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Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, prohibits discrimination based on race, color, or national origin in programs and activities that receive federal financial assistance.

The Office for Civil Rights (OCR) at the Office of Justice Programs (OJP),¹ U.S. Department of Justice (DOJ) enforces Title VI in four ways:

- (1) Responding to **administrative complaints**,
- (2) Initiating **compliance reviews**,
- (3) Providing **technical assistance**, and
- (4) Offering **policy guidance**.

Administrative Complaints

The OCR is the principal DOJ office that enforces Title VI through the administrative process.² People who receive benefits or services from a DOJ-funded organization, and who believe that the organization discriminated against them based on race, color, or national origin, may file a complaint directly with the OCR.³ The forms and instructions for filing an administrative complaint are available on the OCR's website at <http://www.ojp.usdoj.gov/about/ocr/complaints.htm>.

Over the last four years,⁴ the OCR has processed 346 docketed administrative complaints alleging discrimination in the delivery of services or benefits based on race, color, or national origin in a DOJ-funded program.⁵ Common complaints include allegations that a funded law-enforcement agency engaged in unlawful racial profiling in conducting traffic stops or that a funded correctional facility discriminated in the delivery of services to inmates.⁶

When the OCR receives a timely complaint over which it has jurisdiction, it may initiate an investigation.⁷ If the complaint has merit, the OCR works with the DOJ recipient⁸ to remedy the complaint, ensuring compliance with Title VI. Although the ultimate penalty

for noncompliance with Title VI is the suspension or termination of federal financial assistance,⁹ in the last four years, the OCR has always been able to secure the voluntary compliance of recipients with Title VI.

Compliance Reviews

The OCR has a vigorous compliance-review program to enforce Title VI.¹⁰ In the last four years, OCR's Title VI compliance reviews have generally involved three groups of recipients: (1) State Administering Agencies (SAAs),¹¹ (2) law-enforcement organizations, and (3) juvenile justice systems.

A compliance review is a civil-rights audit that the OCR initiates. The investigation entails reviewing the policies and procedures of a recipient; determining whether the recipient is in compliance with Title VI and other federal civil-rights laws; issuing findings and recommendations; and when warranted, monitoring the recipient to ensure it implements the OCR's recommendations for coming into compliance with Title VI and other federal statutes.

State Administering Agencies

The OCR has conducted onsite civil-rights compliance reviews of 107 SAAs in all fifty states and U.S. territories.¹² A compliance review of an SAA requires a thorough audit of all policies, procedures, and management practices related to the enforcement of Title VI.

The compliance review examines not only whether the SAA is itself in compliance with Title VI but also whether the SAA has methods of administration (MOA) that ensure that its subrecipients comply with Title VI.¹³ MOAs, as they relate to Title VI enforcement, ordinarily include (1) the establishment of Title VI complaint procedures, (2) notice provisions to subrecipients and beneficiaries about the application of Title VI to DOJ grant programs, (3) procedures that SAA program managers follow in monitoring the subrecipients' compliance with Title VI, and (4) training programs for both the SAA staff and the staffs of subrecipients on their responsibilities under Title VI.

Each SAA compliance review culminates in OCR's issuance of a thorough, written report, which states in detail where the SAA is in compliance with the law and where it must correct shortcomings. Based on the recommendations in the compliance-review report, the OCR monitors the SAA, sometimes over a period of years, to ensure that it implements the report's recommendations.

A common outcome of an SAA compliance review is the SAA's development of a civil-rights monitoring checklist, which ensures that when SAA program managers make site

visits to subrecipients, they are evaluating whether the subrecipients are in compliance with Title VI and other federal civil-rights laws.¹⁴ Another common outcome of an SAA compliance review is that the SAA strengthens its grievance procedures for accepting and resolving Title VI complaints.¹⁵

Law-Enforcement Agencies

The OCR pioneered conducting language-access compliance reviews for DOJ, focusing on whether law-enforcement agencies provide appropriate language-access services to their limited English proficient (LEP) populations in accordance with Title VI.¹⁶ Since the 2002 publication of DOJ's guidance for recipients on providing services to LEP beneficiaries, the OCR has conducted more than one-hundred language-access compliance reviews of law-enforcement agencies.

