal financial assistance shall become effective, the following must be accomplished:

³ In some instances, it is legally permissible temporarily to defer action on an application for assistance, pending initiation and completion of Section 602 procedures—including attempts to secure voluntary compliance with Title VI. Normally, this course of action is appropriate only with respect to applications for noncontinuing assistance or initial applications for programs of continuing assistance. It is not available where Federal financial assistance is due and payable pursuant to a previously approved application. (See "Guidelines", p. 2).

1. The agency must advise the applicant or recipient of the failure to comply and of the agency's determination that compliance cannot be secured by voluntary means.
2. There must be an express finding on the record of a failure to comply after opportunity for hearing.
3. There must be approval of the action terminating, suspending, etc., the Federal assistance by the head of the agency.
4. Thirty (30) days must have expired after the head of the agency has filed, with the Congressional committees having jurisdiction over the program involved, a full written report of the circumstances and grounds for such action.

6.344 OTHER LAWFUL MEANS

The "Guidelines" also suggest administrative actions for coping with noncompliance. These include: (1) consulting with or seeking assistance from other Federal agencies (such as the Contract Compliance Division of the Department of Labor) having authority to enforce nondiscrimination requirements, (2) consulting with or seeking assistance from State or local agencies having such authority, (3) by-passing a recalcitrant central agency applicant in order to obtain assurances from, or to grant assistance to, complying local agencies, and (4) when applicable, by-passing all recalcitrant non-Federal agencies and providing assistance directly to the complying ultimate beneficiaries. The "Guidelines" urge that the possibility of utilizing such administrative alternatives should be considered at all stages of enforcement and used where appropriate or feasible.

6.4 COMPLAINTS OF DISCRIMINATION

Any person who believes himself or any special class of individuals to be subjected to discrimination of the type prohibited by Title VI may file a written complaint directly or through a representative to the head of the agency, or with the local, State, or regional office of the agency. Complaints must be filed within 90 days after the alleged discrimination unless the time is extended by the agency. The regulations require prompt investigation of these complaints.

6.41 ACKNOWLEDGMENT OF COMPLAINTS

Complaints of discrimination should be promptly acknowledged and the complainant advised that action is being taken to investigate the information he has supplied. If the investigation of the complaint must be substantially delayed for any reason, the compliance officer should attempt to contact the complainant and explain the delay.

6.42 ACTS OF RETALIATION OR INTIMIDATION

The regulations prohibit any recipient or other person from intimidating,

threatening, coercing, or discriminating against any complainant and require that the identity of complainants be kept as confidential as possible. The same prohibitions protect anyone who has testified, assisted, or participated in any manner in an investigation or hearing under the Title VI regulations.

7. COMPLIANCE REVIEWS AND INVESTIGATIONS

Title VI implementing regulations specify two types of compliance inquiries:

1. Reviews—made of the practices of a recipient of Title VI assistance for the purpose of determining whether such recipient is complying with Title VI.

2. Investigations—made when a compliance review, a complaint, or other information indicates that a recipient may not be complying with Title VI.

Compliance reviews are made periodically. The Attorney General refers to them as “regular, systematic inspections”. Investigations are made as required.

The selection of a particular recipient for compliance review might be based on such factors as whether a first review had been made, findings of previous review, community patterns of discrimination in other Title VI programs and other areas: i.e., voting, employment, etc., failure of recipient to file or to file adequate compliance reports, and the agency’s annual plan for compliance review. In addition, patterns of discrimination may be revealed by statistical analysis of records maintained by those agencies which have begun to compile and make available racial data by program.

7.1 AGENCY PLAN

Each agency should have an agency-wide Title VI compliance plan completely familiar to compliance officers. These over-all plans will vary, but should include:

- Procedures for staffing and training compliance officers for the agency as a whole and for each subdivision which has Title VI programs.
- Program and schedule for compliance reviews.
- Plans for investigations.
- Uniform standards for conducting and reporting compliance reviews and investigations including guides and forms.
- Agency lists of discriminatory practices, recipient violations, sources of information, review and investigation cases.
- Agency-wide policies and procedures for uniform evaluation of compliance reviews and investigations from the standpoint of voluntary compliance and enforcement action.

- Development of information on community racial patterns by population, employment, voting registration, education, and other aspects pertinent to evaluating programs for compliance.
- Coordination with other agencies on matters of community-wide reviews and designation of primary interest agency in multiple investigations.

7.2 PRELIMINARY PREPARATION

When a decision has been made to review a particular recipient for compliance and the case has been assigned, the compliance officer should begin his preliminary preparation. Such preparation would include:

- Reviewing agency files to determine recipient background information such as legal status, size, nature of services, type of Federal assistance, etc.
- When appropriate, reviewing pertinent assurance, statement of compliance or court order.
- Reviewing compliance report(s) to determine recipient's own estimate of compliance.
- Reviewing any complaints or previous investigations involving recipient.
- Determining extent of compliance in other Title VI programs in the same community (or State).
- Securing community information or profiles from Federal agencies and other organizations such as the U.S. Commission on Civil Rights, Community Relations Service, the Office of Federal Contract Compliance, or other Title VI agencies and civil rights organizations.

The compliance officer should never lose sight of the time factor and may have to weigh the desirability of thorough preliminary preparation against the need for expediting the field investigation.

7.21 SCOPE OF COMPLIANCE REVIEWS AND INVESTIGATIONS

In accordance with agency policies, guidelines, and procedures, compliance officers must determine the scope and extent of the compliance review or investigation at the outset. This involves analysis of the nature and extent of recipient's operation, applicable laws and regulations, allegations of complaints, if any, among other factors. Generally, however, these inquiries will cover sufficient control points⁴ to establish clearly whether compliance is present in all relevant areas of the recipient's operations.

⁴ Physical facilities, eligibility requirements, employment practices, admission policies, etc.

This coverage should include the following determinations, among others:

- Whether all beneficiaries, regardless of race, color, or national origin, are adequately informed of the availability of recipient's services on an equal basis.
- Whether different admission standards are applied to certain applicants openly or under cover of reasonable educational, financial, or other qualification; for example, requiring membership in an organization with a restricted membership policy, or requiring costly tools not as readily accessible to minority beneficiaries.
- Whether referrals are made to other recipients or vendors who discriminate.
- Whether referrals are made to employers on a racial basis.
- Whether old indices of segregation have been completely eliminated. For example, are formerly segregated facilities, waiting rooms, eating areas, etc., now being used by all persons?
- Whether the services supplied are furnished in a different way to some beneficiaries—i.e., with excessive delay, at different times or locations.
- Whether recipient has implemented all procedures and activities in accordance with Statement of Compliance (see 6.311).
- Whether employment practices: i.e., recruitment, hiring, promotions, assignments, and training are without discrimination.

In particular cases, the compliance review or investigation may be limited to a single operational area which is particularly suspect or where there is need for immediate specific factual documentation for the institution of an enforcement hearing. In some cases it may be desirable only to determine whether or not the "choice" in a "freedom of choice" plan was in point of fact "free" or whether or not the State agency was in fact following its plan of compliance. In other cases it may be desirable to develop the facts with respect to such items outside the particular operational area as school district gerrymandering, employment referrals, hospital room assignments, discriminatory transfer policies, and unequal educational programs. The point is that compliance reviews and investigations should be utilized as flexible methods of determining compliance with the nondiscrimination provisions of the Civil Rights Act.

Examples of the scope and extent of the compliance review or investigation in a particular case will probably be more precisely defined in the agency plan or guide.

7.22 INVESTIGATION-REVIEW PLAN

Plans or guides are an essential element in any effective compliance inquiry. This is particularly true where the compliance officer is inexperienced or the agency compliance program of recent origin. Plans can take different forms such as check lists, outlines, interview questionnaires, review

guides, and the like. Each agency should develop the type best suited to its Title VI programs and to the particular review or investigation. Plans or guides should provide basic standards for review and investigation coverage of recipient operations, so that situations and practices which are discriminatory can be more readily detected. The guides may be drawn after on-site surveys of recipients' operations and the analysis of any complaint material. Separate guides may be developed for each major type program or recipient such as hospitals, school districts, employment offices, State extension service programs, universities, etc.

Guides may need to be updated from time to time on the basis of agency experience.

Generally speaking, the guides should be sufficiently detailed to develop factual background information on the following:

- Physical description of premises, services provided by recipient, extent of recipient's operations, geographic area served, population characteristics of area, responsible officials (and their race), and type of Federal financial assistance, etc.
- Determination of recipients' Title VI Compliance.
- Admission and eligibility standards and practices and treatment of beneficiaries.
- Availability of services and facilities to beneficiaries, staff, employees, etc.
- Personnel policies.
- Training programs.
- Referrals to other recipients.
- Methods of publicizing services to minority groups.
- Handling of complaints.

(SEE EXHIBIT 4 FOR EXAMPLE OF AN INVESTIGATION—REVIEW PLAN).

