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TITLE VI CIVIL RIGHTS NEWS @FCS

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WINTER 2017

Dear Colleagues:

Each January we commemorate the life and work of Dr. Martin Luther King, Jr., whose resilience, sacrifice, and faith in justice was instrumental in so many ways, including in compelling the passage of the Civil Rights Act of 1964. Dr. King tirelessly championed our nation's founding promise of equality of opportunity and brought us all closer to that ideal. He showed us that by working together through public engagement and appropriate government action, we can advance the cause of justice and equal opportunity for all people.

Under Title VI of the Civil Rights Act, federal agencies are charged with ensuring that federal financial assistance is not used to encourage, entrench, subsidize, or result in race, color, or national origin discrimination. The civil rights offices across federal agencies carry out this mission each day. Through Title VI outreach, investigations, compliance reviews, resolution agreements, guidance, and technical assistance to the recipients that implement federally funded programs and activities, agencies strive to ensure access to opportunities free from discrimination. But we do not do this work alone. Across the country, within recipient agencies, community groups, and legal services organizations, thousands of people are working to ensure the promise of our nation's civil rights laws.

A new report from the White House Legal Aid Interagency Roundtable underscores the connections between anti-poverty work and civil rights, as well as the importance of collaboration to achieve enforcement and outreach objectives. As Vanita Gupta, head of the Civil Rights Division, said in her November speech to the National Legal Aid and Defender Association Annual Conference, "we need to recognize that poverty, access to justice, police misconduct, criminal justice reform, and other civil rights concerns are not separate issues. They are one struggle."

During this month of reflection and resolution, we highlight examples of the federal agencies' Title VI efforts, recognizing that this work rests on the shoulders of history and was informed by engagement with the American people. In this issue's Agency Spotlight, Naomi Berry-Perez, Director of the Civil Rights Center at the U.S. Department of Labor, discusses the agency's latest efforts grounded in Title VI, including the recently published regulation implementing the nondiscrimination provisions of the Workforce Innovation and Opportunities Act. We also feature Frequently Asked Questions on the application of Title VI in the context of health care programs and activities. Please read on for news of recent Title VI settlement agreements, an update to the Title VI Legal Manual, briefs, outreach activities, and more.

We welcome your comments on this Newsletter at FCS.CRT@usdoj.gov and look forward to continuing to work with all of you to ensure the consistent and effective implementation of Title VI.

Sincerely,
Christine Stoneman
Principal Deputy Chief
Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice



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The questions and answers in this newsletter are intended only to provide guidance to federal agencies and other interested entities and are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States.



AGENCY SPOTLIGHT

AGENCY SPOTLIGHT



A Message from Naomi Barry-Perez, Director, Civil Rights Center, U.S. Department of Labor

The Civil Rights Center (CRC) in the Department of Labor (DOL) administers and enforces civil rights laws that protect individuals who apply to, participate in, work for, or benefit from programs and activities that receive federal financial assistance from DOL, including programs and activities that are operated by American Job Center partners (i.e., one-stop partners) as part of the American Job Center system (i.e., the one-stop delivery system).

One of CRC's most significant recent accomplishments is the December 2, 2016 publication of the final rule updating the nondiscrimination and equal opportunity [regulations of the bipartisan Workforce Innovation and Opportunity Act](#), (WIOA), 81 Fed. Reg. 87130 (Dec. 2, 2016) (go.usa.gov/x9UjH). WIOA mandates that DOL issue regulations to implement Section 188, which requires equal opportunity and prohibits discrimination based on race, color, religion, sex, national origin, age, disability, or political affiliation or belief in the workforce development system. Title I of WIOA also prohibits discrimination based on citizenship status or participation in a program or activity receiving federal financial assistance under WIOA.

Over the course of the year, CRC collaborated with a number of internal DOL agencies, as well as other federal agencies to issue a Notice of Proposed Rulemaking and the final rule to update the Section 188 nondiscrimination regulations. The final rule addresses developments in equal opportunity and nondiscrimination law since the substantive provisions of the rule were last updated in 1999. The final rule also revises nondiscrimination and equal opportunity enforcement procedures to reflect changes in recipient practices, including the use of digital and online systems to provide aid, benefits, services and training.