A language-access compliance review of a recipient law-enforcement agency entails a comprehensive evaluation of all the recipient's policies and procedures that may relate to the delivery of services to LEP individuals and communities. The investigation includes a thorough review of all the recipient's standard operating procedures that affect LEP individuals, the recipient's training curriculum for sworn and civilian staff in public-contact positions, the quality of the oral and written communication services the recipient provides for the predominate foreign-language groups in the service area, and the recipient's outreach services for LEP communities. During each compliance review, OCR staff attorneys go into the field to determine how well a law-enforcement agency is actually implementing its stated language-access policies.

As with the compliance reviews of SAAs, at the end of a language-access compliance review, the OCR issues a compliance-review report, which includes detailed recommendations on how the law-enforcement agency should improve language-access services. If a law-enforcement agency does not have a formal language-access plan, or if its plan is inadequate, the compliance-review report recommends producing a language-access plan in conformity with Title VI. The OCR monitors a law-enforcement agency after the issuance of the compliance-review report to ensure that it has adopted protocols to improve language-access services.

The OCR can document significant improvements in the services that law-enforcement agencies provide to LEP communities throughout the country as a result of its compliance reviews. The improved services extend to all aspects of police work, including accepting 9-1-1 calls, dispatching officers to the scene of an emergency, responding to domestic-violence incidents, investigating crimes, issuing accident and missing property reports, conducting interviews of suspects and witnesses, providing

services to individuals in lock-ups, accepting and resolving complaints against officers, and meeting with neighborhood groups.

One of the most extensive language-access compliance reviews that the OCR conducted involved the New York City Police Department (NYPD). The NYPD's resident service population is 8.4 million, with 1.8 million being LEP.¹⁷

Given the size and complexity of the investigation, the OCR, in consultation with DOJ statistical experts, targeted NYPD precincts and other points-of-service areas that had the highest numbers of LEP persons. Using Geographic Information System (GIS) shape files, demographic data from the U.S. Census Bureau, and data from New York City's Department of City Planning, the OCR's investigative team was able to create detailed maps for each NYPD precinct, showing for each census tract the size and language of its LEP population. Based on this analysis, the OCR selected for more careful onsite review twelve precincts, two transit headquarters, two transit districts, and three housing service areas. The OCR conducted over a hundred interviews, meeting with NYPD's command staff, members of the uniform service, and civilian personnel. The OCR also conducted three meetings with community groups who had first-hand experience with the NYPD's services to LEP communities.

In November 2010, the OCR issued a compliance-review report, which contained the OCR's findings along with recommendations to bring the NYPD into compliance with Title VI.¹⁸ The report advised NYPD to revise its language-access policies, establish quality-control measures for staff interpreters, provide better training to its uniform and civilian staffs, recruit additional officers with language skills, improve community relations, and translate vital documents into New York City's most commonly spoken foreign languages.

The NYPD accepted the report's recommendations and worked with the OCR over two years to implement substantially all of them. As a result, the NYPD has come into better compliance with Title VI and vastly improved its services to New York City's LEP population.

The OCR's language-access compliance reviews have achieved similar results in law-enforcement agencies throughout the country. Among the nation's fifty largest local police departments, the OCR has initiated language-access compliance reviews in thirty-eight of them.¹⁹

Juvenile Justice Systems

In light of research that suggests that youth who are LEP, or have LEP families, receive more severe punishment in the juvenile justice system than those who are not,²⁰ the

OCR initiated language-access compliance reviews under Title VI of the juvenile justice systems in Adams and Arapahoe Counties, Colorado; Douglas County, Nebraska; Fairfax County, Virginia; Hennepin County, Minnesota; Milwaukee County, Wisconsin; New Castle County, Delaware; Pima County, Arizona; Prince George's County, Maryland; Santa Clara County, California; and Suffolk County, Massachusetts.²¹

The OCR examined the language-access services that are available to apprehended youth in each of the selected jurisdictions, focusing on pre-adjudication services. As the juvenile justice systems in each locale differ significantly from each other, the compliance reviews required identifying the multiple DOJ recipients in a selected community that serve juveniles and then determining how the recipient agencies work together in providing a range of services.

For example, in New Castle County, Delaware, the OCR reviewed the language-access services of the Delaware Administrative Office of the Courts; the Family Court; the Justice of the Peace Court; the Delaware Department of Justice; the Delaware Office of the Public Defender; and the Delaware Department of Services for Children, Youth and Their Families. The OCR concluded that these recipients were not fully in compliance with Title VI, although they had taken some steps to provide LEP individuals with meaningful access to juvenile-justice services.²² The compliance-review report documented each recipient's deficiencies and provided detailed recommendations for improving language-access services to both LEP juveniles and LEP families.

