

Title VI Subrecipient Training

**Sponsored by: Arizona
Department of Transportation &
City of Phoenix – Public Transit
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Title VI

Part I Background



Title VI - Thesis

- “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.”



Title VI Applies to “Persons”

- Title VI Protections are for citizens and noncitizens.
- Individuals may file a complaint if they are engaged in a Federally assisted program as:
 - **an intended beneficiary**
 - **an applicant**
 - **a participant**



Title VI Prohibitions

- **Race:** U.S. Census categories define race
 - Persons of any race are protected classes
- **Color:** Discrimination based on skin color or complexion is prohibited under Title VI
- **National Origin:** Foreign born ancestry.



Federal Financial Assistance

- Grant
- Nonmonetary forms
 - Use of Federal land or property
 - Federal training
 - A loan of Federal personnel
 - Federal agreement, arrangement, i.e. cooperative agreement



Recipients

- Any entity receiving Federal financial assistance
- Recipients enter into a relationship with the Federal government akin to contract.
 - Federal financial assistance is received under a condition of assurance of compliance with Title VI.
- Primary recipients and subrecipients must comply with Title VI.



Program or Activity

- Title VI applies institution-wide, not solely to the recipients operations receiving Federal funding.



Discrimination Prohibitions

- **Disparate Treatment (Intentional Discrimination)**: Actions that result in circumstances where similarly situated persons are treated different because of their race, color, or national origin.
- **Disparate Impact (Unintentional Discrimination)**: The recipient's procedure or practice while neutral on its face has the effect of disproportionately excluding or adversely affecting members of the projected class without substantial legitimate justification.



Discrimination Prohibited

- Recipients may not, on the grounds of race, color, or national origin **(49 CFR 21.5(b))**
 - Provide any service, financial aid, or benefit that is different from that provided to others.
 - Subject an individual to segregation or separate treatment.
 - Restrict an individual in the enjoyment of any advantage or privilege enjoyed by others.
 - Deny any individual service, financial aid, or benefit under the program.
 - Treat individuals differently in terms of whether they satisfy admission, eligibility, or membership.
 - Deny an individual the opportunity to participate in the provision of services.
 - Deny a person the opportunity to participate as a member of a planning or advisory body.



Title VI

Part II

Components of the Title VI Plan



Title VI Assurances

- Recipients collect certification and Title VI Assurance from subrecipients prior to passing through FTA funds.



Complaint Procedures

- Develop procedures for investigating;
- Tracking Title VI complaints filed against them
- Procedures must be made available to members of the public upon request;
- Subrecipients may adopt the Recipients complaint investigation and tracking procedures



