



Department of Justice Regulatory Clearance Role Under Executive Order 12250

Regulations Implementing Title VI, Title IX, Section 504: DOJ review and approval always required*

What documents? Regulations implementing Title VI, Title IX, and Section 504 that are new or are amending or repealing previously issued regulations in whole or in part.

NPRMs and Final Rules. Agencies must submit such documents to the Assistant Attorney General for Civil Rights (AAG) for review and must obtain approval. Approval of the final text is required before publication. In addition:

Section 504 Final Rules. The AAG must approve final regulations before they may take effect.

Title VI and Title IX Final Rules. The Attorney General must approve final regulations before they may take effect.

Coordinate early, ideally during the drafting stage.

Regulations Implementing Nondiscrimination Provisions of Laws Other than Title VI, Title IX, Section 504: DOJ submission always required and approval sometimes required**

What documents? Regulations implementing laws other than Title VI, Title IX, and Section 504 that prohibit discrimination based on race, color, national origin, sex, disability, or religion in programs receiving federal financial assistance that are new or are amending or repealing previously issued regulations in whole or in part.

NPRMs and Final Rules. Agencies must submit such documents to the AAG and must obtain approval if the AAG so requires.

Coordinate early, ideally during the drafting stage.

Other Types of Documents***

What documents? To fulfill its mandate to ensure the consistent and effective government-wide implementation of the laws covered by EO 12250, DOJ often reviews other types of agency documents issued under the laws described above. For example, EO 12250 authorizes DOJ to require that covered policy guidance documents be submitted for approval before taking effect.

Case-by-case determination. The AAG determines, in coordination with federal agency partners, which documents require review and approval.

Factors considered. Early coordination is essential for documents that (1) may implicate other agencies' compliance programs; (2) adopt new or changed legal interpretations; (3) could result in a conflict among agencies' legal interpretations of Title VI, Title IX, Section 504, or nondiscrimination provisions of other federal laws; and/or (4) are intended for publication in the Federal Register.

Coordinate early to determine whether EO 12250 review will be required.



Please contact the Civil Rights Division's Federal Coordination and Compliance Section, 202-307-2222, Disability Rights Section, 202-307-0663, or Educational Opportunities Section, 202-514-4029, early in the development of documents that may be covered by EO 12250. Staff are available to discuss the applicability of these requirements, and to provide legal counsel to ensure consistency with case law and other agencies' documents.

* 42 U.S.C. §2000d-1 (Title VI); 20 U.S.C. §1682 (Title IX); 28 C.F.R. §0.51 (delegation of EO 12250 responsibilities to the AAG for Civil Rights), 28 C.F.R. §41.4(b) (each agency shall submit its proposed Section 504 final regulation to the AAG for Civil Rights for review at least 45 days before it is to be issued); 28 C.F.R. §42.403(c) (Title VI proposed rules require approval of the AAG for Civil Rights before publication in the Federal Register for comment, and Title VI regulations require final approval of the AG); EO 12250 at 1-1 (delegations to the AG); 1-201 (laws covered by EO 12250), 1-202 (review of existing and proposed rules “in order to identify those which are inadequate, unclear or unnecessarily inconsistent”), 1-205 (authority to implement a schedule for the review of implementing regulations).

** See EO 12250 at 1-201 (laws covered by EO 12250), 1-202 (review of existing and proposed rules “in order to identify those which are inadequate, unclear or unnecessarily inconsistent”), and 1-402 (regulations implementing a law covered by EO 12250 “subject to the approval of the Attorney General, who may require that some or all of them be submitted for approval before taking effect”).

*** See EO 12250 at 1-401 (authority to require “reports and information”), 1-402 (policy guidance on a law covered by EO 12250 “subject to the approval of the Attorney General, who may require that some or all of them be submitted for approval before taking effect”).