Technical Assistance

One of the OCR's most effective tools for enforcing Title VI is through technical assistance, instructing recipients about their responsibilities under the law and informing beneficiaries of Title VI's protections. In all of its compliance reviews of SAAs, the OCR has incorporated training programs for SAA staff on the importance of Title VI, with an emphasis on improving monitoring procedures to ensure the compliance of subrecipients.

The OCR has developed a series of easily accessible online training programs that provide information, not only to recipients but also to beneficiaries, on Title VI and other federal civil-rights statutes. The training programs are available on OCR's website at <http://www.ojp.usdoj.gov/about/ocr/assistance.htm>.

The OCR provides technical assistance to SAAs that choose to develop their own training programs on Title VI for their staffs and subrecipients. On request, the OCR may also conduct training programs on Title VI and related statutes for DOJ-funded organizations.

In recognition of OCR's extensive experience in conducting civil-rights investigations, other federal agencies have requested that the OCR train their civil-rights investigators. For example, in FY 2013, OCR has provided daylong training programs for the civil-rights offices at the U.S. Department of Labor and the U.S. Department of Agriculture. The OCR has also lent staff attorneys in FY 2013 to the faculty of The Academy for Civil Rights Investigators, sponsored by the U.S. Department of Health and Human Services at the National Advocacy Center in Columbia, South Carolina. The Academy trains civil-rights investigators from a variety of federal agencies. OCR attorneys presented a series of lectures that addressed the legal and procedural considerations in a Title VI investigation, culminating in a practicum for both staff investigators and their supervisors.

Policy Guidance

The OCR has strengthened the enforcement of Title VI through its policy guidance to DOJ grant-making offices. Consistent with OCR's advice, DOJ grant-making offices have (1) added a special condition to grants for SAAs, requiring them to develop written MOAs for monitoring the compliance of subrecipients; (2) placed an explicit reference to Title VI in grant solicitations; (3) inserted compliance with Title VI in standard grant assurances; and (4) included with all award letters to recipients notice of the requirement under Title VI to serve LEP beneficiaries.

Special Conditions

Based on OCR's comprehensive work in conducting compliance reviews of SAAs, OCR recommended that DOJ grant-making offices add, beginning in FY 2013, a special condition to all awards to SAAs, requiring them to develop written MOAs to ensure the compliance of subrecipients with Title VI and other applicable federal civil-rights laws. The language of the special condition is as follows:

The recipient understands and agrees that it has a responsibility to monitor its subrecipients' compliance with applicable federal civil rights laws. The recipient agrees to submit written Methods of Administration (MOA) for ensuring subrecipients' compliance to the OJP's Office for Civil Rights at CivilRightsMOA@usdoj.gov within 90 days of receiving the grant award and to make supporting documentation available for review upon request by OJP or any other authorized persons. The required elements of the MOA are set forth at http://www.ojp.usdoj.gov/funding/other_requirements.htm, under the heading, "Civil Rights Compliance Specific to State Administering Agencies."

The MOAs that SAAs submit must include four elements: (1) the SAA's policy for addressing discrimination complaints, (2) the SAA's method for notifying its subrecipients of their civil-rights obligations, (3) the SAA's procedures for monitoring the compliance of its subrecipients with applicable federal civil-rights laws, and (4) the SAA's training program for its subrecipients on the applicable civil-rights requirements.²³

Since the beginning of FY 2013, the OCR has reviewed the MOAs that many SAAs have submitted. When there have been deficiencies in an MOA, the OCR has worked with the SAA to bring it into compliance with the special condition.

Solicitations

In OJP solicitations announcing the availability of grant funds, the grant-making offices inform potential applicants that, as a condition for receiving funds from OJP, recipients must comply with Title VI. The following language generally appears in solicitations:

Compliance with Title VI of the Civil Rights Act of 1964, which prohibits recipients from discriminating on the basis of national origin in the delivery of services or benefits, entails taking reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to funded programs or activities. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. To assist recipients in meeting their obligation to serve LEP persons, the Department of Justice (DOJ) has published a guidance document, which is available on the LEP.gov web site. OJP encourages applicants and recipients to include within their program budgets the costs for providing interpretation and translation services to eligible LEP service populations.²⁴