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Significant changes include:

- Expanding the explanation of the obligations to prevent discrimination based on national origin and to provide services to limited English proficient (LEP) individuals;
- Making changes to reflect the Americans with Disabilities Act Amendments Act of 2008; and
- Clarifying that sex discrimination includes discrimination on the basis of pregnancy, childbirth and related medical conditions, transgender status, gender identity, and sex-based stereotyping.
- The changes make the law easier to understand and follow, ultimately improving integration and inclusion of every community into the workforce development system.

CRC developed an extensive rollout plan and supporting documents for the final rule, including [fact sheets and FAQs \(go.usa.gov/x9Ujz\)](http://go.usa.gov/x9Ujz) that were translated into 10 languages. Additionally, CRC produced a video featuring the CRC Director, the Deputy Assistant Secretary of the Office of Disability Employment Policy, and the Deputy Assistant Secretary of the Employment and Training Administration to promote an understanding of the regulations. The final rule is effective as of January 3, 2017. The press release on the WIOA update can be found [here \(go.usa.gov/x9UDx\)](http://go.usa.gov/x9UDx). For more information about CRC, call (202) 693-6500 or visit our website at go.usa.gov/x9UNH.

DOL Enforcement Activity Highlights

During fiscal year 2016, CRC's Office of External Enforcement received 813 complaints (63 more than fiscal year 2015). CRC obtained 16 resolutions (final determinations and settlement agreements), and issued five initial determinations. Thirteen of the 16 cases resolved during FY 2016 involved formal findings of reasonable cause to believe the law had been violated. In addition to settling matters involving disability and sex discrimination, CRC obtained settlements in matters implicating Title VI. Those included settlement of two systemic cases involving failure to provide in-language services and information to LEP persons by three different state agencies, two in North Carolina (the workforce development agency and the Unemployment Insurance (UI) agency) and one in Kentucky (UI). The Kentucky matter also involved withdrawal of felony criminal fraud charges filed against an LEP claimant who did not adequately understand the English-only claims filing process. Find full descriptions of these cases in the Fall issue of the [Title VI Newsletter \(go.usa.gov/x9UDg\)](http://go.usa.gov/x9UDg).



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Agency Title VI Investigations and Resolutions



Department of Education Addresses Educational Barriers to Limited English Proficient Students and Parents in East Hartford, CT Public Schools:

On November 30, the U.S. Department of Education's Office for Civil Rights (ED OCR) reached a resolution agreement with Connecticut's East Hartford Public Schools after finding that the school district violated Title VI of the Civil Rights Act of 1964 by failing to provide adequate language services to LEP parents and guardians and by imposing unlawful barriers to enrollment for students based on national origin.

ED OCR's compliance review of the school district, which began in 2015, examined the district's enrollment and registration policies, procedures, and practices to determine whether LEP parents and guardians received similar access to information as compared to non-LEP parents and guardians. ED OCR determined that the district violated Title VI by not providing adequate language services to LEP parents and guardians, including the following:

- The district told LEP parents and guardians to provide their own interpreters to register students.
- The district did not properly assess whether LEP parents and guardians required language services.
- The district failed to provide any training to its staff serving as interpreters, including responsibilities regarding confidentiality and use of specialized terms.
- The district translated fewer than half of its registration and enrollment documents into Spanish, the most frequently used language by LEP parents and guardians.
- The district failed to provide any written instructions on obtaining oral translation of registration and enrollment documents for LEP parents and guardians who speak languages other than Spanish.
- Providing appropriate, qualified, and competent interpreters and translations during the enrollment and registration process;
- Issuing a "Notice of Language Assistance" in the district's 10 most commonly spoken languages about the district's free translation and interpreter services;
- Requesting only permissible material and information from all students registering and enrolling in the district.

A copy of the [resolution agreement](http://go.usa.gov/x9UBu) is available at go.usa.gov/x9UBu, and the [resolution letter](http://go.usa.gov/x9UBh) is available at go.usa.gov/x9UBh.



Department of Health and Human Services Reaches Voluntary Resolution Agreement with Erie County, NY Department of Social Services to Ensure Language Assistance Services for Limited English Proficient Individuals:

On December 22, the U.S. Department of Health and Human Services' Office for Civil Rights (HHS OCR) entered into a voluntary resolution agreement with the Erie County Department of Social Services (ECDSS) of Buffalo, New York to ensure appropriate language assistance services are provided to the LEP population it serves. HHS OCR initiated an investigation of the ECDSS after receiving a complaint from Neighborhood Legal Services,

ED OCR also examined whether the district discriminated against national origin minority students. ED OCR found that the district violated Title VI by requiring students to provide information or documentation, such as passports and social security cards, based on the perceived national origin of the student, particularly based on language, while not making similar requests of other students. The school district agreed to remedy the Title VI violations by taking several steps including, but not limited to, the following:

- Revising its registration and enrollment policies, procedures, and practices to comply with Title VI;



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filed on behalf of five LEP individuals. The complaint alleged that ECDSS failed to provide language assistance to ensure access to its information and services, as required to comply with the national origin discrimination protections of Title VI. ECDSS agreed to improve its language assistance services with the following:

- Assign a Title VI coordinator.
- Conduct and complete an assessment of the linguistic needs of the affected population served by ECDSS.
- Identify and translate all vital documents provided by ECDSS.
- Develop and implement a language access plan with written policies and procedures on providing assistance to individuals with LEP.
- Develop and implement mandatory training for all staff.
- Adopt a grievance procedure.
- Post a Notice of Nondiscrimination.
- Post a Nondiscrimination Statement.
- Post Taglines in at least 10 languages.

The agreement resolves violations found under Title VI and reflects the interpretations of the standards in HHS OCR's regulation implementing the language access requirements of Section 1557 of the Affordable Care Act. The full text of the voluntary agreement can be found at go.usa.gov/x9UKc. See the following links for additional information from HHS OCR on nondiscrimination on the basis of [race](http://go.usa.gov/x9UKC) (go.usa.gov/x9UKC), [color](http://go.usa.gov/x9UKC) (go.usa.gov/x9UKC), or [national](http://go.usa.gov/x9UKC)

[origin](http://go.usa.gov/x9UK4) (go.usa.gov/x9UK4, including [limited English proficiency](http://go.usa.gov/x9UK8) at go.usa.gov/x9UK8), as well as the [press release](http://go.usa.gov/x9UKj) of the resolution agreement (go.usa.gov/x9UKj).



Department of Housing and Urban Development Approves Settlement Between East Chicago Housing Authority and Fair Housing Organization:

On November 4, the U.S. Department of Housing and Urban Development (HUD) reached an agreement to resolve discrimination claims based on race, color, national origin, familial status and disability against the East Chicago Housing Authority (ECHA). The Sargent Shriver National Center on Poverty Law, on behalf of residents, alleged that ECHA violated the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act in the relocation of residents at the West Calumet Public Housing Complex (WCPHC) due to lead and arsenic contamination of the soil surrounding the complex. The Shriver Center's complaints alleged that the ECHA engaged in discriminatory housing practices in its management of the relocation because residents were moved into poor, segregated communities with similar or serious levels of environmental contamination. The agreement resolves the complaints and serves as the foundation to ensure that WCPHC residents are

relocated in a coordinated manner to safe housing in areas of opportunity.

Under the terms of the agreement, the ECHA will ensure it offers relocation benefits to all eligible WCPHC residents, including residents who moved out prior to the lead disclosure due to health concerns or who have children under the age of six. These relocation benefits include a Housing Choice Voucher for residents and their families. Additionally, the ECHA will reimburse any rent paid by tenants for November 2016 and waive the rent owed by WCPHC residents residing at WCPHC from July 22, 2016 through March 31, 2017 or the end of their tenancy.

A [press release](http://go.usa.gov/x9UKR) is available at go.usa.gov/x9UKR and a [voluntary compliance agreement](http://go.usa.gov/x9UKQ) is available at go.usa.gov/x9UKQ.

Department of Housing and Urban Development Announces Landmark Settlement to Expand Affordable Housing in Baltimore County, MD:

On March 15, HUD entered a settlement agreement with Baltimore County, Maryland to expand affordable housing in higher opportunity areas throughout the County. The settlement will serve as a catalyst to promote housing mobility and to assist the County and its surrounding areas in developing comprehensive affordable housing planning and strategies that address residential segregation.

The Baltimore County Branch of the NAACP, Baltimore Neighborhoods, Inc., and three individuals, filed a complaint with HUD claiming that



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the County: 1) had not developed affordable housing in areas other than those that were concentrated by race and poverty; 2) focused only on providing rental housing for seniors rather than families; 3) did not have adequate numbers of accessible units available for people with disabilities; and 4) failed to affirmatively further fair housing.