7.23 NOTICE TO RECIPIENT

Whether or not recipients should be given advance notice of an impending compliance review or investigation is a matter for determination by individual agencies. The same is true as to when such notice should be given and the media of notice—letter, phone, etc.

If an agency has reason to believe that advance notice in a particular instance would result in recipient's "covering up" or might endanger the complainant in any way, then obviously some other approach would be necessary. Investigators have had the experience of finding a hospital "in full compliance" during a field inspection, the exact date of which had been discussed with the recipient well in advance of the actual visit. An

unscheduled re-visit a short time later revealed that rooms had been temporarily reassigned, beds had been moved, and dining facilities altered to give an appearance of desegregation in an effort to mislead the compliance review team. Similarly, a State employment office posted large, conspicuous notices of its nondiscriminatory policies immediately prior to a scheduled inspection. When the compliance person returned by chance later in the day, these were nowhere to be seen.

However, some advance notice is usually necessary in order to give the recipient an opportunity to have various data, records, witnesses, and staff members available. Notice of a compliance visit may also be desirable as a matter of courtesy and may be an important factor in maintaining effective inter- and intra-agency relationships. One possibility might be to send a letter to all recipients advising them that they will be reviewed in the "near future", listing the kinds of data and personnel they should be prepared to make available, and informing them that advance notice of the exact date of the inspection will not be given. An alternative possibility would be to notify recipients that a field review will be made "sometime" during a specified period. For example: "Our compliance inspection team is scheduled to visit your facility sometime between the 10th and the 30th of next month."

7.3 THE ON-SITE INVESTIGATION OR COMPLIANCE REVIEW

Experience has shown that the nature of discrimination is often complex and pervasive and that its manifestations vary. In its more common, overt forms discrimination may be relatively easy to identify and document. In its covert and subtle modes it may just as easily escape the notice of both experienced and inexperienced investigators. It is therefore extremely important for the compliance officer to be alert to the possibility that non-compliance exists although evidence of discriminatory practices may be elusive. The compliance review should provide sufficient information to determine whether the recipient is in compliance. In addition, an investigation must provide sufficient information to establish the validity or non-validity of a complaint, allegation, or other indication of noncompliance.

The Title VI assistance recipient is under obligation to assist in this endeavor by, (1) keeping and submitting such records as will enable a determination of compliance and, (2) permitting access to these records by an agency representative during normal business hours.

It is reasonable to expect that complying recipients will cooperate in the investigation. If there is a refusal of a recipient to permit access to any information relevant to the issue of compliance, the details of this refusal should be developed and reported by the compliance officer.

The quantum of proof required will be a matter within the judgment of the compliance officer and supervisor. Suffice to say that once a dis-

criminary practice or pattern (evidenced statistically or otherwise) has been developed, it is not enhanced by piling up repeated examples which are merely corroborative in character. Conversely, the compliance officer should not conclude his investigation without developing enough instances to show whether a consistent pattern is involved or only an isolated instance of discrimination. It is important for the compliance officer to recognize that speedy completion of his inquiry is an important objective, particularly if discrimination is disclosed.

7.31 STEPS IN REVIEW—INVESTIGATION

The order in which the compliance review or investigation is conducted will depend on a variety of factors (see 7.1). Among these would be the nature of the information on which the investigation or review is based, the experience of the compliance officer, and the nature and extent of recipient's facility.

If a complaint is involved, it is usually better to interview the complainant at the beginning of the investigation. If the complainant is one of a minority group, the community leaders of such a group should also be interviewed. They may be able to provide more complete information including names of additional beneficiaries who have been subjected to discrimination, community information on local patterns of discrimination, and related data.

In other cases the beginning information, plus cursory examination of recipient's facility, may show overt discrimination which should be brought to the recipient's immediate attention so that no time is lost in starting some sort of compliance action. The compliance officer should not, however, base his case solely upon recipient's admissions. To protect against subsequent retraction he should secure corroborative evidence of the discriminatory practices from other sources if possible.

Regardless of the order in which he proceeds, the compliance officer will develop his proof by interviewing witnesses, by examining and analyzing pertinent records and statistical data, and by his personal observations.

7.32 WITNESSES

Witnesses are persons who possess information relevant to the particular review or investigation. It may be necessary for the compliance officer to gain their confidence so that they will feel free to furnish this information and cooperate with the task at hand.

The interview should be at a place and under circumstances convenient to the witness, and should be conducted in private whenever possible. If other persons are present, even if they are friendly, the witness may not share all that he knows or he may give information which is not factual. Privacy may not be enough if the interview takes place in an environment the interviewee considers hostile, such as an office of the superintendent, supervisor, landlord, etc. Insofar as possible, interviews should be conducted in surroundings conducive to the witness' freedom of expression.

Be sure the witness understands who you are. Identify yourself and explain by what authority you are there. Make certain that he knows you are a representative of the Federal Government, and that you need his information and will protect his confidence from unauthorized people.

Ask questions he can understand. Do not ask complicated or compound questions. Avoid questions which suggest the answer: i.e., leading questions. For example: Don't ask: "Do you think Mr. Jones was refused service because he is a Negro?" Do ask: "Why do you think Mr. Jones was refused service?" Test the answers against other information, and against the witness' source of his information.

Interviews with recipient's employees must be arranged and conducted with the greatest discretion so that no employee becomes an object of suspicion, prejudice or even retaliation on the part of his employer or fellow employees. At the outset the recipient should be advised of the need to talk with his employees in connection with the investigation or review. Interviews then should be conducted in private and under circumstances that will be conducive to freedom of expression on the part of the employee witness. If the recipient objects to interviewing the employees at work and their testimony is essential, arrangements might then be made to speak with them at their place of residence or elsewhere as particular circumstances warrant.

In each community there are persons and organizations who are repositories of information on community matters. These community groups include those who are informed on minority problems. Such groups can often supply racial characteristics of the community or provide sources of such data. They may also be able to furnish the names of persons involved in discrimination practiced by the recipient or supply information on types of discrimination in various facilities. They may also prove helpful in encouraging members of minority groups to cooperate and assist with an investigation under circumstances in which they might otherwise be reluctant to do so.

Care should always be exercised that the investigator not speak only with established minority group representatives, but with grass roots people as well.

Federal officials who reside in the community may also be able to furnish useful information.

7.321 CLOSING CONFERENCE WITH RECIPIENT

Although the recipient or his representatives will be interviewed throughout the review or investigation concerning his operations and suspected discrimination, a closing conference should be arranged so that all findings are brought to the attention of the individual recipient or responsible official. The attitude of the recipient toward compliance should be noted including an assessment of the possibility of achieving voluntary compli-

ance. The recipient should be afforded an opportunity to explain any discriminatory conditions found by the compliance investigation or review. This explanation should be presented in a written statement which may also contain the recipient's opinion as to whether or not voluntary compliance is possible. If the recipient contests the fact of noncompliance and presents evidence to support his position, such evidence should be checked and, if possible, reconciled with the conflicting evidence. Discrepant versions of facts or events should be carefully noted. Efforts made to reconcile divergent evidence should also be recorded.

Extreme care should be exercised so that sources of information are not disclosed to recipient because of possible reprisals. During the closing conference there may also be a temptation to reveal sources of evidence or names of witnesses in a "last ditch" effort to reach an accord, obtain an agreement to comply, or resolve the particular complaint then and there. Care should also be taken not to disclose names or sources inadvertently while attempting to clarify or resolve conflicting testimony. Interviews should be conducted with enough beneficiaries, community leaders, and employees in each department so that the source of particular information is not easily discernible. If possible, relate the information secured from an employee to records and use the records in presenting the practice to the recipient.

Do not make any statements to recipient involving an estimate of what the review investigation adds up to by way of compliance. Your questions will undoubtedly convey certain distinct impressions in this regard to the recipient; however, do not make any statement such as, "You're doing a fine job here," or, "I found nothing out of the way in your operation," or, "You're in serious trouble and may lose your Federal assistance." etc.

If asked questions in this area the compliance officer should advise that he is a factfinder and is not permitted to make any judgment on the facts he has developed in his review-investigation. And then stick to it!

7.33 RECORD EXAMINATION

Title VI regulations require recipients to keep records and to submit timely, complete, and accurate compliance reports. These regulations further require recipients to permit access by the agency to such of its books, records, accounts, and other sources of information as may be pertinent to ascertaining compliance.

Recipients' records can be extremely valuable sources of information. The compliance officer should know or affirmatively determine what records are maintained by the recipient, what these purport to show, the method of the preparation, and the person or persons who prepare the records and are responsible for their custody.

Ordinarily, knowledge about recipients records can be obtained by simply asking for such information from the recipient. The compliance officer, however, should be on the alert to assure himself that the information on

the records supplied by the recipient is regularly kept and conforms to his own observations. The recipient's records may or may not reflect race, color, or national origin of beneficiaries. Where this data is not recorded, the names, addresses, schools attended, or telephone numbers may be sufficiently indicative of this fact to provide leads for additional investigation. In such instances, the compliance officer will follow through by verifying the suspected pattern of noncompliance disclosed by the records.

