



U.S. Department of Justice

Civil Rights Division

Assistant Attorney General  
950 Pennsylvania Ave, NW - RFK  
Washington, DC 20530

January 20, 2023

MEMORANDUM

**TO:** Federal Agency Civil Rights Directors and General Counsels

**FROM:** Assistant Attorney General Kristen Clarke, Civil Rights Division  
U.S. Department of Justice *Kristen Clarke*

**SUBJECT:** Executive Order 12250 Enforcement and Coordination Updates

Thank you for the hard work your agencies have been doing over the last two years. I appreciate the opportunities we have had to coordinate and collaborate to promote civil rights and advance the priorities of this Administration. I write to share important updates from the Department of Justice (Department or DOJ) concerning enforcement of federal civil rights laws covered under Executive Order 12250<sup>1</sup> and to provide critical information on the review and clearance of nondiscrimination regulations and policy guidance documents. I also write to promote our next interagency meeting on February 1, 2023 to discuss future coordination on these and other civil rights issues as we work to advance civil rights compliance government-wide.

**1. Advancing Equity and Racial Justice via the Infrastructure Investment and Jobs Act Funding**

On June 21, 2022, Attorney General Garland issued a memorandum to heads of executive departments and agencies concerning [\*Enforcement of Nondiscrimination Laws in Programs and Activities that Receive Infrastructure Investment and Jobs Act \(IIJA\) or Consolidated Appropriations Act, 2022 Funding\*](#). The memorandum addresses steps agencies can take, as they begin obligating funding under existing programs and implementing newly funded grant programs, to ensure that public funds are not being used in a discriminatory manner. Additionally, the Attorney General has directed the Civil Rights Division to work with your agencies in achieving nondiscrimination under Title VI of the Civil Rights Act of 1964 (Title VI), Title IX of the Education Amendments of 1972 (Title IX), and Section 504 of the Rehabilitation Act (Section 504).

**2. Executive Order 13166 Language Access Implementation**

In November 2022, the Attorney General issued a [\*memorandum\*](#) on *Strengthening the Federal Government's Commitment to Language Access*. Under this memorandum, I am

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<sup>1</sup> Exec. Order No. 12250, *Leadership and Coordination of Nondiscrimination Laws*, reprinted at 45 Fed. Reg. 72,995 (Nov. 4, 1980).

requesting that federal agencies review their language access practices and policies to strengthen the federal government's engagement with individuals with limited English proficiency (LEP).

As set forth in the memorandum, the Civil Rights Division, with assistance from the Justice Department's Office for Access to Justice, will spearhead a collaborative effort to determine: (1) whether federal agencies can further update their language access policies and plans; (2) whether agencies are effectively reaching LEP individuals when disseminating information about federal resources, programs, and services; (3) whether agencies have considered updates or modifications to guidance to federal financial assistance recipients regarding their obligations to provide meaningful language access under the requirements of Title VI and its implementing regulations; and (4) whether agencies can adapt their digital communications to welcome LEP individuals. Pursuant to the memorandum, I am requesting that each agency provide an updated language access plan by May 20, 2023. We know that many other agencies have prioritized enhancing their ability to reach individuals with LEP as part of their [Equity Action Plans](#) under Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. We will be reaching out to your agencies to provide additional language access resources and support as you further update and modify your formal language access procedures and plans.

**3. Executive Order 12250 Clearance Process for New or Proposed Modifications to Regulations or Policies Regarding Civil Rights Enforcement Related to Federal Financial Assistance**

Under Executive Order 12250, the Justice Department is charged with ensuring the consistent and effective implementation of federal civil rights laws "prohibiting discriminatory practices in Federal programs and programs receiving federal financial assistance."<sup>2</sup> This responsibility includes review and clearance of regulations and policy guidance addressing the implementation of Title VI, Title IX, Section 504, and other related federal nondiscrimination laws and policies. This clearance process is important for helping to ensure that the federal government speaks in one, consistent voice, and that recipients of federal financial assistance are aware of their civil rights obligations and requirements.