Under the terms of the agreement, Baltimore County agreed to:

- Invest \$3 million annually for 10 years to create 1,000 affordable housing units over a 12 year period through new construction or rehabilitation in neighborhoods that provide access to opportunity. At least 500 of the units will have three or more bedrooms to accommodate families with children, and at least one-third of the units will be accessible and made available to people with disabilities.
- Provide Housing Choice Vouchers to at least 2,000 families that will increase access to affordable housing across the county.
- Ensure all of its units comply with the accessibility requirements of the Fair Housing Act, and will provide an additional \$300,000 annually for 10 years to finance structural modifications to make other affordable housing units in Baltimore County accessible.
- Proactively market the units to potential tenants who are least likely to apply, including African-American families and

families with a member who has a disability. The County will also run a mobility counseling program to offer expanded housing opportunities to families.

- Seek the enactment of legislation that prohibits discrimination based on source of income.
- Pay the three individual claimants \$150,000 in monetary relief.

A [press release](https://www.go.usa.gov/x9U5d) is available at [go.usa.gov/x9U5d](https://www.go.usa.gov/x9U5d) and the [settlement agreement](https://www.go.usa.gov/x9U5w) is available at [go.usa.gov/x9U5w](https://www.go.usa.gov/x9U5w).



Department of Justice Issues Letter to New Jersey Department of Corrections on Results of On-Site Visit:

On January 10, the Federal Coordination and Compliance Section (FCS) of the U.S. Department of Justice's (DOJ) Civil Rights Division sent a [letter to the New Jersey Department of Corrections](https://www.go.usa.gov/x9U5e) (NJDOC) reporting the results of a September 2016 on-site visit ([go.usa.gov/x9U5e](https://www.go.usa.gov/x9U5e)). NJDOC entered into a [memorandum of agreement with DOJ in October 2014](https://www.go.usa.gov/x9U5z) ([go.usa.gov/x9U5z](https://www.go.usa.gov/x9U5z)) to resolve an investigation of language assistance services provided to the LEP individuals at NJDOC facilities, and one of the terms of that agreement was an on-site visit.



Department of Transportation Reaches Agreement with Alabama Law Enforcement Agency to Ensure Equitable Driver License Office Access:

On December 28, the Department of Transportation (DOT) announced an agreement with the Alabama Law Enforcement Agency (ALEA) to ensure that driver licensing services in the state will be available to all residents, regardless of race, color or national origin, in compliance with Title VI of the Civil Rights Act of 1964. In late 2015, the State of Alabama announced plans to close or reduce service to 31 driver license offices throughout the state. Because a preliminary analysis of the closures suggested that the service modifications would disproportionately impact African-American residents, DOT opened an investigation into whether ALEA, as a recipient of DOT funds, had violated the Title VI prohibition against race discrimination by recipients of federal financial assistance. The agreement came after a ten-month investigation, which included review of data related to the operation of the State's driver licensing program and interviews with residents impacted by the program. Under the agreement, ALEA will ensure that Alabama residents are not, directly or through other means,



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underserved by ALEA's driver licensing programs on the basis of race, color or national origin. The agreement also establishes a working relationship between DOT and ALEA for ensuring that the state's driver licenses services continue to comply with Title VI in the future. Specifically, ALEA agreed to:

- Expand the hours of operation for district and field driver license offices throughout the Black Belt region.
- Appoint a Title VI coordinator who will be responsible for the development and operation of ALEA's Title VI program, as well as for the provision of Title VI training to ALEA's staff.
- Prepare and submit a Community Participation Plan within 90 days to achieve robust community participation throughout all stages of the planning and decision-making processes for ALEA's programs and activities in connection with licensing services to ensure that communities are informed about potential impacts, that they have meaningful input into the process, and that ALEA officials hear and consider diverse views.
- Submit any proposed modifications to field office hours or driver's license services to USDOT for prior approval.

A [press release](http://go.usa.gov/x9U5b) is available at go.usa.gov/x9U5b and the [settlement agreement](http://go.usa.gov/x9U5j) is available at go.usa.gov/x9U5j.

Agency Title VI Regulatory Updates



The Environmental Protection Agency Withdraws its Notice of Proposed Rulemaking:

On December 29, 2016 the Environmental Protection Agency (EPA) issued a [notice to withdraw publication of its proposed rule](http://go.usa.gov/x9UBp) (go.usa.gov/x9UBp) to amend its nondiscrimination regulation, 40 C.F.R. Part 7, implementing Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1972, Section 13 of the Federal Water Pollution Control Act Amendments of 1972, and the Age Discrimination Act of 1975. The proposed rule was intended to address compliance information requirements, post-award reviews, complaint investigations, and strict deadlines for agency action.