Where the records do reflect race, color, or national origin of the beneficiaries involved, examination should be made of a representative number submitted by each of the relevant racial and ethnic groups during the same period to make comparisons of the actions taken on each.

Record examination should also be related to and compared with testimony procured from interviews with informed persons in the community or beneficiaries. Conversely, record examination may produce leads to persons who should be interviewed. It is important for the compliance officer to bear in mind that only certain records will be productive of information which is relevant to the recipient's compliance with Title VI of the Civil Rights Act, and further, that the records which are relevant to this issue must be tested for accuracy and reliability and must be corroborated by interviews or otherwise when they are indicative of non-compliance. Copies of records may be requested by the investigator consistent with agency policy concerning the amount of materials necessary and reimbursement for reproduction costs. Care should be taken not to burden the recipient with unreasonable or unnecessary requests.

7.331 STATISTICAL DATA

Statistical data relating to the area of the services supplied by the recipient may be an important index for evaluating disparities between white and nonwhite minority beneficiaries. One form of discrimination may lie in providing benefits or services to minority groups but in a more restricted fashion by treating them differently in determining whether they satisfy admission, enrollment, eligibility, membership, or other requirement of participation. Statistical information on the potential availability of white and nonwhite beneficiaries may provide a lead to the existence of discrimination which is more subtle in form. Compliance officers should secure and carefully analyze statistical data in the light of the recipient's program results. Care should be taken to secure statistical information which is objective and reliable.

Specially prepared reports can be requested from recipient and estimates of white and nonwhite participation can be requested.

All reports or data which indicate race should be examined, including reports on program participation made to State offices.

7.34 PERSONAL OBSERVATION

The personal observation of the compliance officer can produce valuable

evidence particularly in the area of the physical facilities of recipients such as:

Rest rooms	Entrances
Waiting rooms	Eating Areas
Nurseries	Schools
Wards	Libraries

This source of information should be utilized to the fullest extent feasible in each review-investigation. Wherever possible the evidence of discrimination disclosed by the compliance officer's observation should be corroborated by other evidence or witnesses.

Among other things personal observation should not only determine whether facilities are marked by race but used by one race and whether those used were formerly designated for use by race. Also, particular notice should be given to the location of minority group employees as well as the extent to which employees are limited to the provision of service to beneficiaries of a like racial group.

Compliance officers should exercise care to note and report their factual observations rather than the conclusions drawn from such observations. Listed below are examples of the right and wrong ways of reporting observations.

Wrong: "Director stated that although racial designations had been removed from all public facilities, they were still used on a racially separate basis. Physical inspection confirmed this."

Right: "The director said that although he had taken the signs down from the waiting rooms, rest rooms, and drinking fountains which previously designated them for white and colored use, Negro clients still come in and take seats in the formerly Negro section and use the drinking fountains and rest rooms formerly assigned to them. Personal inspection of the premises disclosed that there were two waiting rooms, on opposite sides of the hall, with separate drinking fountains inside the rooms. One of these rooms was occupied exclusively by white men and women and the other exclusively by Negro men and women. Rest rooms with neither race nor sex markings were observed in both of these rooms. Rest rooms at the other end of the hall were marked 'staff only'."

7.35 VERIFICATIONS

The compliance officer should continually review the information he has collected with a view to determining whether or not it provides a reliable, objective answer to the question of recipient's compliance with the requirements of Title VI of the Civil Rights Act. He should be particularly alert to question the reliability of witnesses to whom he has been directed by a party who has an interest in the result of the investigation. The compliance officer should make every effort to examine sources of information which are most likely to reveal the existence of compliance or a pattern of non-compliance.

7.36 WORKING PAPERS OR NOTES

Working papers or notes are the record of the information obtained in the course of the compliance investigation or review. They serve as a repository for this information until more time is available to analyze the facts and observations recorded.

Notes are essential to an effective investigation. They are the medium by which the factual information which is developed can be related to the objectives of the compliance review or investigation. The compliance officer must constantly analyze the information he is collecting in relation to these objectives so that he can gauge the time when he has secured sufficient information either to determine compliance or noncompliance. The notes should be also reviewed for completeness and legibility as soon as possible after inscribing.

Whenever possible, notes should be taken at the time the information is being secured. There may be occasions when taking notes during an interview will not be conducive to freedom of expression by the person being interviewed. In such instances, the record of the interview should be incorporated in the notes as soon as possible after the conclusion of the interrogation.

Notes are also invaluable in conducting subsequent interviews in other phases of the investigation. They explain evidence, serve to supplement documentary evidence, and to classify any special markings on evidence for later identification.

Many cases which ultimately come to hearing may not do so for many months after investigation. The compliance officer may have conducted other compliance reviews or investigations. Dates, places, names, addresses, locations, physical conditions, and other important information is often difficult to remember and may not be in the report. The officer will be expected to have all these facts immediately available. Furthermore, he may be called upon to give a clear, chronological description of his investigation. All of this may be required of him whether the investigation was conducted a month or a year before. Adequate notes make possible adequate performance on the part of the compliance officer in these important respects.

Generally speaking, the method of taking notes is left to the compliance officer but this is a matter for agency determination. Any system should identify the notes by the case number, list the date and place of interview or record examination, the identification of the person interviewed or the custodian of the record examined, the complete information developed, and all persons present.

Investigation guides, questionnaires, checklists, or outlines may be prepared by agencies in such fashion that they can be used to record notes. And, finally, notes are the essential ingredient in the preparation of a report of the investigation in a prompt and complete manner.

7.4 REPORTS

Each agency should adopt forms and methods of reporting which will make for uniform presentation of Title VI compliance review and investigation findings by its various subdivisions. Among other things, this will facilitate over-all evaluations of the results of these inquiries, furnish a basis for developing indices of discriminatory practices, and provide direction for future compliance reviews and investigations.

While terminology may differ, each investigation and compliance review would consist of the:

1. Brief or Title Page which will contain the identification of the subject and a summary of the results of the investigation or compliance review.
2. Details which will be the logical presentation of the relevant evidence developed.

7.41 BRIEF OR TITLE PAGE

The first page(s) of the report should contain the title of the case and a brief of the results of the compliance review or investigation.

The title should provide ready identification of the subject of the inquiry (recipient) and the nature of the discriminatory practice.

The brief should be sufficiently informative to enable the reader to know what was reviewed or investigated, the result or outcome of the investigation, recipient's explanation for any noncompliance, and the results of any efforts to secure voluntary compliance.

Only the controlling facts should be summarized in the brief. They may be expressed as conclusions of fact. Every statement in the brief must be fully substantiated in the Details of the report.

Sources of information need not be shown and conclusions, unless factually supported, should be avoided.

When the evidence is conflicting, the brief should summarize both sides of the issue.

7.42 DETAILS

The Details of the compliance review or investigation should be written so that the facts are clearly and concisely presented.

The Details begin with the reason or basis for making the review or investigation. If the review was done on a periodic (routine) basis, this will be shown at the outset of the Details. If a complaint or other information was the basis, this would be briefly shown. The Details would then set forth the scope or extent of the inquiry.

If the investigation relates to various aspects of a recipient's facility

or program, it usually assists a proper presentation to use captions or headings which are descriptive of the investigation to be reported thereunder.

Where the source of the information is an interview with a particular person, his name, address, telephone number, and occupation (and race if relevant) should be reported on the occasion of the first reference to him in the report. Interviews would normally be reported in the third person.

Where the information to be reported is developed from a record or document, the report should clearly identify such record or document, its location, and the name of the person furnishing same. In most cases, a photocopy of the record or document should be secured if possible. The Details should make use of charts, floor plans, photos, and other devices to clearly present discriminatory practices, making certain that the sources of the information shown on the charts, etc., are set forth.

The mechanics of the investigation should not be included in the Details unless they are in themselves evidence. For example, failure of a recipient to keep several appointments with the compliance officer or his refusal to permit the examination of records or interviews with employees may be important proof of the attitude of recipient toward compliance with Title VI and the regulations. On the other hand, the mechanics of obtaining information or arranging interviews would not be considered evidence and should not be reported.

Reports should be devoid of the compliance officer's conclusions except as may be required by agency regulations. However, it may be useful to include a statement based on the investigator's opinion as to whether voluntary compliance appears possible and how it might be achieved: e.g., names of key individuals, forces for change within the community, etc. Care should be exercised in reporting interviews accurately and objectively so that all pertinent information, both favorable and unfavorable to the recipient, is reported.

7.421 BACKGROUND INFORMATION

The Details of the report should reflect appropriate background data on the recipient such as legal status, facilities, method of operation, services furnished, etc. The extent of the background information would be determined by the exigencies of the particular case. Sufficient background should be given so that the findings can be fully understood. (See 7.22).

