



U.S. Department of Justice

Civil Rights Division

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

February 10, 2021

MEMORANDUM

TO: Federal Agency Civil Rights Directors and General Counsels

FROM: Principal Deputy Assistant Attorney General Pamela S. Karlan
Office of the Assistant Attorney General

SUBJECT: Executive Order 12250 Clearance Requirements and Coordination for
Nondiscrimination Regulations and Policy Guidance Documents and Related
Executive Orders

I am writing to provide you with critical information on the review and clearance of nondiscrimination regulations and policy guidance documents, as well as coordination on recently issued Executive actions. Ensuring consistency and clarity in the interpretation of federal civil rights laws is vital to enforcement of these laws. Exec. Order No. 12250, *Leadership and Coordination of Nondiscrimination Laws*, reprinted at 45 Fed. Reg. 72,995 (Nov. 4, 1980).¹ Under this Executive Order, the Department of Justice (DOJ) 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.” *Id.*

This responsibility includes review and clearance of regulations and policy guidance addressing the implementation of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act, and other related federal nondiscrimination laws and policies. Except for the approval of final rules effectuating Title VI and Title IX, the Attorney General has assigned to the Assistant Attorney General for the Civil Rights Division responsibility for the clearance process mandated under Executive Order 12250. With ongoing staff and leadership transitions occurring now, I am issuing a memorandum to remind your agencies of the longstanding Executive Order 12250 clearance process, its distinction from the Office of Management and Budget regulatory planning review, and an

¹ 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.

overview of the interagency technical assistance and collaboration that occurs within the Executive Order 12250 review. To further support your agency's understanding of the Executive Order 12250 clearance process and timeframes, I am also including a one-page summary guide. I hope that your agency will seek the expertise of the Civil Rights Division staff in implementing its policymaking agenda, not only because Division or Department approval is required for certain regulations and other documents but also because of the value of consistency in interpreting federal civil rights laws.

With the issuance of recent Executive actions addressing Administration priorities and related regulatory review in response to converging civil rights and public health exigencies, agency coordination with the Civil Rights Division, as appropriate under Executive Order 12250, is especially imperative for consistent and effective government-wide civil rights enforcement. There are a number of recently issued Executive Orders and Presidential memoranda that implicate the civil rights laws in directing agencies to address systemic inequities and discrimination.

For example, Executive Order No. 13988, [Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#), reprinted at 86 Fed. Reg. 7023 (Jan. 20, 2021) will require EO 12250 coordination to ensure consistent interpretation and enforcement of covered nondiscrimination provisions, and to meet EO 13988's April 30, 2021, deadline for agencies to (1) conduct a review of agency actions relating to any statute or regulation that prohibits sex discrimination, (2) consider whether to revise, suspend, rescind such actions, whether to promulgate new actions, and whether to take any other additional actions that would be consistent with the policy objectives outlined in the Executive Order, and (3) develop a plan to carry out any actions considered and adopted. DOJ will be contacting your agencies separately to discuss DOJ's consultation on and coordination related to these efforts, as directed in Section 2(d) of EO 13988 and EO 12250.

Other Executive actions ask agencies to assess and address inequities in environmental and health effects (*e.g.*, EO 13990, [Protecting Public Health and Environment and Restoring Science to Tackle the Climate Crisis](#)), race and national origin discrimination and harassment (*e.g.*, [Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States](#)), and the need for data collection (*e.g.*, EO 13985, [Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#)). In many cases where agency implementation of these orders intersects with federal funding nondiscrimination provisions, coordination will be necessary. Additionally, to the extent that agencies engage in any regulatory or policy actions to address any requirements related to the [Regulatory Freeze Pending Review](#) memorandum (Jan. 20, 2021) or the [Modernizing Regulatory Review](#) memorandum (Jan. 20, 2021) that implicate the Department's equities under Executive Order 12250, agencies are expected to seek Executive Order 12250 clearance.

I strongly urge agencies to contact the Civil Rights Division 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.

The 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 Disability Rights Section coordinates the implementation and enforcement of Section 504 and other disability-related matters, and the Educational Opportunities Section coordinates assistance on education-related matters. Recognizing that many of your agency's 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. In the upcoming days, Federal Coordination and Compliance Section staff will be contacting your staff to confirm and/or update information on their counterpart at your agency's civil rights office.

Finally, I am pleased to share that [DOJ's Title VI Legal Manual](#) is once again available on the Federal Coordination and Compliance Section website. The Manual is intended to promote the consistent and effective enforcement of Title VI by federal agencies and provides an abstract of Title VI principles and issues. But it is not a comprehensive directory of all cases or issues related to Title VI. Please contact the Federal Coordination and Compliance Section for questions on the Manual or Title VI.

For further information please contact these Sections of the Civil Rights Division with questions about the Executive Order 12250 clearance process and civil rights coordination:

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