After consideration of all comments received on the proposed rule, including several adverse comments regarding the proposal to remove numeric deadlines from the administrative complaint processing regulations, EPA decided not to publish the proposed amendments as a final rule. Instead, EPA plans to achieve prompt, efficient, and effective docket management by implementing and evaluating its internal procedural guidance documents and accountability

measures. EPA has stated that its withdrawal of this proposed rulemaking does not foreclose the initiation of future rulemaking to amend its nondiscrimination regulation after further evaluation of its internal guidance and accountability measures.



Department of Treasury Publishes Final Rule Implementing Title VI:

On December 13, the U.S. Department of the Treasury issued its [final rule](http://go.usa.gov/x9UB8) (go.usa.gov/x9UB8) implementing the nondiscrimination provisions of Title VI for all its federally assisted programs and activities. The promulgation of this final regulation will provide guidance to Treasury's recipients of federal financial assistance on complying with Title VI and is intended to promote consistent and appropriate enforcement of Title VI by Treasury's components. Through this final rule, Treasury also notifies beneficiaries of its federally assisted programs of the protections against discrimination based on race, color, and national origin. The final rule is effective as of January 12, 2017. Additionally, on December 19, Treasury issued a notice regarding the relationship between the Low Income Housing Tax Credit and the Fair Housing Act ([Revenue Ruling 2016-29](http://perma.cc/9WKZ-9WKB), perma.cc/9WKZ-9WKB).



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Department of Labor Publishes Nondiscrimination Regulation:

On December 2, DOL issued the [final rule](http://go.usa.gov/x9UBZ) (go.usa.gov/x9UBZ) of the nondiscrimination regulation implementing the Workforce Innovation and Opportunity Act (WIOA). Section 188 of WIOA incorporates the nondiscrimination prohibitions of Title VI and clarifies the obligations of recipients of federal financial assistance to provide access to services for LEP individuals. See the Agency Spotlight section for more information on WIOA.

Agency Title VI Briefs and Decisions



Court Relies on Department of Justice's Brief in Denying the Dismissal of Discrimination Case Alleging School District Failed to Translate Documents for Limited English Proficient Students with Disabilities and Their Parents:

On November 30, the District Court for the Eastern District of Pennsylvania denied the Philadelphia School District's motion to dismiss a complaint

alleging that the school district provides inadequate translation and interpretation services to LEP students with disabilities and their parents. In *T.R. v. Sch. Dist. of Philadelphia*, 2:15-cv-04782-MSG (E.D. Pa. Nov. 30, 2016), the plaintiffs alleged national origin discrimination by the school district for failing to provide complete and timely translation and interpretation of special education and general education documents and meetings.

DOJ's Civil Rights Division filed a brief in the case on January 25, 2016, explaining that, under Title VI case law and federal regulations and guidance, the school district has an obligation to provide LEP parents a meaningful opportunity to participate in the development of their children's education programs, and that the plaintiffs have adequately alleged intentional discrimination under the relevant Title VI standards. The brief also supported the plaintiffs' claims under the Equal Educational Opportunities Act of 1974 (EEOA). On September 28, DOJ participated in oral arguments, and in the November 30 decision, the court relied on arguments raised in the brief in refusing to dismiss the EEOA and Title VI claims. In particular, the court held that the Supreme Court's decision in *Lau v. Nichols*, 414 U.S. 563 (1974) "instructs that language based discrimination can constitute an actionable form of national origin discrimination."

Agency Title VI Guidance, Directives, Initiatives, and Reports



Department of Education Issues Notice of Proposal for 2017-18 Civil Rights Data Collections:

On December 30, ED OCR issued notice of its proposal for the 2017-18 Civil Rights Data Collections (CRDC) in the Federal Register ([81 Fed. Reg. 96,446](http://81.Fed.Reg.96,446), go.usa.gov/x9U9h). The entire package is available for 60 days for comment on regulations.gov at go.usa.gov/x9UX3. The documents that summarize the proposed changes and ask the directed questions are Supporting Statement A and Attachment A-5, both of which are available in the Supporting Statements folder at go.usa.gov/x9UXa. In addition, the CRDC collection tool for the 2015-26 school year will open for states on January 17, so they can pre-populate any data items they have for their school districts. School districts can start submitting their data for the 2015-16 school year on February 6.