Agencies are strongly encouraged to contact the Civil Rights Division of the Justice Department early in the process of developing new, or modifying existing, regulations or policy to ensure consistent and effective government-wide coordination of civil rights enforcement attached to federal financial assistance. This includes contacting the Civil Rights Division prior to sending submissions for the Unified Agenda of Federal Regulatory and Deregulatory Actions

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<sup>2</sup> Under Executive Order 12250, DOJ is charged with coordinating the implementation and enforcement by Executive agencies of various provisions of the following laws: (a) Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination, which includes the denial of meaningful language access for limited English proficient individuals, in federally funded programs and activities), 42 U.S.C. §2000d *et seq.*; (b) Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education programs and activities of recipients of federal funds), 20 U.S.C. §1681 *et seq.*; (c) Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination in both federally conducted and federally funded programs and activities), 29 U.S.C. §794; and (d) "any other provision of Federal statutory law which provides, in whole or in part, that no person in the United States shall on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Exec. Order 12250 at §1-201.

that implement the nondiscrimination provisions of laws covered by Executive Order 12250. In October 2021, I shared memoranda with your agencies about the longstanding Executive Order 12250 clearance process and its distinction from the Office of Management and Budget regulatory planning review. The memoranda also provided an overview of the Civil Rights Division's interagency technical assistance and collaboration that occurs within the Executive Order 12250 review process and a one-page summary guide of the Executive Order 12250 clearance process and corresponding timeframes. Finally, the memoranda explained the coordination of federal agencies' implementation of Title II of the Americans with Disabilities Act (ADA) and Section 504. I am redistributing these documents for your reference.

The Civil Rights Division's Federal Coordination and Compliance Section runs a comprehensive program of assistance and oversight to agency civil rights offices on Title VI, Title IX, and related program matters. In addition, the Division's Disability Rights Section coordinates the implementation and enforcement of Section 504 and other disability-related matters, and the Division's Educational Opportunities Section coordinates assistance on education-related matters. Recognizing that many of your agencies' documents may cover multiple statutes, these Sections work closely together to ensure that the Executive Order 12250 clearance process runs as smoothly and effectively as possible.

#### **4. Ensuring Coordinated Enforcement Efforts**

The influx of federal investment in new programs and projects across the country may also present new opportunities for agencies to partner in investigating and remedying discrimination. Interagency coordination of enforcement efforts are more important than ever. In order for us to maximize our enforcement capacity and advise you on potential challenges that may arise in your review of matters under Title VI or other funding statutes, and consistent with the Title VI Coordination Regulations, we encourage you to reach out to the Federal Coordination and Compliance Section<sup>3</sup> early and often to discuss matters under your review. Additionally, it is important that you inform us when:

- (1) Your agency receives a complaint alleging a recipient violated Title VI or a similar law that prohibits race, color, or national origin discrimination, and you know or believe that recipient also received federal financial assistance from other agencies at the time of the alleged discrimination.<sup>4</sup>
- (2) Your agency has worked with a recipient for more than 60 days to voluntarily resolve noncompliance with Title VI or a similar law prior to issuing a violation letter.<sup>5</sup>

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<sup>3</sup> In light of overlapping enforcement with the Educational Opportunities Section (EOS), the Department of Education should work with EOS to identify the best way to coordinate enforcement.

<sup>4</sup> 28 C.F.R. § 42.413(c) ("shall notify any other affected agency upon discovery of its jurisdiction"). We recommend notifying the Department concurrent with any other affected agencies being notified under 28 C.F.R. § 42.413(c).

<sup>5</sup> 28 C.F.R. § 42.411(a) ("shall promptly notify the [AAG] of any case in which negotiations have continued for more than sixty days . . .").

- (3) Your agency determined, after conducting a complaint investigation or compliance review, that a recipient violated Title VI or a similar law prohibiting race, color, or national origin discrimination and has started drafting a letter of concern (LOC) or letter of findings (LOF).<sup>6</sup>
- (4) Your agency has drafted an LOC or LOF based on Title VI or a similar law that indicates your agency will refer the matter to the Department for enforcement if voluntary resolution is not secured.<sup>7</sup>
- (5) Your agency is considering, or has been asked to consider, filing a statement of interest or amicus brief in a federal lawsuit alleging your recipient violated Title VI or a similar law.<sup>8</sup>
- (6) Your agency is named as a defendant in a federal lawsuit and it is alleged that your agency violated Title VI, a similar law, or the Administrative Procedure Act as it relates to implementation of these laws.<sup>9</sup>

Agencies with regional offices must ensure that regional staff comply with these requests. Please reach out to the Federal Coordination and Compliance Section if you have questions.