7.422 AFFIRMATIVE SHOWINGS

The actual information to be reported will vary in particular compliance reviews or investigations; however, the Details should contain affirmative information on the following:

- The basis for the compliance review or investigation: i.e., routine schedule, complaint, other information. If a complaint is the basis, the full details of the allegations of discrimination should

be included plus a showing that the complaint was made within the time prescribed by the regulations.

- The scope of the review or investigation: i.e., recipient's research facility, the "freedom of choice" aspects of a plan, etc.
- If discrimination is disclosed by the compliance review or investigation:
 - a. The particular governmental entity or part thereof, or other recipient responsible for the noncompliance.
 - b. The particular program or part thereof which is in non-compliance.
 - c. The nature of the discrimination disclosed, that is to say whether race, color, or national origin.
 - d. That the discrimination involved the denial of benefits for full and equal participation in the assisted program.
 - e. That the State or other governmental entity, individual, or organization responsible for the discrimination is a recipient of Federal financial assistance and the details of this assistance.

7.423 RECIPIENT'S ATTITUDE

The regulations require as a condition precedent to the institution of enforcement action that there be a failure to comply with the regulations and that compliance cannot be obtained by voluntary means. It is, therefore, essential that the Details of the review or investigation, in cases where noncompliance is disclosed, reflect that the facts of noncompliance were brought to the attention of the recipient and that he had been afforded a full and complete opportunity to explain the noncompliance and to state whether he believed it could be eliminated by voluntary action. If the recipient provides a written statement concerning these items, the statement should be included in the report as an exhibit.

7.424 EXHIBITS

The Details should set forth as exhibits all documentary evidence or written statements which are relevant to the issues which have been investigated. Where at all feasible, it is preferable to use photostatic copies of records rather than typewritten copies. In certain cases exhibits may be compiled by the investigator to demonstrate the results of disparities in services furnished to minority groups or for other purposes. In such cases, sources of the information shown on such compilation exhibits should be clearly set forth in the Details.

7.43 DISTRIBUTION AND USE OF COMPLIANCE REVIEWS AND INVESTIGATIONS

Each agency should have established procedures for actions on compliance reviews and investigations. Such procedures should be devised so

that each subdivision of the agency acts uniformly upon the information developed by these inquiries. Each compliance review or investigation should be carefully and promptly evaluated to determine what further action, if any, is indicated.

8. PRECEPTS OF COMPLIANCE REVIEW AND INVESTIGATION

8.1 GENERAL PRINCIPLES

Compliance officers should:

- Not lose their tempers or be drawn into arguments.
- Be courteous, informed, and sympathetic.
- Not intimidate or coerce.
- Never prejudge a case.
- Never attempt to "build up" a case for or against any person.
- Get answers to six questions—who, what, where, when, why, and how.
- Carefully preserve evidence secured during an investigation or review.
- Remain sensitive to efforts to entrap or to discredit investigator.
- Bear in mind that at some future time they may be called upon to testify.

8.2 COMPLIANCE OFFICER'S PERSONAL DEMEANOR

The compliance officer is a Federal agent. His conduct will help shape the attitude of people toward the Government. He should reflect his complete sympathy with and respect for Federal statutes, Executive Orders, and regulations relating to civil rights, by his personal conduct including his choice of desegregated accommodations and other outward manifestations of this position.

8.3 SOURCES OF INFORMATION

Sources of information will frequently measure the success or failure of an investigation or compliance review. In this day of complex organizations, governmental and other, these sources are almost limitless. Each compliance officer should, therefore, develop and compile a list of sources of information which can be utilized in the field. In particular investigations, the following sources may provide relevant and important data:

State and local agencies—employment records, vital statistics, welfare data, corporate information, tax information, court records, school records, deeds, mortgages, leases, and collection records.

Labor unions—Local and International—employment and training information.

Newspapers—advertisements of school desegregation, notices, recipient benefits, etc.

Maps, photos—school districts, physical facilities, etc.

Post Office officials and city and telephone directories—addresses of witnesses.

Chamber of Commerce—community and commercial information.

Police Records—criminal records of witnesses or others which may be pertinent in a particular inquiry.

Utility Companies—records for information on long distance calls, transfers, previous addresses of witnesses or recipients under investigation.

Minority group and civil rights organizations—Southern Christian Leadership Conference (SCLC), National Urban League (NUL), Student Nonviolent Coordinating Committee (SNCC), Congress of Racial Equality (CORE), Human Relations Councils, National Association for the Advancement of Colored People (NAACP), Southern Regional Council, National and local civil rights organizations, local biracial committees, State Advisory Committees (SAC) to the U.S. Commission on Civil Rights, National Citizens Committee of Community Relations Service, and others. These organizations can sometimes furnish helpful information concerning local civil rights leaders who may be able to supply names of witnesses or assist in an investigation in a particular area.

8.4 EVIDENCE

Compliance officers should have some basic knowledge as to what constitutes acceptable evidence. They should know the factual information necessary to prove a particular allegation of noncompliance or to prove affirmatively the existence of compliance or noncompliance in the operation of a particular recipient. While the Title VI regulations state that technical rules of evidence shall not apply to hearings on noncompliance, they also state that hearing rules will be designed to assure production of the most credible evidence available and to subject testimony to cross examination. The regulations should, therefore, be closely studied by the compliance officer and supervisors to assure that reviews and investigations develop evidence which meets the criteria of the regulations.

8.5 SUPERVISION

Supervision can be the difference in the effectiveness of any compliance agency. It is particularly important that new staff members not be reluctant to seek needed advice.

Supervisory techniques include the use of forms for covering the routine aspects of the investigation. These assure minimum coverage and save time in preparing reports.

Field supervision is especially valuable to investigators. Under field con-

ditions, supervision can be meaningful in solving problems which would otherwise delay or impede the inquiry.

Careful preliminary planning including analysis of recipients' facilities and services and analysis of complaints is also essential.

Field work should be given completion deadlines wherever feasible with supervisors having joint responsibility with compliance officers for meeting such deadlines.

9. REFERRAL OF OTHER MATTERS

Sometimes a compliance review officer will receive information which indicates possible noncompliance with Title VI in a program which is not within the jurisdiction of his agency. This information—be it obtained during an investigation, a compliance review, program analysis, etc.—should be reported by memorandum to the appropriate agency or department at the earliest opportunity. In some instances, a telephone call may facilitate the referral and accelerate the compliance process. If the compliance officer cannot ascertain which agency has jurisdiction, he should send the information to the civil rights coordinator of his own agency. This procedure should also be followed with respect to information regarding possible violations of other Federal civil rights laws and policies.

THIS IS A COPY OF A LETTER SENT TODAY TO THE HEADS OF 21
DEPARTMENTS AND AGENCIES WITH TITLE VI RESPONSIBILITIES
(List Attached)



Office of the Attorney General
Washington, D. C.

December 27, 1965

EXHIBIT I

Dear Mr. Secretary:

I am enclosing for appropriate circulation and use in your agency the Guidelines for Enforcement of Title VI prepared by the Department of Justice.

These Guidelines complement the view I expressed in my letter to you of October 29 that each department and agency with Title VI responsibilities should conduct regular, systematic inspections for possible discrimination to insure that the requirements of Title VI are in fact being observed by recipients of Federal assistance. This must be a positive and not merely a reactive responsibility. We cannot rely solely -- or even primarily -- on the filing of complaints by those who are the subjects of Title VI violations. The ultimate success of our Title VI efforts will in large measure depend on how effectively the responsible departments and agencies actually monitor compliance in the field.

Accordingly, I have:

(1) Asked the Civil Service Commission, with the assistance of the Commission on Civil Rights, to develop and conduct a training program for agency compliance officers who will have responsibility for conducting these periodic compliance inspections, reviews, and field investigations. Since we plan to begin the training session within 45 to 60 days, selection of your compliance officers should be promptly completed.

(2) Discussed with the Bureau of the Budget the critical importance of assuring that each agency with Title VI or other substantial civil rights responsibilities has the personnel and funds necessary to assure that it can fulfill its obligations promptly and effectively; representatives of the Bureau may have already contacted, or soon will be contacting, members of your staff to make certain that these needs have been fully provided for in your current and future budgeting.

The object of Title VI, of course, is to insure compliance with the national policy of nondiscriminatory treatment of all recipients. The Guidelines, therefore, suggest, in addition to cutting off Federal assistance, alternative methods of enforcement which in many instances can be more effectively used to secure compliance.

There should be no mistaking the clear intent and effect of the Guidelines -- Title VI must and will be enforced. Assistance will be refused or terminated to noncomplying recipients and applicants who are not amenable to other sanctions.

We have designed the Guidelines to insure that the nondiscrimination requirements of Title VI are effectively, fairly, and firmly enforced by all Federal agencies administering programs of financial assistance. Our purpose has been to assure consistency within the Federal Government while providing for the flexibility necessary to assure nondiscrimination -- by whatever method is most prompt, efficient, and appropriate.

