Office of the Attorney General
Washington, D. C. 20530

July 14, 1994

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES THAT PROVIDE FEDERAL FINANCIAL ASSISTANCE

FROM: THE ATTORNEY GENERAL

SUBJECT: Use of the Disparate Impact Standard in Administrative Regulations Under Title VI of the Civil Rights Act of 1964

This month marks the 30th anniversary of the passage of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§2000d to 2000d-6), which prohibits discrimination on the basis of race, color, or national origin in programs and activities that receive Federal financial assistance. The anniversary of this landmark legislation is a fitting time to remind agencies that administrative regulations implementing Title VI apply not only to intentional discrimination but also to policies and practices that have a discriminatory effect. In Guardians Association v. Civil Service Commission, 463 U.S. 582 (1983), the Supreme Court held that while Title VI itself requires proof of discriminatory intent, agencies may validly adopt regulations implementing Title VI that also prohibit discriminatory effects. Nearly all agencies have adopted such regulations. In Alexander v. Choate, 469 U.S. 287 (1985) (construing Section 504 of the Rehabilitation Act of 1973), a unanimous Supreme Court restated the holding in Guardians that disparate impact violations could be addressed through regulations implementing Title VI.

This Administration will vigorously enforce Title VI. As part of this effort, and to make certain that Title VI is not violated, each of you should ensure that the disparate impact provisions in your regulations are fully utilized so that all persons may enjoy equally the benefits of federally financed programs.

Enforcement of the disparate impact provisions is an essential component of an effective civil rights compliance program. Individuals continue to be denied, on the basis of their race, color, or national origin, the full and equal opportunity to participate in or receive the benefits of programs assisted by Federal funds. Frequently discrimination results from policies and practices that are neutral on their face but

have the effect of discriminating. Those policies and practices must be eliminated unless they are shown to be necessary to the program's operation and there is no less discriminatory alternative.

Under Executive Order 12250, the Department of Justice is responsible for ensuring that funding agencies meet their responsibilities under Title VI. This Department is committed to productive and effective enforcement of the civil rights laws by each agency that extends Federal financial assistance. Facially neutral policies and practices that act as arbitrary and unnecessary barriers to equal opportunity must end. This was the goal of Title VI when it became law and it remains one of the highest priorities of this Administration.