## **5. General Coordination and Sharing Promising Practices**

The Civil Rights Division will continue to engage your civil rights offices through its Title VI, Title IX, and Section 504 interagency working groups. Among other things, these working groups will discuss new developments and current enforcement practices for various statutes' nondiscrimination requirements applicable to federally funded programs and activities under these laws, as well as program-specific statutes that prohibit discrimination in federally funded programs. Please notify the Federal Coordination and Compliance Section of any initiatives or new approaches for enforcing grant-related civil rights laws, as well as any relevant substantial developments related to IJA funding recipients. Also, please do not hesitate to contact the Civil Rights Division with any concerns regarding relevant or substantial initiatives or new enforcement approaches. As directed by the Attorney General, the Civil Rights Division will continue to expand assistance to agencies through legal counsel on enforcement matters, information sharing, training, targeted partnerships, technical assistance on data collection and other civil rights enforcement topics, and the development of guidance. This includes coordination with agencies to determine whether recipients of federal financial assistance would benefit from additional guidance clarifying that federal civil rights requirements are separate and distinct from recipients' obligations to comply with applicable federal, state, and local environmental laws.

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<sup>6</sup> 28 C.F.R. § 42.407(d) ("shall promptly notify the [AAG] . . . of instances of probable noncompliance").

<sup>7</sup> 28 C.F.R. § 50.3(V) ("[DOJ] should be notified in advance of . . . other enforcement actions or procedures to be undertaken.").

<sup>8</sup> The Department of Justice's Justice Manual sets forth guidelines and factors that the Civil Rights Division considers when deciding whether to file a statement of interest or amicus brief in a federal lawsuit, and we encourage other agencies to consider those guidelines and factors as well. *See* Justice Manual, Section 8.2-170 (C-D), Standards for Amicus Participation and Statements of Interest.

<sup>9</sup> Any notification provided to the Civil Rights Division about matters where your agency has been named as a defendant is not a substitute for notifying other Department of Justice components, including the Civil Division.

### **Conclusion**

Working together, we have already made great strides to advance and promote civil rights. I look forward to continued partnership and engagement, and for our meeting together on February 1, 2023.

## **Appendix**

### **Key Points of Contacts:**

For further information and questions on the contents of this memorandum, please contact these Sections of the Civil Rights Division:

- Federal Coordination and Compliance Section: Christine Stoneman, Chief ([christine.stoneman@usdoj.gov](mailto:christine.stoneman@usdoj.gov)) and Daria Neal, Deputy Chief ([daria.neal@usdoj.gov](mailto:daria.neal@usdoj.gov));
- Disability Rights Section: Rebecca Bond, Chief ([rebecca.bond@usdoj.gov](mailto:rebecca.bond@usdoj.gov)) and Christina Galindo-Walsh, Deputy Chief ([christina.galindo-walsh@usdoj.gov](mailto:christina.galindo-walsh@usdoj.gov));
- Educational Opportunities Section: Shaheena Simons, Chief ([shaheena.simons@usdoj.gov](mailto:shaheena.simons@usdoj.gov)) and Whitney Pellegrino, Principal Deputy Chief ([whitney.pellegrino@usdoj.gov](mailto:whitney.pellegrino@usdoj.gov)).

### **Attachments**

- Memorandum: [\*Clearance Requirements for Title VI, Title IX, Section 504 and Related Nondiscrimination Regulations and Policy Guidance Documents\*](#)
- One-Page Summary on [\*Executive Order 12250 Clearance\*](#)
- Memorandum: [\*Coordination of Federal Agencies' Implementation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act\*](#)

### **2023 Meeting Schedule**

- February 1, 2023 (10-11:30 am)
- September 19, 2023 (2-3:30 pm)