The Guidelines are intended to operate only prospectively and do not require any reversal of actions already taken in individual cases.

It would be most helpful if you could provide me with copies of the assurance and other forms, instructions, directives, guidelines, policy statements, internal or public memoranda and other materials or documents which you have developed to implement or explain the application or administration of Title VI in the programs of your agency.

These materials may be sent to my special assistant, David Filvaroff. Any questions either on these Guidelines or on other Title VI matters may be referred directly to him; he may be reached on REpublic 7-8200 (Code 187), extension 3861, Room 1318, Main Justice.

Sincerely,

Attorney General

Enclosure



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

GUIDELINES FOR THE ENFORCEMENT OF TITLE VI, CIVIL RIGHTS ACT OF 1964

Where the heads of agencies having responsibilities under Title VI of the Civil Rights Act of 1964 conclude there is noncompliance with regulations issued under that Title, several alternative courses of action are open. In each case, the objective should be to secure prompt and full compliance so that needed Federal assistance may commence or continue.

Primary responsibility for prompt and vigorous enforcement of Title VI rests with the head of each department and agency administering programs of Federal financial assistance. Title VI itself and relevant Presidential directives preserve in each agency the authority and the duty to select, from among the available sanctions, the methods best designed to secure compliance in individual cases. The decision to terminate or refuse assistance is to be made by the agency head or his designated representative.

This memorandum is intended to provide procedural guidance to the responsible department and agency officials in exercising their statutory discretion and in selecting, for each noncompliance situation, a course of action that fully conforms to the letter and spirit of Section 602 of the Act and to the implementing regulations promulgated thereunder.

I. ALTERNATIVE COURSES OF ACTION

A. ULTIMATE SANCTIONS

The ultimate sanctions under Title VI are the refusal to grant an application for assistance and the termination of assistance being rendered. Before these sanctions may be invoked, the Act requires completion of the procedures called for by Section 602. That section requires the department or agency concerned (1) to determine that compliance cannot be secured by voluntary means,

(2) to consider alternative courses of action consistent with achievement of the objectives of the statutes authorizing the particular financial assistance, (3) to afford the applicant an opportunity for a hearing, and (4) to complete the other procedural steps outlined in Section 602, including notification to the appropriate committees of the Congress.

In some instances, as outlined below, it is legally permissible temporarily to defer action on an application for assistance, pending initiation and completion of Section 602 procedures -- including attempts to secure voluntary compliance with Title VI. Normally, this course of action is appropriate only with respect to applications for noncontinuing assistance or initial applications for programs of continuing assistance. It is not available where Federal financial assistance is due and payable pursuant to a previously approved application.

Whenever action upon an application is deferred pending the outcome of a hearing and subsequent Section 602 procedures, the efforts to secure voluntary compliance and the hearing and such subsequent procedures, if found necessary, should be conducted without delay and completed as soon as possible.

B. AVAILABLE ALTERNATIVES

1. Court Enforcement

Compliance with the nondiscrimination mandate of Title VI may often be obtained more promptly by appropriate court action than by hearings and termination of assistance. Possibilities of judicial enforcement include (1) a suit to obtain specific enforcement of assurances, covenants running with Federally-provided property, statements of compliance or desegregation plans filed pursuant to agency regulations, (2) a suit to enforce compliance with other titles of the 1964 Act, other Civil Rights Acts, or constitutional or statutory provisions requiring nondiscrimination, and (3) initiation of, or intervention or other participation in, a suit for other relief designed to secure compliance.

The possibility of court enforcement should not be rejected without consulting the Department of Justice. Once litigation has been begun, the affected agency should consult with the Department of Justice before taking any further action with respect to the noncomplying party.

2. Administrative Action

A number of effective alternative courses not involving litigation may also be available in many cases. These possibilities include (1) consulting with or seeking assistance from other Federal agencies (such as the Contract Compliance Division of the Department of Labor) having authority to enforce nondiscrimination requirements; (2) consulting with or seeking assistance from State or local agencies having such authority; (3) bypassing a recalcitrant central agency applicant in order to obtain assurances from, or to grant assistance to complying local agencies; and (4) bypassing all recalcitrant non-federal agencies and providing assistance directly to the complying ultimate beneficiaries. The possibility of utilizing such administrative alternatives should be considered at all stages of enforcement and used as appropriate or feasible.

C. INDUCING VOLUNTARY COMPLIANCE

Title VI requires that a concerted effort be made to persuade any noncomplying applicant or recipient voluntarily to comply with Title VI. Efforts to secure voluntary compliance should be undertaken at the outset in every noncompliance situation and should be pursued through each stage of enforcement action. Similarly, where an applicant fails to file an adequate assurance or apparently breaches its terms, notice should be promptly given of the nature of the noncompliance problem and of the possible consequences thereof, and an immediate effort made to secure voluntary compliance.

II. PROCEDURES

A. NEW APPLICATIONS

The following procedures are designed to apply in cases of noncompliance involving applications for one-time or noncontinuing assistance and initial applications for new or existing programs of continuing assistance.

1. Where the requisite assurance has not been filed or is inadequate on its face.

Where the assurance, statement of compliance or plan of desegregation required by agency regulations has not been filed or where, in the judgment of the head of the agency in question, the filed assurance fails on its face to satisfy the regulations, the agency head should defer action on the application pending prompt initiation and completion of Section 602 procedures. The applicant should be notified immediately and attempts made to secure voluntary compliance. If such efforts fail, the applicant should promptly be offered a hearing for the purpose of determining whether an adequate assurance has in fact been filed.

If it is found that an adequate assurance has not been filed, and if administrative alternatives are ineffective or inappropriate, and court enforcement is not feasible, Section 602 procedures may be completed and assistance finally refused.

2. Where it appears that the filed assurance is untrue or is not being honored.

Where an otherwise adequate assurance, statement of compliance, or plan has been filed in connection with an application for assistance, but prior to completion of action on the application the head of the agency in question has reasonable grounds, based on a substantiated

complaint, the agency's own investigation, or otherwise, to believe that the representations as to compliance are in some material respect untrue or are not being honored, the agency head may defer action on the application pending prompt initiation and completion of Section 602 procedures. The applicant should be notified immediately and attempts made to secure voluntary compliance. If such efforts fail and court enforcement is determined to be ineffective or inadequate, a hearing should be promptly initiated to determine whether, in fact, there is noncompliance.

If noncompliance is found, and if administrative alternatives are ineffective or inappropriate and court enforcement is still not feasible, Section 602 procedures may be completed and assistance finally refused.

The above described deferral and related compliance procedures would normally be appropriate in cases of an application for noncontinuing assistance. In the case of an initial application for a new or existing program of continuing assistance, deferral would often be less appropriate because of the opportunity to secure full compliance during the life of the assistance program. In those cases in which the agency does not defer action on the application, the applicant should be given prompt notice of the asserted noncompliance; funds should be paid out for short periods only, with no long-term commitment of assistance given; and the applicant advised that acceptance of the funds carries an enforceable obligation of nondiscrimination and the risk of invocation of severe sanctions, if noncompliance in fact is found.

B. REQUESTS FOR CONTINUATION OR RENEWAL OF ASSISTANCE

The following procedures are designed to apply in cases of noncompliance involving all submissions seeking continuation or renewal under programs of continuing assistance.

In cases in which commitments for Federal financial assistance have been made prior to the effective date of Title VI regulations and funds have not been fully

disbursed, or in which there is provision for future periodic payments to continue the program or activity for which a present recipient has previously applied and qualified, or in which assistance is given without formal application pursuant to statutory direction or authorization, the responsible agency may nonetheless require an assurance, statement of compliance, or plan in connection with disbursement of further funds. However, once a particular program grant or loan has been made or an application for a certain type of assistance for a specific or indefinite period has been approved, no funds due and payable pursuant to that grant, loan, or application, may normally be deferred or withheld without first completing the procedures prescribed in Section 602.

Accordingly, where the assurance, statement of compliance, or plan required by agency regulations has not been filed or where, in the judgment of the head of the agency in question, the filed assurance fails on its face to satisfy the regulations, or there is reasonable cause to believe it untrue or not being honored, the agency head should, if efforts to secure voluntary compliance are unsuccessful, promptly institute a hearing to determine whether an adequate assurance has in fact been filed, or whether, in fact, there is noncompliance, as the case may be. There should ordinarily be no deferral of action on the submission or withholding of funds in this class of cases, although the limitation of the payout of funds to short periods may appropriately be ordered. If noncompliance is found, and if administrative alternatives are ineffective or inappropriate and court enforcement is not feasible, Section 602 procedures may be completed and assistance terminated.

C. SHORT-TERM PROGRAMS

Special procedures may sometimes be required where there is noncompliance with Title VI regulations in connection with a program of such short total duration that all assistance funds will have to be paid out before the agency's usual administrative procedures can be completed and where deferral in accordance with these guidelines would be tantamount to a final refusal to grant assistance.