Department of Education Issues Annual Report on Equal Educational Opportunity and Compilation Report Highlighting 2009-2016 Civil Rights Activity:



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On December 8, the ED OCR released its FY 2016 Annual Report, [*Securing Equal Educational Opportunity*](http://go.usa.gov/x9UXg) (go.usa.gov/x9UXg), and a compilation report highlighting the activities of the office from 2009-2016 called [*Achieving Simple Justice*](http://go.usa.gov/x9UXT) (go.usa.gov/x9UXT). The press release on both documents can be found [here](http://go.usa.gov/x9UXj) (go.usa.gov/x9UXj).

Department of Education Issues Report on Promising Practices to Address Inequalities for Minorities and Low-Income Students in Higher Education:

On November 18, ED released a report, [*Advancing Diversity and Inclusion in Higher Education*](http://go.usa.gov/x9UXZ) (<http://go.usa.gov/x9UXZ>), on the continuing educational inequities and opportunity gaps facing students of color and low-income students in accessing quality higher education and the agency's efforts to address these issues by promoting diversity in institutions of higher education. The report also underscores promising practices that colleges are taking to advance success for students of every background. In conjunction with the report, Secretary John B. King, Jr. issued a [*Dear Colleague Letter*](http://go.usa.gov/x9UXB) (go.usa.gov/x9UXB) calling on institutions to do all they can to eliminate harassment and discrimination to ensure a positive environment for all students.

Department of Education Launches Central Database for Identifying Civil Rights Coordinators in U.S. Schools:

In November 2016, ED OCR launched its first-ever [*Civil Rights Coordinators*](http://go.usa.gov/x9UXK) (go.usa.gov/x9UXK) search page that allows the public to search the names and contact information for the civil rights coordinators (Title IX coordinators, Section 504/Title II coordinators, and Title VI coordinators) of almost every school district in the country. Civil rights coordinators often have different titles at different schools, but they are the school employees designated to coordinate the school's compliance with civil rights laws. They play a vital role in ensuring that, regardless of their race, color, national origin, sex, or disability, students have equal educational opportunities.

Department of Education Awards More Than \$6.5 Million for New Equity Assistance Centers to Support Equitable Education Opportunities for All Students:

On September 29, [*ED announced the award of more than \\$6.5 million in grants*](http://go.usa.gov/x9UX8) (go.usa.gov/x9UX8) to fund four regional [*Equity Assistance Centers*](http://go.usa.gov/x9UX9) (go.usa.gov/x9UX9) to support schools and communities creating equitable education opportunities for all students. These centers, authorized by Title IV of the Civil Rights Act of 1964, will provide technical assistance in the preparation and implementation of plans for the desegregation of public schools

(including desegregation based on race, national origin, sex, and religion). The centers will also provide resources and training to combat issues such as hate crimes, implicit bias, racial prejudice, and bullying.

Department of Education Awards \$91 Million to School Districts in Five States to Support Racial and Socioeconomic Integration Through Magnet Schools:

On September 26, [*ED announced the award of nine new grants*](http://go.usa.gov/x9UXX) (go.usa.gov/x9UXX) under the FY 2016 Magnet Schools Assistance Program (MSAP) competition. The awards total \$91,022,144 and will be distributed over a three-year period. MSAP funding will provide grantees with the opportunity to implement magnet schools that will reduce, eliminate, or prevent minority group isolation; produce high student academic achievement; promote diversity and socioeconomic desegregation; and deliver innovative, theme-based curriculum.



Department of Homeland Security Develops New Nondiscrimination Notice for Federal Funding Recipients:

In September 2016, the U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL),



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in collaboration with the Federal Emergency Management Agency's (FEMA) Office of Equal Rights and the Office of Disability Integration and Coordination, issued a notice to DHS recipients on their obligations to ensure nondiscrimination in the provision of federally assisted services to disaster survivors. The notice provided information on the prohibitions against race, color, and national origin (including limited English proficiency) discrimination under Title VI and disability discrimination under Section 504, with links to resources on implementing the requirements of both statutes. FEMA issued the notice to DHS recipients and subrecipients in connection with the 2016 Louisiana floods and later to those impacted by Hurricane Matthew. DHS intends to disseminate the notice to recipients during future disasters.

The [notice to recipients](http://go.usa.gov/x9UX5), available at go.usa.gov/x9UX5, is related to CRCL's larger effort to support individual and community resilience to natural disasters, acts of terrorism, or other emergencies. Through guidance, planning, and coordination, CRCL seeks to ensure that civil rights and civil liberties are respected during the development of emergency-related federal policies and procedures. CRCL also continues to coordinate with FEMA to develop and disseminate information to DHS recipients and other stakeholders to ensure the protection of individuals with disabilities, immigrant populations, and racially and ethnically diverse communities, including those with limited English proficiency.



