

ADOT/FTA 5310, 5311, 5316 and 5317 PROGRAMS CIVIL RIGHTS COMPLIANCE REVIEWS

Civil Rights Checklist*

Equal Employment Opportunity (EEO)

- _____ Written procedures re outreach efforts to ensure that minorities, females and persons with disabilities have equal opportunity to apply re jobs and board membership
- _____ Job announcements that include an EEO statement
- _____ EEO posters placed where individuals will see them
- _____ Written policy/policies prohibiting “discrimination, retaliation, harassment, intimidation and coercion” in any form, in the workplace
- _____ Copies of EEO complaints in the last twelve months, from transportation staff

Title VI

- _____ Written procedures re *efforts* to ensure non discrimination, based on race, color, national origin, sex, age or disability regardless of who rides service.
- _____ Copies of Title VI complaints, within the last twelve months
- _____ Copies of customer complaint procedures:
 - _____ Civil Rights complaints
 - _____ Non-Civil Rights complaints.
- _____ Copy of Title VI complaint procedure

Limited English Proficiency (LEP)

- _____ Written English Proficiency Policy (LEP)
- _____ Documentation of specific LEP activities, as needed

Disadvantaged Business Enterprise

- _____ Organizations receiving less than \$250,000 annually in FTA funds (excluding funding for vehicles): No specific requirement.
- _____ Organizations receiving \$250,000 or more annually in FTA funds (excluding funding for vehicles): DBE Plan approved by the ADOT Civil Rights Office.

Americans with Disabilities Act (ADA)

- _____ Polices re: lift vehicle availability, maintenance of accessible features on vehicles, adequate time for boarding and disembarking, use of portable oxygen/respirator equipment, service animals, and training (wheelchair securement, passenger sensitivity)
- _____ Documentation re:
 - _____ At least one accessible vehicle for each primary service area
 - _____ Accessible communication procedure re ride scheduling
 - _____ Turn-down rate for people with disabilities vs non-disabled
 - _____ Daily pre-trip inspection form with wheelchair lifts/securement
 - _____ Procedures to respond to ADA deficiencies found during pre-trips

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Explanation of Checklist Items

Equal Employment Opportunity (EEO)

EEO regulation requires that recipients and subrecipients of Federal financial assistance shall not, directly or through contractual or other arrangements, subject a person to discrimination on the ground of race, color, national origin, age, sex or disability in its employment practices (including recruitment or recruitment advertising, selection, hiring, firing, upgrading, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation or benefits, and other terms and conditions of employment).

In order to document compliance, ADOT/FTA grantees need to have the following:

1. Written procedures that demonstrate the outreach efforts used to ensure that minorities, females and persons with disabilities have equal opportunity in employment practices and for membership on policy or advisory boards. These procedures should apply to your organization as a whole, not just to the group responsible for providing transportation. No specific activities are required, however, some type of outreach activity needs to be included in hiring activities. Examples include:
 - Job advertisements, with an EEO statement, placed in newspapers of general circulation,
 - Job announcements in special newspapers oriented to minority groups, women and/or persons with disabilities,
 - Attend job fairs to advertise employment openings,
 - Web-based job announcements,
 - Other.
2. Job announcements (whether written or verbal) that include an EEO statement. This could be as simple as a statement at the bottom of application forms stating, “_____ (agency) is an Equal Opportunity Employer.”
3. EEO posters placed in areas where individuals come to your organization seeking employment, and where employees gather (e.g., in a break room).
4. A written policy or policies, stating that “discrimination, retaliation, harassment, intimidation and coercion” in any form, are not permitted in the workplace.
5. Copies of any Equal Employment Opportunity (EEO) complaints in the last twelve months, from transportation program staff, alleging employment-related

discrimination. Subrecipients must set up a process for investigation of internal EEO complaints, they must track and report these to ADOT Civil Rights Office.

Title VI

Title VI requirements prohibit discrimination with regard to the provision of services. Documentation is needed to show that the services you operate are open to all, regardless of race, color, national origin, sex, age or disability.

The following need to be addressed to document compliance with federal Title VI requirements:

1. Written procedures describing the *efforts* you make to ensure that there is no discrimination, based on race, color, national origin, sex, age or disability, in terms of who rides your service. This applies to both intentional and unintentional discrimination. Examples include:
 - Written marketing materials which include some type of statement that services are open to all regardless of race, color, national origin, sex, age or disability.
 - Radio, web-based and other types of announcements about your service which include a statement re non-discrimination.
 - Providing information on your service, including a non-discrimination statement, at special events that minorities attend (Cinco de Mayo, Juneteenth, etc.),

Complying with Title VI does not mean that you need to serve people who aren't your clients. For example, if you are a senior center you do not need to advertise to (or serve) non-seniors but you do need to serve all seniors regardless of race, color, national origin, sex, age or disability. If you are operating a public transit service, of course, you need to serve everyone, unless they live outside your service area or want a ride during hours when you don't operate.