Recording Complaints & Lawsuits

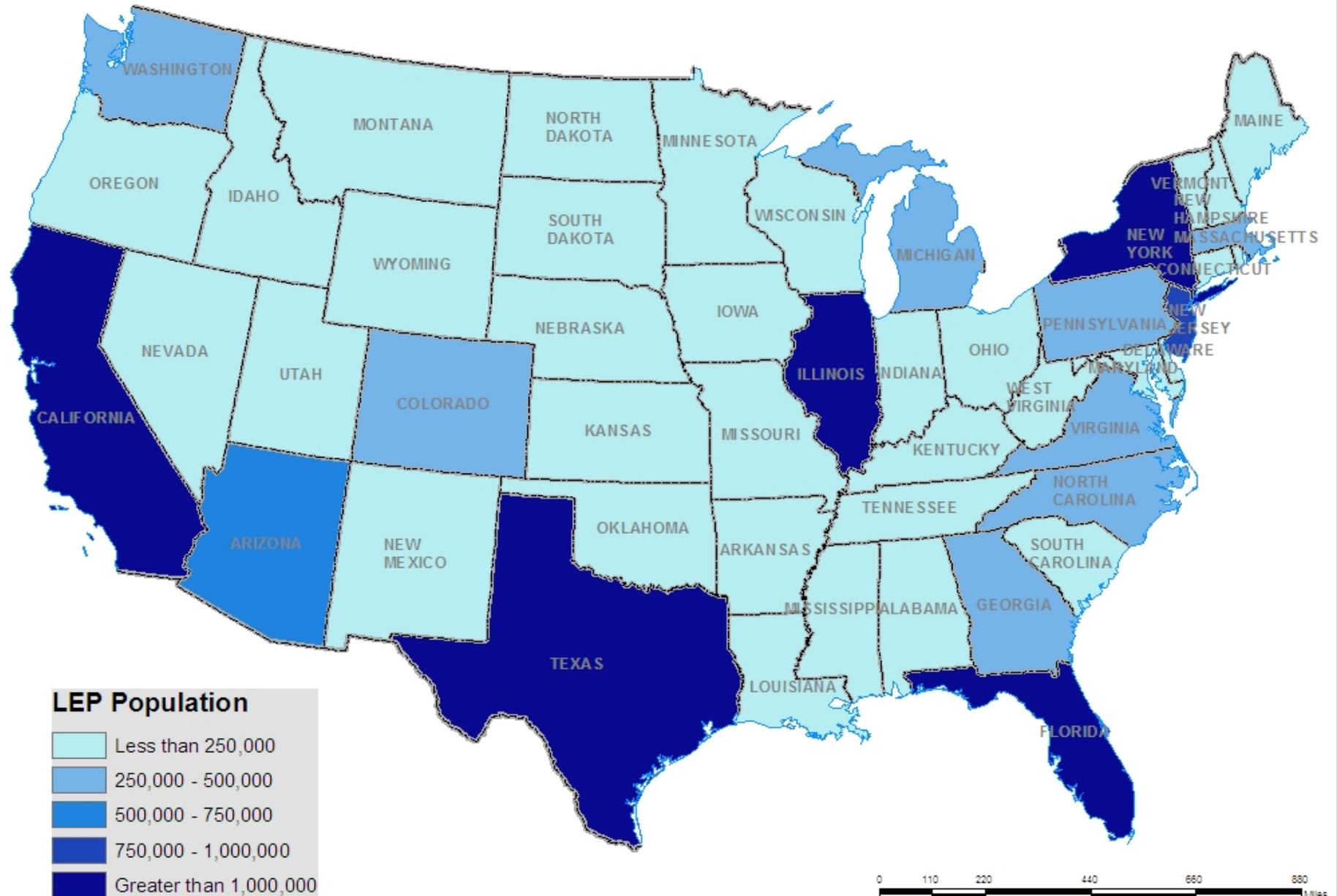
- Subrecipients shall prepare a list of complaints;
- Complaints alleging discrimination on the basis of race, color, or national origin;
- List must include:
 - Date of investigation, lawsuit or complaint filed
 - Summary of allegations
 - Status of investigation, lawsuit or complaint
 - Actions taken by subrecipient in response to investigation, lawsuit or complaint



Meaningful Access for Limited English Proficient Persons



LEP Population By State



Lau v Nichols, 1974

- Non-English-speaking students of Chinese origin sued San Francisco School District.
- The Supreme Court ruled that a recipient's failure to ensure meaningful opportunity to national origin minority, LEPs to participate in federally funded programs violates Title VI and Title VI regulations.
- The school was to take reasonable affirmative steps to provide meaningful opportunity to participate in the federaly funded education program.
- Applies beyond education to include all programs and activities of all recipients of federal financial assistance



LEP Executive Order 13166

- Signed by Clinton August, 2000
- Assess language needs
- Determine steps to ensure meaningful access for LEPs
- Develop a language access plan or alternative framework
- Failing to ensure LEPs effectively participate in or benefit from federally assisted programs may constitute national origin discrimination



Four Factors of Analysis

- Number or proportion of LEP persons eligible or likely to be encountered by a program;
- Frequency with which LEPs come into contact with program;
- Nature & importance of program provided by recipients to LEPs lives;
- The resources available and costs.