In such a case, the agency head may, although otherwise following these guidelines, suspend normal agency procedures and institute expedited administrative proceedings to determine whether the regulations have been violated. He should simultaneously refer the matter to the Department of Justice for consideration of possible court enforcement, including interim injunctive relief. Deferral of action on an application is appropriate, in accordance with these guidelines, for a reasonable period of time, provided such action is consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with the action taken. As in other cases, where noncompliance is found in the hearing proceeding, and if administrative alternatives are ineffective or inappropriate and court enforcement is not feasible, Section 602 procedures may be completed and assistance finally refused.

III. PROCEDURES IN CASES OF SUBGRANTEES

In situations in which applications for Federal assistance are approved by some agency other than the Federal granting agency, the same rules and procedures would apply. Thus, the Federal agency should instruct the approving agency -- typically a State agency -- to defer approval or refuse to grant funds, in individual cases in which such action would be taken by the original granting agency itself under the above procedures. Provision should be made for appropriate notice of such action to the Federal agency which retains responsibility for compliance with Section 602 procedures.

IV. EXCEPTIONAL CIRCUMSTANCES

The Attorney General should be consulted in individual cases in which the head of an agency believes that the objectives of Title VI will be best achieved by proceeding other than as provided in these guidelines.

V. COORDINATION

While primary responsibility for enforcement of Title VI rests directly with the head of each agency, in order to assure coordination of Title VI enforcement and consistency among agencies, the Department of Justice should be notified in advance of applications on which action is to be deferred, hearings to be scheduled, and refusals and terminations of assistance or other enforcement actions or procedures to be undertaken. The Department also should be kept advised of the progress and results of hearings and other enforcement actions.

December 27, 1965

EXHIBIT 2

Following is a list of agencies and departments which have issued regulations effectuating Title VI of the Civil Rights Act of 1964. In addition, as a result of various recent legislation, other agencies have Title VI programs but have not as yet issued regulations.

<u>Agency</u>	<u>Citation to the Code of Federal Regulations</u>
Agency for International Development-----	22 CFR, Part 209
Agriculture, Department of-----	7 CFR, Part 15
Atomic Energy Commission-----	10 CFR, Part 4
Civil Aeronautics Board-----	14 CFR, Part 379
Commerce, Department of-----	15 CFR, Part 8
Defense, Department of-----	32 CFR, Part 300
Federal Aviation Agency-----	14 CFR, Part 15
General Services Administration-----	41 CFR, Subpart 101-6.2
Health, Education, and Welfare, Department of-----	45 CFR, Part 80
Housing and Urban Development, Department of-----	24 CFR, Part 1
Interior, Department of-----	43 CFR, Part 17
Justice, Department of-----	28 CFR, Part 42
Labor, Department of-----	29 CFR, Part 31

<u>Agency</u>	<u>Citation to the Code of Federal Regulations</u>
National Aeronautics and Space Administration-----	14 CFR, Part 1250
National Science Foundation-----	45 CFR, Part 611
Office of Economic Opportunity-----	45 CFR, Part 1010
Office of Emergency Planning-----	32A CFR, OEP Reg. 5
Small Business Administration-----	13 CFR, Part 112
State, Department of-----	22 CFR, Part 141
Tennessee Valley Authority-----	18 CFR, Part 302
Treasury, Department of-----	33 CFR, Part 24
Veterans Administration-----	38 CFR, Part 18

PHS-4888
4-66

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
WASHINGTON, D.C. 20201

EXHIBIT 3

EXTENDED CARE FACILITIES (ECF) COMPLIANCE REPORT
(Civil Rights Act Title VI)

LEAVE BLANK

ID/FACILITY CODE: _____

IS _____

DATE OF COMPLIANCE _____

INSTRUCTIONS: Complete all items. Check the appropriate box and insert numbers where indicated. If you believe any of the questions below require an explanation check here and explain in PART VII, REMARKS, identifying comment by Part and Item Number. Return the original copy of this report, together with the Assurance of Compliance Form (HEW-441) to: Department of Health, Education, and Welfare, Public Health Service, Chief, Office Equal Health Opportunity, Attn: ECF, Washington, D.C. 20201.

I. IDENTIFYING INFORMATION

A. NAME OF FACILITY _____ ADDRESS (Street, City, State, ZIP Code) _____ TELEPHONE NOS. (Include Area Code) _____

NAME OF CHIEF ADMINISTRATIVE OFFICER _____ TITLE _____

BED CAPACITY IN EXTENDED CARE FACILITY _____ LICENSED BED CAPACITY (No.) _____ TOTAL BED CAPACITY (No.) _____

B. NAME, ADDRESS, AND TELEPHONE NO. OF INSTITUTION OR ORGANIZATION BY WHICH THIS FACILITY IS FRANCHISED (If applicable) _____

C. NAME, ADDRESS, AND TELEPHONE NO. OF OWNER OF FACILITY _____

II. TYPE OF FACILITY

VOLUNTARY (NON-PROFIT) _____ GOVERNMENT (NON-FEDERAL) _____ 7. PROPRIETARY

1. CHURCH _____ 3. STATE 5. CITY _____

2. OTHER (Specify) _____ 4. COUNTY 6. CITY-COUNTY _____ 8. OTHER (Specify) _____

9. LIST NAME AND ADDRESS OF INSTITUTIONS OR AGENCIES OWNED OR OPERATED BY THIS FACILITY _____

III. PATIENT ADMISSION AND DISTRIBUTION

1. DO YOU HAVE AN OPEN ADMISSION POLICY FOR ALL PERSONS IN THE COMMUNITY WITHOUT REGARD TO RACE, COLOR OR NATIONAL ORIGIN YES NO

2. HAVE YOU NOTIFIED THE COMMUNITY OF AN OPEN ADMISSION POLICY FOR PATIENTS AND PROFESSIONALS YES NO

3. IF "YES" IS CHECKED IN ITEM 2, METHOD (Check applicable item(s) and attach samples)

ENTER DATE _____ NEWSPAPER RADIO LETTERS OTHER (Specify) _____

4. ESTIMATE HOW MANY NON-WHITE PATIENTS YOU HAVE ADMITTED IN THE LAST YEAR

0 1-24 25-49 50-74 75-99 OVER 100

5. INDICATE BELOW THE NUMBER OF PATIENTS IN TODAY'S CENSUS _____ (Date) _____

ACCORDING TO CARE RECEIVED. PLEASE MAKE HEADCOUNT IF NECESSARY

TYPE OF CARE RECEIVED	WHITE	NEGRO	OTHER (Specify)*	OTHER (Specify)*	OTHER (Specify)*	TOTAL
NURSING (Including Special Therapy)						
RESIDENTIAL CARE						
OTHER (Specify)						
TOTAL						

* Indian, Spanish-American, Oriental, etc.

6. INDICATE BELOW THE NUMBER OF ROOMS OCCUPIED BY PATIENTS IN TODAY'S CENSUS ACCORDING TO THE FOLLOWING BREAKDOWNS. IN ORDER TO COMPLETE THIS SECTION, AN ACTUAL HEADCOUNT OF TODAY'S PATIENTS MAY BE NECESSARY.

PATIENTS	NO. OF PRIVATE ROOMS	NO. OF 2 BED ROOMS	NO. OF 3-6 BED WARDS	NO. OF OVER 6 BED WARDS
WHITE ONLY				
NEGRO ONLY				
INDIAN, SPANISH-AMERICAN OR ORIENTAL ONLY				
BI-RACIALLY OCCUPIED BY: WHITE AND NEGRO				
OTHER				
ROOMS UNOCCUPIED TODAY				
TOTAL				

III. PATIENT ADMISSION AND DISTRIBUTION (Continued)

7. INDICATE THE NUMBER OF PATIENTS IN TODAY'S CENSUS WHOSE CHARGES ARE PAID IN PART OR FULL BY PUBLIC ASSISTANCE

PATIENT CLASSIFICATION	WHITE	NEGRO	OTHER (Specify)*	OTHER (Specify)*	OTHER (Specify)*	TOTAL
PART OR FULL PAYMENT BY PUBLIC ASSISTANCE (Old Age Assistance; Medical Assistance to Aged; Aid to Blind, etc.)						

* Indian, Spanish-American, Oriental, etc.

8. WHAT IS THE APPROXIMATE PERCENTAGE OF NON-WHITE POPULATION IN THE COMMUNITY SERVED BY THIS FACILITY (Estimate, if necessary)

IV. SERVICE AND FACILITY UTILIZATION

ARE THE FOLLOWING FACILITIES AND SERVICES USED ON THE SAME BASIS WITHOUT REGARD TO RACE, COLOR OR NATIONAL ORIGIN

FACILITIES	YES			NO			N/A*		
	YES	NO	N/A*	YES	NO	N/A*	YES	NO	N/A*
ENTRANCES									
ADMISSION OFFICES									
ROOMS									
WARDS									
WINGS									
FLOORS									
BUILDINGS									
RECREATION AREAS									
RECEPTION ROOMS AND LOUNGES									
DINING AREAS AND CAFETERIAS									
TOILETS AND LAVATORY FACILITIES									
BEAUTY SALONS; BARBER SHOPS									

* Not Applicable.