All agencies can and should have rules of rider conduct for the safety of staff and other riders, in terms of the type of rider behavior that is acceptable (no rude or obnoxious behavior, drinking and drugs, non-payment of fares, guns on buses, etc.). Title VI only requires that you NOT discriminate based on race, color, national origin, sex, age or disability.

2. Copies of any complaints, within the last twelve months, alleging discrimination with respect to the services you provide. Title VI provides that the entity who the complaint is filed against cannot perform a formal investigation regarding that complaint. All customer complaints of discrimination under Title VI must be forwarded to ADOT Civil Rights Office upon receipt. Complaints of discrimination filed against sub-contractors will be investigated by the subrecipient and reported to ADOT Civil Rights Office upon completion.

3. Copies of your customer complaint procedures, including your procedures for both: 1) Civil Rights complaints, and 2) non-Civil Rights complaints. Title VI complaints relate to discrimination with respect to the services you provide. Non-Civil Rights complaints include issues such as on-time performance, vehicle cleanliness, etc. Procedures regarding both Civil Rights and non-Civil Rights complaints should be in places where riders have access to them. Riders and others need to know where to go to register a complaint and what your process is for resolving complaints.

Your Title VI Civil Rights complaint procedure could be laminated and put on buses. It could also be referred to in your marketing materials. Your procedure for non-Civil Rights complaints could also be referred to in marketing materials, although it may be too lengthy to actually include there. As opposed to Civil Rights complaints, you can investigate non-Civil Rights complaints. An example Civil Rights complaint procedure notice is included in attachment A.

Limited English Proficiency (LEP)

Limited English Proficiency policies and procedures are required to ensure that programs and activities, normally provided in English, are accessible to Limited English Proficiency (LEP) persons and thus do not discriminate on the basis of national origin in violation of the Title VI.

Needed documentation includes:

1. A written English Proficiency Policy (LEP) for your overall agency. An example policy is provided in Attachment B.
2. Documentation of specific LEP activities, depending on the extent to which non-English speakers are living in your service area. If the population of non-English speakers in your service area is 5% or 1,000 people to be served or encountered whichever is less, you should consider the following activities: marketing materials in alternative languages, bi-lingual staff, and related activities.

Disadvantaged Business Enterprise

Among other provisions, this regulation requires recipients of DOT Federal financial assistance, namely State and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts. The subrecipient or subcontractor shall not discriminate on the basis of race, color, sex or national origin.

1. If your organization receives less than \$250,000 annually in FTA funds (excluding transit vehicles purchases) you have no specific DBE requirements.

2. If your organization receives \$250,000 or more in FTA funds annually (excluding transit vehicles purchases), you need to complete a DBE Plan and have it approved by the ADOT Civil Rights Office. Guidance on completing a DBE Plan is available from the ADOT Civil Rights Office (contact Mr. Eddie Edison, 1135 N. 22nd Ave., 2nd Floor Mail Drop 154A, Phoenix, AZ 85009, (602) 721-7761, EEdison@azdot.gov.)

Americans with Disabilities Act (ADA)

The ADA is a Civil Rights act whose purpose is to prevent discrimination based on disability, in terms of employment, public services (including facilities), public accommodations, telecommunications and other provisions. ADA requirements are complex and wide-reaching. With respect to the provision of transportation services, the overriding requirement relates to equal access. This includes access to vehicles, maintenance of accessible equipment and providing information in accessible formats.

1. Policies are needed on the following: lift vehicle availability, maintenance of accessible features on vehicles, adequate time for boarding and disembarking, use of portable oxygen/respirator equipment, service animals, and training (wheelchair securement, passenger sensitivity, etc.). Example policies are included in Attachment C.
2. In addition to the policies identified in #1 above, as part of a Civil Rights review you need to be able to document the following:
 - a. at least one accessible vehicle for each of your primary service areas,
 - b. accessible communications procedure available to ensure that people with visual and hearing disabilities can schedule a ride,
 - c. a turn-down rate for people with disabilities that is not higher than your turn-down rate for non-disabled individuals,
 - d. a daily pre-trip inspection form that includes wheelchair lifts and securement equipment, and
 - e. procedures that enable you to respond to any deficiencies in accessible features found during pre and post-trip inspections, in a manner that ensures equivalent service to persons with disabilities as to non-disabled individuals.

**ATTACHMENT A
EXAMPLE CIVIL RIGHTS COMPLAINT PROCEDURE**

TITLE VI COMPLAINTS

SAMPLE CIVIL RIGHTS COMPLIANCE POSTINGS

INSERT AGENCY INFORMATION
LAMINATE AND POST ON VEHICLE

TRANSIT AGENCY

Agency (and its subcontractors, if any) complies with Title VI of the Civil Rights Act of 1964. The level and quality of transportation service will be provided without regard to race, color, national origin, age, sex or disability.