Standard Assurances

As a condition for receiving federal financial assistance, the OJP requires potential recipients to certify during the application process a document known as the Standard Assurances, acknowledging the obligation to comply with Title VI. The relevant language in the Standard Assurances is as follows: "The applicant also specifically assures and certifies that . . . [i]t will comply (and will require any subgrantees or contractors to comply) with any statutorily imposed nondiscrimination requirements, which may include . . . the Civil Rights Act of 1964 (42 U.S.C. § 2000d)" ²⁵

Award Letters

As part of the grant-award package that every recipient receives, the director of the OCR sends a letter notifying the recipient of its civil-rights obligations under Title VI. The letter informs the recipient of prohibited national-origin discrimination and notes the recipient's obligation to take reasonable steps to provide meaningful access to programs and activities for LEP persons.²⁶

Additional Information

Additional information on the OCR's work to enforce Title VI is available on its website at <http://www.ojp.usdoj.gov/ocr>.

¹ The OCR is not a part of the Civil Rights Division; it is a separate, civil-rights enforcement office connected to the DOJ grant-making offices. The OCR's role within DOJ is comparable to the role of civil-rights offices at other large federal agencies, such as the Office for Civil Rights at the U.S. Department of Education or the Office for Civil Rights at the U.S. Department of Health and Human Services. The federal regulation implementing the administrative process for enforcing Title VI is 28 C.F.R. pt. 42, subpt. C.

² The OCR enforces Title VI for the following DOJ components: the Office of Community Oriented Policing Services, the Office on Violence Against Women, and the Office of Justice Programs, which includes the Bureau of Justice Assistance; the Bureau of Justice Statistics; the National Institute of Justice; the Office for Victims of Crime; the Office of Juvenile Justice and Delinquency Prevention; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking.

³ In addition to Title VI, the OCR also enforces federal laws that prohibit discrimination in DOJ-funded programs based on race, color, national origin, sex, religion, disability, age, sexual orientation, and gender identity.

⁴ The time period is from the beginning of FY 2009, October 1, 2008, to the present (April 20, 2013).

⁵ Although Title VI prohibits discrimination based on race, color, or national origin in all federally assisted programs, other DOJ program statutes include similar as well as other broader protections. *See, e.g.*, the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c) (prohibiting recipients under the statute from discriminating in both employment and in the delivery of services or benefits based on race, color, national origin, sex, and religion). If an organization receives funding subject to the Safe Streets Act, the OCR would ordinarily follow the administrative procedures of the Safe Streets Act in investigating and resolving claims that allege discrimination based on race, color, or national origin. *See* 28 C.F.R. pt. 42, subpt. D.

⁶ *See, e.g.*, Fairfax County, Va., Police Dep't, No. 09-OCR-0440, Office for Civ. Rts. Ltr. of Finding (U.S. Dep't of Justice, Oct. 28, 2009), *available at* <http://www.ojp.usdoj.gov/about/ocr/pdfs/fairfaxcopd.pdf>.

⁷ 28 C.F.R. § 42.107(b), (c).

⁸ The implementing regulation for Title VI provides the following definition for recipient:

The term *recipient* means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly

or through another recipient, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary.

Id. § 42.102(f).

⁹ *Id.* § 42.110(f).

¹⁰ *Id.* § 42.107(a).

¹¹ A State Administering Agency is the principal bureau in a state government that receives DOJ funding and then subawards it to other state agencies, units of local government, Indian tribes, or nonprofit organizations.

¹² Office of Justice Programs, Office for Civil Rights Investigative Findings, <http://www.ojp.usdoj.gov/about/ocr/investfind.htm> (last visited Apr. 20, 2013). A partial listing of SAA compliance-review reports that the OCR issued in FY 2013 includes the following entities: the American Samoa Criminal Justice Planning Agency, the Arkansas Department of Human Services, the Guam Department of Youth Affairs, the Guam Office of the Attorney General, the Guam Office of the Governor, and the Hawaii Department of Human Services.

¹³ See 28 C.F.R. § 42.105(d)(2).

¹⁴ See, e.g., Office of Justice Programs, Sample Documentation, http://www.ojp.usdoj.gov/about/ocr/sample_documentation.htm (last visited Apr. 20, 2013).

¹⁵ *Id.*

¹⁶ See U.S. Dep't of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002), available at <http://www.gpo.gov/fdsys/pkg/FR-2002-06-18/pdf/02-15207.pdf>.

¹⁷ New York City Police Dep't, No. 10-OCR-0015, Office for Civ. Rts. Compl. Rev. Rep. 3 & n.3 (U.S. Dep't of Justice, Nov. 8, 2010), available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/nypdcompliancereport.pdf>.