Department of Justice Updates Chapters of the Title VI Legal Manual:

On January 12, DOJ updated sections of the [Title VI Legal Manual](http://go.usa.gov/x9UXN) (go.usa.gov/x9UXN) addressing private right of action, employment, retaliation, and intentional and disparate impact discrimination under Title VI. DOJ has updated the Title VI Legal Manual pursuant to its mandate under Executive Order 12250 to ensure the consistent and effective enforcement of Title VI and related statutes.

Department of Justice Releases "TIPS on Building an Effective Staff Language Service Program" as Part of Its Ongoing Translation Interpretation and Procurement Series:

On January 10, FCS, in consultation with the U.S. Office of Personnel Management, issued [TIPS on Building an Effective Staff Language Service Program](http://go.usa.gov/x9UNS)" (go.usa.gov/x9UNS), a resource to help organizations understand the process of recruiting, hiring, assessing, compensating, and retaining multilingual employees. This resource and additional tools are available at go.usa.gov/x9UNu.

Department of Justice Issues Overview of Key

Accomplishments and Highlights from the Civil Rights Division:

On January 6, the Civil Rights Division of DOJ issued a report entitled [Fulfilling America's Promise of Equal Justice and Equal Opportunity for All](http://go.usa.gov/x9UNj) (go.usa.gov/x9UNj) highlighting the activities of the office from 2009-2016.



U.S. Department of Justice and White House Legal Aid Interagency Roundtable Issues First Annual Report:

On November 30, DOJ and the White House Legal Aid Interagency Roundtable (WH-LAIR) issued a report, [Expanding Access to Justice, Strengthening Federal Programs](http://go.usa.gov/x9UZn) (go.usa.gov/x9UZn), which documents the significant steps that the 22 federal agency members of WH-LAIR have taken over the past four years to integrate civil legal aid into innovative interagency collaborations that support and protect low-income and vulnerable populations that are frequently overlooked and often underserved. As the report states, civil legal aid is essential because unlike criminal cases where there is typically a constitutional right to counsel, there is no right to a lawyer in most civil cases, leaving many low- and moderate-income Americans without any legal assistance.



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Through its work, WH-LAIR has helped to educate legal aid organizations about the statutes the federal agencies enforce, filing complaints, accessing free resources, and tabulating census data in civil rights cases.

Highlighted in the report are numerous examples of agencies working with legal aid organizations to advance common goals. This includes examples of how legal aid can help identify and resolve civil rights issues faced by their clients, whether they are school children, people seeking unemployment insurance and workers compensation, victims of natural disasters, or those seeking equity in transportation and housing:

Housing: federal agencies continue to collaborate with legal aid providers to enforce the Fair Housing Act to prevent discriminatory practices – whether it is sexual harassment by landlords against low-income women or local government efforts to exclude group homes for people with disabilities – that often threaten the housing rights of already vulnerable populations, placing them at risk of becoming homeless.

Employment: federal agencies partnered with legal aid organizations around the country to prevent discrimination based on citizenship, immigration status and national origin.

Education: federal agencies

provided information to legal aid organizations on disrupting the school-to-prison pipeline and how to access and tabulate census data in civil rights cases.

Emergency and disaster management: several federal agencies collaborated to protect the civil rights of those affected by disasters, urging recipients of federal disaster funds to work with legal aid organizations before, during and after an emergency.

Child welfare: federal agencies issued guidance documents to courts and child welfare agencies to address civil rights concerns based on race, color, and national origin.

Reentry: federal agencies spotlighted grants and new training and technical assistance to help people who served their time, paid their debt to society, and deserve a chance to restart their lives and contribute to their communities. For example, this included grants that deliver legal aid to eligible public housing residents under the age of 25 and technical assistance to local legal aid programs, public defender offices and reentry services providers to help with record-cleaning, expungement and related civil legal services.

See the following links for the [fact sheet \(go.usa.gov/x9UZP\)](https://www.factsheet.gov/x9UZP) and [press release \(go.usa.gov/x9UZE\)](https://www.pressrelease.gov/x9UZE) on the report and for further information on [WH-LAIR \(go.usa.gov/x9UZy\)](https://www.wh-lair.gov/x9UZy).