Any person who believes he/she or any specific class of persons is subjected to discrimination prohibited by Title VI may, by him/herself or by a representative, file a written complaint with the ADOT Civil Rights Office or the Federal Transit Administration (FTA). If the complaint is filed against the local Transit Agency, the Transit Manager is required to forward the complaint to the ADOT Civil Rights Office. All complaints will be promptly investigated by the ADOT Civil Rights Office or the FTA.

Contact information for the ADOT Civil Rights Office: ADOT Civil Rights Office,
1135 N. 22nd Ave., 2nd Floor Mail Drop 154A, Phoenix, AZ 85009, (602) 712-7761.

For further information on the *Transit Agency* nondiscrimination obligation contact:

Transit Manger
Transit Agency
Address
City , State ZIP
Office Phone

Information in languages other than English will be provided as needed and will be consistent with DOT LEP Guidance.

The Americans with Disabilities Act of 1990 (ADA) protects persons with mental or physical disabilities from discrimination in connection with the provision of transportation service.. Wheelchair accessible vehicles will be available and will be operated in compliance with the ADA.

ATTACHMENT B

EXAMPLE LIMITED ENGLISH PROFICIENCY POLICY

It is the policy of _____ (*agency name*) to ensure that our programs and activities, normally provided in English, are accessible to Limited English Proficiency (LEP) persons and thus do not discriminate on the basis of national origin in violation of the Title VI prohibition against national origin discrimination. The _____ will, to the maximum extent feasible in its official deliberations and communications, community outreach and related notifications, provide appropriate alternative non-English formats for persons with LEP to access information and services provided, if requested.

Executive Order 13166

Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," was created to "... improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)..." President Bush affirmed his commitment to Executive Order 13166 through a memorandum issued on October 25, 2001, by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. Federal agencies were directed to provide guidance and technical assistance to recipients of Federal funds as to how they can provide meaningful access to limited English proficient users of Federal programs. In addition, Federal agencies were told to look at how they served people who were limited in their English proficiency and to see what measures they could take in their direct contacts with LEP individuals that would increase meaningful access. In addition, a Federal Interagency Workgroup on Limited English Proficiency (Workgroup) was formed to coordinate guidance and technical assistance effort throughout the Federal Government in support of EO 13166. One of the Workgroup's first accomplishments was the creation of a Federal web site (<http://www.lep.gov>). The site is a work in progress and is designed to be a one-stop referral shop for recipients, Federal agencies and communities in the quest for LEP information and technical assistance. It is through the coordinated efforts of the Workgroup that this planning and self-assessment tool has been created.

Title VI

The basis for EO 13166 is Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, (hereinafter Title VI), which provides that no person 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." Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity "to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability." 42 U.S.C. 2000d-1.

The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), affirmed then Department of Health, Education, and Welfare (HEW) policy (in line with HEW's Title VI regulation which is similar to that of DOJ, 45 CFR 80.3(b)(2)), stating that a recipient's failure to ensure meaningful opportunity to national origin minority, limited-English proficient persons to participate in the Federally funded program violates Title VI and Title VI regulations. In the *Lau* case, a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable affirmative steps to provide them with a meaningful opportunity to participate in the federally funded education program. The requirement to provide meaningful access under Title VI applies beyond the education context to include all of the programs and activities of all recipients of federal financial assistance.

ATTACHMENT C
EXAMPLE ADA TRANSPORTATION POLICIES

Lift vehicle availability – As required by the Americans with Disabilities Act (ADA), _____ (agency name) has a sufficient number of wheelchair accessible vehicles in our fleet to ensure that persons needing a wheelchair have equivalent access to our transportation services as ambulatory persons.

Maintenance of accessible features on vehicles – As required by the Americans with Disabilities Act (ADA), the accessible features on our vehicles are maintained to a high level, so that persons needing these features receive equivalent service to persons not needing those features.

Adequate time for vehicle boarding and disembarking - As required by the Americans with Disabilities Act (ADA), _____ (agency name) provides adequate time for boarding and disembarking our vehicles for persons with disabilities.

Use of portable oxygen/respirator equipment - As required by the Americans with Disabilities Act (ADA), persons using our transportation service may bring respirator, portable oxygen, and/or other life support equipment on board our vehicles, as long as they do not violate the law or rules relating to the transportation of hazardous materials. All equipment must be small enough to fit into our vans safely and without obstructing the aisle and/or block emergency exits.

Service animals – As required by the Americans with Disabilities Act (ADA), any guide dog, signal dog, or other animal individually trained to work or perform tasks for the benefit of an individual with a disability, including but not limited to, guiding individuals with impaired vision or alerting individuals with impaired hearing, are accepted on our vehicles.

Training in wheelchair securement, sensitivity to passengers – As required by the Americans with Disabilities Act (ADA), _____ (agency name) drivers are trained to proficiency in the use of wheelchair equipment on board our vehicles and in passenger sensitivity.

* Approved by ADOT Civil Rights Office on January 20, 2010.