LEP

- Individuals who:
- Do not speak English as their primary language
- Have a limited ability to read, speak, write, or understand English
- Census: “A person who speaks another language other than English at home and does not speak English well or not at all”



Develop a Language Implementation Plan

- Subrecipients serving few LEP persons can chose not to develop a written LEP plan;
- This does not obviate your underlying obligation to ensure meaningful access by LEP persons to your program or activities



Develop a Language Implementation Plan

- Subrecipients can model LEP plan after the recipients.



Model Plan

- Conduct the four factor analysis
 - Proportion of eligible LEPs (Demography)
 - Frequency of Contact
 - Nature and Importance of the program, activity, service
- Determines level of responsibility & guides you in determining the language access services you should provide



Model Plan

- As a result of the four factor analysis-
- Identified language assistance measures
- Determined vital documents for translation:
 - Provide notice of right to language assistance;
 - Translate Title VI complaint forms & other vital documents
 - Prohibited behavior signage;
 - Important public notifications (special meeting requests, acquisition of property letters, etc);
 - Any document that could deny an LEP to a service.



Model Plan

- Provide policy/criteria for evaluating language assistance (interpretive and translative service) providers;
- Training Staff on language assistance measures:
 - Awareness and type of language services
 - How staff and LEP customers can obtain these services
 - How to respond to LEP correspondence, callers and in-person contact
 - How to document LEP needs
 - How to respond to civil rights complaints



Model Plan

- Monitor progress and update plan:
- Assessment:
 - The number of LEP persons in service area;
 - The current language needs of customers to determine whether customers need an interpreter and/or translated materials to communicate effectively with staff;
 - Whether existing language assistance services are meeting the needs of clients with LEP;
 - Whether staff members understand LEP policies, procedures, how to access and carry them out;
 - Whether language assistance resources and arrangements for those resources are current;
 - Feedback from LEP communities, including customers, and community organizations about the effectiveness of grantees language access plan.



Notifying the Public of Rights

- Notifying the public of subrecipients obligations under Title VI
- Apprise members of protections against discrimination afforded to them by Title VI;



Content of Public Notification of Protection under Title VI

- Statement that the subrecipient operates programs without regard to race, color and national origin;
- Procedures for requesting information on subrecipient's nondiscrimination obligations;
- Procedures for public to file a discrimination complaint;
- Notifying the public regarding their right to file a complaint;
- Translated into appropriate languages;
- Subrecipients may adopt Title VI Notice developed by recipient.



Dissemination of Notification

- Web (NOT exclusively);
- Posters, comment cards, or flyers;
- At stations and in transit vehicles;
- Type, timing and frequency at subrecipients discretion;
- Notification translated.



Summary of Outreach Efforts

- Public participation strategy shall offer early and continuous opportunities for the public to be involved in transportation decisions;
- Methods for seeking and considering viewpoints of:
 - Minority;
 - Low-income;
 - LEP populations.



Effective Outreach

- Outreach to community based organizations serving minority and/or low-income communities;
 - Leaders of business, civic organizations, church organizations;
 - Personal meetings;
 - Meet with those that oppose your policies;
 - Public participation through methods other than written communication;
 - Convenient location & meeting times;
- Minority publications;
Translation service.



Monitoring Subrecipients

- Subrecipients are complying with the aforementioned reporting requirements;
- Subrecipients who provide transportation services verify that their level and quality of service is provided on an equitable basis;
- Subrecipients should develop system-wide service standards;
- Subrecipients verify that service provided to predominantly minority and low-income communities meet these standards.



Monitoring

- Demographic information on the race, income, and English proficiency of residents served by the subrecipient;
- Assessing the level and quality of service the subrecipient provides to communities within its service area and assessing the need for language assistance.



Service/Fare Changes

- Subrecipients must conduct an impact analysis study.....
 - Define threshold (25% of service changes and all fare changes)
 - Description of minority and low-income populations affected
 - Identify effects of service or fare change
 - Propose Mitigation Strategies
 - Apply mitigation strategies affecting low-income and minority areas and non-low-income and non-minority areas.



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