¹⁸ *Id.* 1-43.

¹⁹ In December of 2010, the Bureau of Justice Statistics issued a report that identified the fifty largest local police departments in the United States. Bureau of Justice Statistics, *Local Police Departments, 2007* at 34 app. tbl.1 (Dec. 2010), available at <http://www.bjs.gov/content/pub/pdf/lpd07.pdf>. In reference to this report, the OCR has initiated language-access compliance reviews of the following police departments in descending order of size: New York (N.Y.) Police Dep't, Chicago (Ill.) Police Dep't, Philadelphia (Pa.) Police Dep't, Houston (Tex.) Police Dep't, Washington (D.C.) Metropolitan Police Dep't, Dallas (Tex.) Police Dep't, Miami-Dade (Fla.) Police Dep't, *Baltimore (Md.) Police Dep't, Las Vegas (Nev.) Metropolitan Police Dep't, San Francisco (Cal.) Police Dep't, Boston (Mass.) Police Dep't, Memphis (Tenn.) Police Dep't, Milwaukee (Wis.) Police Dep't, San Diego (Cal.) Police Dep't, Honolulu (Haw.) Police Dep't, Baltimore County (Md.) Police Dep't, *Columbus (Ohio) Police Dep't, Atlanta (Ga.) Police Dep't, *Indianapolis (Ind.) Police Dep't, Cleveland (Ohio) Police Dep't, Denver (Colo.) Police Dep't, Prince George's County (Md.) Police Dep't, Charlotte-Mecklenburg (N.C.) Police Dep't, Fairfax County (Va.) Police Dep't, *Fort Worth (Tex.) Police Dep't, *Kansas City (Mo.) Police Dep't, San Jose (Cal.) Police Dep't, St. Louis (Mo.) Police Dep't, Seattle (Wash.) Police Dep't, Montgomery County (Md.) Police Dep't, Louisville (Ky.) Police Dep't, *Cincinnati (Ohio) Police Dep't, Miami (Fla.) Police Dep't, Tucson (Ariz.) Police Dep't, Oklahoma City (Okla.) Police Dep't, Tampa (Fla.) Police Dep't, Long Beach (Cal.) Police Dep't, and Albuquerque (N.M.) Police Dep't. The OCR has not issued the final compliance-review reports for the police departments in the above list that have an asterisk (*).

²⁰ See, e.g., Vera Institute of Justice, *If Parents Don't Speak English Well, Will Their Kids Get Locked Up?* (Oct. 2007), available at http://www.vera.org/sites/default/files/resources/downloads/Language_Barriers_and_Disproportionate_Minority_Contact_in_the_Juvenile_Justice_System.pdf.

²¹ The compliance-review reports for New Castle County, Delaware, and Santa Clara County, California, are available online. See Office of Justice Programs, Office for Civil Rights Investigative Findings, <http://www.ojp.usdoj.gov/about/ocr/investfind.htm> (last visited Apr. 20, 2013). The OCR has issued compliance-review reports for Fairfax County, Virginia; Douglas County, Nebraska; and Milwaukee County, Wisconsin; the reports are on file with the OCR and will appear shortly on the OCR's website. The OCR has not yet issued final compliance-review reports for Adams and Arapahoe Counties, Colorado; Hennepin County, Minnesota; Pima County, Arizona; Prince George's County, Maryland; and Suffolk County, Massachusetts.

²² Del. Admin. Office of the Cts., et al., No. 09-OCR-0475-77, 0193, Office for Civ. Rts. Compl. Rev. Rep. (U.S. Dep't of Justice, Dec. 4, 2009), available at http://www.ojp.usdoj.gov/about/ocr/pdfs/DE-09-OCR-0475-77_0193.pdf.

²³ Office of Justice Programs, Other Requirements for OJP Applications, Civil Rights Compliance Specific to State Administering Agencies, http://www.ojp.usdoj.gov/funding/other_requirements.htm (last visited Apr. 20, 2013).

²⁴ *Id.*, Civil Rights Compliance, http://www.ojp.usdoj.gov/funding/other_requirements.htm (last visited Apr. 20, 2013).

²⁵ Office of Justice Programs, Standard Assurances, http://www.ojp.usdoj.gov/funding/forms/std_assurances.pdf (last visited Apr. 20, 2013).

²⁶ Office of Justice Programs, Sample Award Letter, <http://www.ojp.usdoj.gov/financialguide/PDFs/award.pdf> (last visited Apr. 20, 2013).