V. PEOPLE RENDERING SERVICES

1. ESTIMATE HOW MANY NON-WHITE PHYSICIANS ARE IN ACTIVE PRACTICE IN THE COMMUNITY SERVED BY THE FACILITY (No.)	2. ESTIMATE BELOW THE NUMBER OF PHYSICIANS CURRENTLY GIVING PATIENT SERVICE IN THE FACILITY (No.)					
	PHYSICIANS	WHITE	NEGRO	OTHER* (Specify)	OTHER* (Specify)	TOTAL
8. DO YOU PERMIT ALL PROFESSIONAL PEOPLE (I.E., DENTISTS, REGISTERED NURSES, ETC.) TO GIVE SERVICE WITHOUT REGARD TO RACE, COLOR, OR NATIONAL ORIGIN OF EITHER THE PATIENT OR PROFESSIONAL PERSON <input type="checkbox"/> YES <input type="checkbox"/> NO						

VI. TRANSFER AGREEMENT AND REFERRAL SYSTEM

1. DO YOU HAVE A WAITING LIST YES NO
 HOW MANY PEOPLE ARE ON YOUR WAITING LIST (No.) _____ ESTIMATE HOW MANY OF THESE PEOPLE ARE NON-WHITE (No.) _____

2. LIST ALL HOSPITALS WITH WHICH THIS FACILITY HAS A REFERRAL SYSTEM AND/OR TRANSFER AGREEMENT. LIST HEALTH AND WELFARE AGENCIES WITH WHICH THIS FACILITY HAS A REFERRAL SYSTEM. LIST OTHER ASSOCIATIONS FOR ADMITTING AND DISCHARGING PATIENTS, UTILIZING COMMUNITY FACILITIES AND SERVICES (Examples: Hospitals, Boarding Homes, Homes for the Aged, Senior Centers, Hotels, other Nursing Homes, Red Cross for Volunteers, Visiting Nurse Associations, etc.).

TRANSFER AGREEMENTS		REFERRAL SYSTEMS OR OTHER ASSOCIATIONS	
HOSPITAL OR AGENCY	CITY	HOSPITAL OR AGENCY	CITY

3. DO YOU HAVE EITHER A FORMAL OR INFORMAL TRANSFER AGREEMENT AND REFERRAL SYSTEM WHICH DISCRIMINATES ON THE BASIS OF RACE, COLOR OR NATIONAL ORIGIN

YES NO (If "Yes" is checked, indicate with a "✓" next to Hospital or Agency Name in Part VI., Item 2)

VII. REMARKS (Attach additional sheet, if necessary)

I CERTIFY THAT THE INFORMATION GIVEN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF (A willfully false statement is punishable by law: U.S. Code, Title 18, Sec., 1001)

SIGNATURE OF AUTHORIZED OFFICIAL	TITLE	DATE

EXHIBIT 4

The following is an example of an investigation-review plan. The steps outlined can be used in most Title VI investigation-reviews. Depending on the predetermined scope of the review or investigation, the plan coverage can be limited or extended. The compliance officer should not be confined by the plan, but should implement it by his alertness and observations so that the object of the investigation-review can be fully realized.

INVESTIGATION-REVIEW PLAN

I. *Preliminary Preparation*

Study and analyze all agency information on program and recipients, including, but not limited to:

1. Applicable laws and regulations.
2. Background information on recipient and program size, scope, facilities, services of recipients, if any, etc.
3. Plans or statements of compliance including State plan, if relevant.
4. Reports of Compliance.
5. Court Orders.
6. Complaints of discrimination.
7. Information on community-population, racial characteristics, civil rights profile, type economy, etc.
8. Prepare interview-record examination schedules for the case. (See III. Recording Information.)

II. *Beginning the Inquiry*

1. Visit and interview the complainant, if any. Show credentials at outset of all interviews. Procure from complainant complete details including the nature of the discrimination, time and place, the individuals involved and any other information he may have concerning the operations of recipient. He should be requested to supply names of additional beneficiaries who may be able to furnish further examples or incidents of discriminatory practices. The complainant may also be able to furnish the names of leaders of his minority group who may supply additional statistical or other data relating to population characteristics and other factors which are relevant to evaluation of recipient's compliance. Leaders should also be interviewed as indicated. Whenever such additional interviews can be anticipated, arrangements should be made in advance if possible.

2. If the review-investigation is not based upon a complaint of discrimination, an early step should be to interview minority group leaders whose areas of interest involve the services or facilities of recipient or who may have knowledge of beneficiaries and can supply names, addresses, etc. These sources should also be utilized to get the "feel" of the community, the general attitude toward compliance and the devices being utilized to avoid compliance or give the appearance of compliance.

3. Visit the principal facility of recipient. Identify yourself to the managing official and advise him of the general purpose of your visit, namely, to conduct an investigation-review to determine if the recipient's operation is in compliance. Request his cooperation and assistance, pointing out to him the provisions of the regulations which permit your access to the necessary records and other information to determine compliance. Ask him to advise his staff of your presence. At this time, information should be obtained regarding procedures established by the recipient to effect compliance and the records and other evidence of these procedures. If not previously requested, ask the recipient for such records showing the relative use of the facility by white and minority beneficiaries, the ratio of whites to minority group employees, the existence of staff assignments based on race, color, or national origin, and any other statistical information which would require time to prepare. Arrangements should also be made for a place to work and interview staff employees privately.

At this time, it may be desirable to interview the managing official of the recipient agency or institution and secure his statement regarding all the specific steps of the review-investigation coverage hereinafter set forth. If noncompliance is admitted, the investigation-review would develop such corroborative information as necessary so that sufficient evidence will be available if the admission is retracted.

As part of this initial interview with the recipient a complete tour of the facility should be made with particular emphasis upon ascertaining the location of the physical facilities and services designed for beneficiaries and recipient personnel. Patterns of *actual* use of facilities and services should always be noted.

III. *Recording Information*

Schedules should be drafted in advance so that sections for recording information will coincide with the coverage of the review-investigation set forth herein. A separate schedule should be prepared for each person interviewed and every record examined. Each section should be filled in even if the entry made in a particular section is "not applicable". If possible, schedules should be completed at the time of the interview or record examination. Schedules should be promptly reviewed for completeness at the earliest time possible. If the circumstances are such that the schedule cannot be prepared at the time of the interview, it should be completed as soon thereafter as possible. Where a team approach is used, one member of the team can prepare the schedule while the other interviews the witness. Also, where a team is involved and the members each prepare schedules, care should be exercised that they are legible to each other and that the relevant information is accurately and completely reported. Exchange of schedules between members can be made for testing their clarity, completeness, etc. Schedules are essential for preparing the review-investigation report and their completeness, clarity, accuracy, and legibility are mandatory. If feasible, they should be typed.

IV. *Investigation-Review Coverage*

The following is an example of the type of information which should be developed by the investigation-review: This is a general model. Some items will not be applicable, others will require greater detail and elaboration, and still others will have to be added as need indicates.

1. *Background information:*

- a. Name of recipient and address of each facility operated.
- b. Legal status of recipient, i.e., individual, corporation, State, State agency, or instrumentality, etc.
- c. Name and title of managing official.
- d. Size and extent of recipient operation (e.g., if recipient is a hospital, list number of rooms, type, and bed capacity). Use whatever measurement of size will best describe the scope of operation.
- e. Services provided to public or programs administered.
- f. Type of Title VI Federal assistance.
- g. Standards for admission by persons wishing to participate in Title VI services, generally.
- h. Statistical data:
 - (1) Area served by facility.
 - (2) Racial characteristics of area served.
 - (3) Use of services by race.
 - (4) Use of services and facilities before Title VI by race—dates when any changes were made.
 - (5) Any other data relevant to a measurement of the degree of compliance of recipient.

2. *Program Administration:*

- a. Ascertain State and/or Federal agency to which recipient reports regarding Title VI matters.
- b. Nature and source of instructions or information received regarding Title VI implementation from any Federal, State or other public agency.
- c. Obtain copies or samples of any written instructions or materials; if verbal, determine main points.
- d. Ascertain date and place the instructions were received.
- e. Determine if instructions include information regarding the handling of complaints.
- f. Determine if the recipient has transmitted information regarding requirements and handling of complaints to all:
 - (1) Employees and staff.
 - (2) Other recipients and vendors.
 - (3) Beneficiaries.
 - (4) General public.
- g. Determine in detail the method by which such information is transmitted, that is, written or verbal, as to each of the above groups. Obtain copies of all written materials.

