



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

June 21, 2022

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES
PROVIDING FEDERAL FINANCIAL ASSISTANCE

FROM: THE ATTORNEY GENERAL *Merrick Garland*

SUBJECT: ENFORCEMENT OF NONDISCRIMINATION LAWS IN
PROGRAMS AND ACTIVITIES THAT RECEIVE
INFRASTRUCTURE INVESTMENT AND JOBS ACT OR
CONSOLIDATED APPROPRIATIONS ACT, 2022 FUNDING

Under the Infrastructure Investment and Jobs Act (IIJA) and the Fiscal Year 2022 Consolidated Appropriations Act (Consolidated Appropriations Act), the federal government is awarding an unprecedented amount of federal financial assistance under new and existing grant programs. The federal government must ensure that no person suffers unlawful discrimination in programs and activities that receive federal financial assistance under the IIJA or the Consolidated Appropriations Act.¹

Executive Order 12250 vests the Department of Justice (DOJ) with the responsibility and authority to ensure the consistent and effective enforcement of various statutes that prohibit discrimination by recipients of federal financial assistance. Those statutes include Title VI of the Civil Rights Act of 1964 (prohibiting discrimination on the basis of race, color, and national origin), Section 504 of the Rehabilitation Act of 1973 (prohibiting discrimination on the basis of disability), Title IX of the Education Amendments Act of 1972 (prohibiting sex discrimination, including discrimination on the basis of sexual orientation and gender identity, in education programs and activities), and a variety of program-specific statutes that prohibit discrimination in federally funded programs.² Because these prohibitions apply to recipients of federal financial assistance, it is imperative that federal agencies ensure that their recipients, whether direct grantees or subgrantees, do not discriminate.

As agencies begin obligating funding under existing programs and implementing newly funded grant programs, there are steps they can take to ensure that public funds are not being used in a discriminatory manner:

¹ This Memorandum does not extend to federal contracting, which is not covered under Executive Order 12250.

² This includes programs or activities funded in whole or in part with funds made available to carry out the Digital Equity Act of 2021, which was enacted as part of the IIJA and prohibits discrimination on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability.

Subject: Enforcement of Nondiscrimination Laws in Programs and Activities that Receive Infrastructure Investment and Jobs Act or Consolidated Appropriations Act, 2022 Funding

- Post prominent notices on their websites concerning the applicability of Title VI, Title IX, Section 504, and program-specific nondiscrimination requirements to programs and projects funded by the IJIA or the Consolidated Appropriations Act.
- Require recipients to adhere to the terms of their civil rights assurances and other agreements, including any provisions pertaining to grantees' data collection and reporting efforts, and consider ways to strengthen those requirements as appropriate.
- Use readily available data to identify situations in which communities may be harmed by, or excluded from the benefits of a federally financed program or activity on the basis of their protected class. Such circumstances may warrant pre- or post-award compliance reviews or technical assistance to applicants and recipients of IJIA or Consolidated Appropriations Act funding.
- Remind their grant recipients of their obligation under Title VI to take reasonable steps to provide limited English proficient persons with meaningful access to their programs or activities.
- Make sure grant recipients are aware of their obligation under Section 504 to provide auxiliary aids and services when needed to communicate effectively with people who have communication disabilities. Examples of these aids and services include, but are not limited to, sign language interpreters, video remote interpreting, notetakers, large print materials, captioning, and accessible electronic and information technology.
- Examine their current practices for ensuring nondiscrimination in IJIA or Consolidated Appropriations Act funded programs and projects, and evaluate whether these are effective at detecting and deterring discriminatory conduct. Such an examination should include an analysis of compliance procedures, and an assessment of the agency's criteria for conducting compliance reviews and opening or closing complaint investigations.
- Reiterate to grant recipients that federal civil rights requirements are separate and distinct from recipients' obligations to comply with applicable federal, state, and local environmental laws.
- Identify measures that would enhance coordination between their grant-making and civil rights enforcement components, including improved data collection, outreach, and training for new grant-making programs.

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Under the DOJ Title VI Coordination Regulation, 28 C.F.R. § 42.412, I have delegated to the Civil Rights Division my authority to promulgate directives to federal agencies to ensure that federal agencies carry out their responsibilities to vigorously enforce nondiscrimination laws. I have instructed the Civil Rights Division to fully utilize its oversight authority and to assist agencies in achieving nondiscrimination under Title VI, Title IX, and Section 504. This may include legal counsel on enforcement matters, the development of recipient guidance documents, information sharing, training, targeted partnerships, and the provision of technical assistance on data collection and other topics pertinent to civil rights enforcement.

In the coming weeks, the Civil Rights Division will reach out to your agencies' civil rights offices to discuss current practices for enforcing the prohibitions of Title VI, Title IX, and Section 504. Please notify the Civil Rights Division's Federal Coordination and Compliance Section (FCS) of any initiatives for enforcing grant-related civil rights laws or new approaches that you have adopted, plans to help grantees build their capacity to collect and submit data through any revised/new platform, including through training, as well as any relevant substantial developments related to IJJA or Consolidated Appropriations Act funding recipients. Also, under the Guidelines for the Enforcement of Title VI, 28 C.F.R. § 50.3, and the DOJ Title VI Coordination Regulation, 28 C.F.R. § 42.407(d), you should communicate to FCS any plans to terminate or refuse assistance or plans to refer matters for enforcement under Title VI.

DOJ is committed to working with you to further strengthen and improve enforcement of civil rights laws. If you have any questions, please call Christine Stoneman, Chief of the Federal Coordination and Compliance Section of the Civil Rights Division at (202) 616-6744.