- h. Determine the exact procedures developed by recipient for the handling of complaints.
- i. Determine the number of complaints recipient has received alleging discrimination in the administration of its programs since January 1965.
- j. Secure the full details of such complaints including dispositions.
- k. Determine whether recipient has designated staff to implement Title VI responsibilities.
- l. If so, obtain names, titles, rank, job descriptions, and time allotted to this responsibility.
- m. Determine whether recipient has developed program evaluation procedures.
- n. If so, obtain copies of all relevant materials.
- o. Secure the names of all boards and committees associated with recipient's programs.
- p. Ascertain the racial composition of each.
- q. Determine if the members of these committees and boards represent private organizations such as medical societies, Rotary Clubs, etc.
- r. Determine the function and duties of these committees and boards.
- s. Determine the function of subcommittees and how often the committees meet.
- t. Determine if all these committees and boards have been informed of Title VI and its requirements.
- u. If informed, determine the method of information, that is, written or verbal and, if written, secure copy of such information; if verbal, determine the details.

3. *Physical Facilities:*

- a. Determine physical facilities at each office of the recipient, i.e., entrances, exits, waiting rooms, eating areas, rest rooms, fountains, distribution centers, and all service areas (e.g., hospital wards, nurseries, delivery rooms, convalescent rooms, labor rooms, operating rooms).
- b. Visit each of these facilities of the particular recipient and observe:
 - (1) Any signs designating the use of these facilities by race.
 - (2) The actual racial use of the facility at the time of observation.
- c. Ascertain whether all beneficiaries, without regard to race, color, or national origin, actually use each service and facility.
- d. Determine if all employees, regardless of race, color, or national origin serve beneficiaries without regard to the beneficiaries' race, color, or national origin.
- e. Determine whether eating places, including cafeterias, are available to and used by beneficiaries, staff trainees, and other employees without regard to race, color, or national origin.
- f. Determine whether facilities are provided on the same basis

with respect to time, place, and manner to all beneficiaries without regard to race, color, or national origin.

- g. Determine whether all beneficiaries are treated either in turn or on the basis of need without regard to race, color, or national origin.
 - h. Determine whether all beneficiaries use the same waiting lines, waiting rooms, and seating arrangements without regard to race, color, or national origin.
 - i. Determine whether patients, students, clients etc. are assigned to rooms or other facilities without regard to race, color, or national origin.
 - j. Determine whether contracted services (for example, ambulances) are assigned without regard to race, color, or national origin of the vendor of the service as well as the beneficiary.
4. *Assignment of Services*
- a. Determine whether persons responsible for dispensing recipient's services have been instructed to assign these services without regard to race, color, or national origin.
 - b. Determine whether all beneficiaries are assigned the various kinds of services without regard to race, color, or national origin, such as referrals to other recipients and vendors, referrals for ancillary services, referrals to employers, kinds of food distributed, or welfare services provided, etc.
 - c. Determine whether recipient, in violation of policy, asks beneficiaries, such as hospital patients or 4-H Club members, if they object to occupying rooms or receiving service with a person of another race, color, or national origin.
 - d. Determine if recipient assigns services on the presumption of racial compatibility.

5. *Staff Utilization* (May not be appropriate in every instance.)

In General

- a. Determine the staff of recipient broken down by race, color, or national origin and by the following categories: supervisory, professional, technical, clerical, maintenance. Make this determination for each office operated by recipient.
- b. Determine the racial percentage of the professional staff's work assignments, that is, the race with which the staff works:
 - (1) If the staff is fully desegregated.
 - (2) If the staff is white only.
 - (3) If the staff is Negro only.
 - (4) If the staff is composed entirely of some other minority group.
- c. Determine whether minority staff members work on all aspects of recipient's program and whether they serve all beneficiaries (clients) regardless of race, color, or national origin.
- d. Determine whether Negroes supervise white employees.
- e. If so, determine in what occupational classifications.

Hospital and Medical Facilities

- a. Determine how many Negro physicians are in the community.
- b. Determine how many Negro dentists are in the community.
- c. Determine whether staff privileges are granted or denied on the basis of race, color, or national origin.
- d. Determine the number of physicians and dentists by race, color, or national origin who currently serve on
 - (1) active staff
 - (2) courtesy staff
 - (3) other staff capacity
- e. Determine whether Negro physicians or dentists have applied for staff privileges since the effective date of Title VI. (January 1965, by which time most Title VI regulations had been issued, is sometimes used as a point of reference.)
- f. Determine whether a Negro physician or dentist has ever been on the active staff.
- g. If so, determine whether staff privileges of Negro physicians or dentists differ in any way from those granted to white physicians or dentists.
- h. Determine whether membership in a city, county, or State medical or dental society is a prerequisite to granting staff privileges.
- i. If so, determine whether these societies grant membership without regard to race, color, or national origin.
- j. Determine whether Negro physicians having staff privileges serve on a rotation basis in clinics and emergency and out-patient departments on the same basis as other physicians.
- k. Determine whether Negro physicians are permitted to treat white as well as other patients in clinics, emergency, and out-patient departments.
- l. Determine whether a Negro doctor or a dentist can have his white patient admitted to the institution.

6. Training Programs

- a. Determine the training program carried on by recipient including in-service training programs for supervisory, professional, technical, clerical, and service personnel.
- b. Determine by race, since January 1965:
 - (1) The racial composition of each training program conducted and completed.
 - (2) The number of programs now in progress and the racial composition of the trainees.
- c. Determine whether race, color, or national origin is a factor in recruitment of trainees.
- d. Determine if recruiters visit both predominantly Negro and predominantly white educational institutions when seeking trainees.
- e. Determine whether trainees are finally selected without regard to race, color, or national origin.

- f. Determine whether the areas where the training is conducted, including classrooms, laboratories, other schools, etc., are used by all trainees at the same time and with the same instructors without regard to race, color, or national origin.
- g. Determine whether training methods make it possible for all trainees to deal with persons of other races, color, or national origin without restriction.
- h. Determine whether all trainees are assigned to housing or other facilities during training without regard to race, color, or national origin.
- i. Determine whether training programs are conducted for recipient by other institutions.
- j. If so, determine the assignments made to these institutions by race of trainees.

7. *Other Recipients and Vendors of Title VI Assistance*

- a. Determine all other recipients and vendors to whom referrals are made or from whom services are purchased.
- b. Prepare a list of all other recipients and vendors used. Include address, services provided, facilities, staffing, and whether discrimination has been found to exist or has been alleged to exist. Has an assurance or other indication of compliance been furnished to recipient?
- c. Determine who in recipient's organization is responsible for securing assurances from other recipients and vendors.
- d. Determine the specific actions taken by recipient to secure assurances.
- e. Determine how much recipient knows about the practices of other recipients and vendors, i.e., does he know whether or not they discriminate—whether any other recipients or vendors previously in noncompliance have changed their practices of discrimination. If change has taken place, describe nature of the change, when it took place, etc. How is this known to recipient?—by personal investigation, observation, correspondence, telephone call, etc.
- f. Obtain the names of other recipients and vendors who have refused to sign assurances, and ascertain what action recipient has taken in such cases.
- g. Determine whether recipient has, in fact, made referrals without regard to race, color, or national origin to all other recipients and vendors.
- h. Compile a list by race, color, or national origin of referrals to other recipients and vendors for past three months.
- i. Determine from recipient whether all persons referred have been accepted by all other recipients and vendors without regard to race, color, or national origin.

- j. Make appropriate verifications by interviews with persons referred, visits to other recipients and vendors, facilities, etc.

8. *Miscellaneous*

- a. Determine whether recipient, now or within the past year, has been a party to any litigation involving allegations of discrimination on the ground of race, color, or national origin.
- b. Determine whether any other agency of the Federal Government has found discriminatory practices on the part of the recipient within the past year.
- c. Determine whether any action involving such determination is now pending.
- d. Determine whether any State agency has determined recipient compliance with Title VI for purposes of providing services to its beneficiaries.
- e. Determine whether recipient has submitted a statement or plan for compliance.
- f. If not, determine reasons and full details.
- g. If so, determine whether the statement or plan has been accepted.
- h. If statement or plan is being negotiated, determine how these negotiations have been carried on: i.e, trips to Washington, regional office, etc.
 - i. Determine the present status of negotiations.
 - j. Determine whether the recipient has designated any person on its staff to have specific responsibility for Title VI compliance.
- k. Determine name, title, rank, grade, race, and duties of this individual and the racial composition of any employees assigned to him.
- l. Ascertain from managing official of recipient:
 - a. The explanations for any noncompliance found.
 - b. How widespread the noncompliance is.
 - c. Plans for the elimination of the discriminatory practices including time limits and what actually has already been done to correct the discriminatory practices.
 - d. Recipient's attitude toward compliance and the possibility of voluntary compliance.
- m. Assess relationship between white power structure and the minority group in the community.

DOCUMENTS COLLECTION