Agency Title VI Outreach and Training



Department of Justice Addresses Importance of Language Assistance Services for Limited English Proficient Individuals in Law Enforcement and State Court Interactions:

On December 15, FCS presented on language assistance services at a legal seminar, coordinated by Massachusetts Law Reform Institute entitled, “Title VI Language Access.” FCS addressed the importance of language assistance services for LEP individuals in the justice system, with a focus on interactions with law enforcement and state courts.

Department of Justice Discusses Title VI Civil Rights Enforcement in Child Welfare:

On November 16, FCS presented on a panel at the American Association of Health and Human Services Attorneys 2016 conference in Norfolk, VA addressing civil rights enforcement in child welfare. FCS attorneys discussed the October [2016 joint agency guidance on Title VI and Child Welfare \(go.usa.gov/x9UWj\)](https://www.2016jointagencyguidanceontitleviandchildwelfare.gov/x9UWj), issued by the Departments of Health and Human Service and Justice.



FREQUENTLY ASKED QUESTIONS

Department of Justice Addresses Recent Title VI Enforcement at the Annual Conference of the National Legal Aid and Defenders Association Conference:

On November 10-11, the head of the Civil Rights Division gave a keynote speech to the National Legal Aid and Defenders Association 2016 Annual Conference in Indianapolis, Indiana, highlighting the nexus between civil rights and legal aid. At the same conference, FCS participated in workshop sessions related to Title VI, including the importance of engagement with stakeholders when addressing race and national origin discrimination.

Department of Justice Conducts Title VI Webinar on Language Access Obligations:

On November 4, FCS presented a webinar to Arizona Legal Services staff, advocates from Community Legal Services, Southern Arizona Legal Aid, and DNA People's Legal services, attorneys and paralegals involved in domestic violence work, community action, and fair housing. The webinar focused on the language access obligations of recipients of federal financial assistance.

Department of Justice Discusses Access to Justice for Limited English Proficient Asian Pacific Americans in the Courts System:

On November 3, FCS participated

in a forum on language access in the courts system at the annual National Asian Pacific American Bar Association (NAPABA) convention in San Diego.

Department of Justice Hosts Panel Discussion on Recent Title VI Matters Addressing Environmental Equity and Vulnerable Communities:

On October 25, FCS facilitated a panel discussion on recent Title VI matters at the Revitalizing Vulnerable Communities 2016 National Training and Resources Summit. The goal of Summit was to enhance collaboration on environmental, health, and economic concerns to ensure that vulnerable populations have access to information, services, and data to support increased resiliency, public participation, and sustainability. The panel highlighted the joint agency [Title VI guidance on nondiscrimination in emergency management \(http://go.usa.gov/x9UWW\)](http://go.usa.gov/x9UWW), DOJ's Statement of Interest in [Drayton v. McIntosh County, et al. \(http://go.usa.gov/x9UWZ\)](http://go.usa.gov/x9UWZ), and DOT's [Voluntary Resolution Agreement \(perma.cc/FMT5-LBYG\)](http://perma.cc/FMT5-LBYG) of a Title VI complaint about the Corpus Christi, Texas Harbor Bridge Project as examples of recent Title VI measures to protect vulnerable communities from discrimination based on race, color, and national origin discrimination in federally funded programs.

FREQUENTLY ASKED QUESTIONS

What qualifies as "Federal financial assistance" for purposes of civil rights complaints handled by the Department of Health and Human Services Office for Civil Rights?

The following is a nonexhaustive list of examples of recipients of federal financial assistance from the U.S. Department of Health and Human Services Office for Civil Rights (HHS OCR): Health care providers participating in the Children's Health Insurance Program (CHIP) and Medicaid programs; hospitals and nursing homes (recipients under Medicare Part A); certain Medicare Advantage Plans (e.g., HMOs and PPOs) (recipients under Medicare Part C); Prescription Drug Plan sponsors and Medicare Advantage Drug Plans (recipients under Medicare Part D); grantees. As recipients of federal financial assistance, these entities are subject to the nondiscrimination requirements under Title VI and its implementing regulations.

Must Medicaid, CHIP and Medicare Part A providers, and organizations offering Medicare Part C and Part D plans, provide interpreters for LEP beneficiaries and translate their documents into languages other than English?

THE FEDERAL COORDINATION AND COMPLIANCE SECTION
*Ensuring Consistent and Effective Title VI Enforcement
Across the Federal Government*

Under Title VI and its implementing regulations, recipients of federal financial assistance must take reasonable steps to ensure meaningful access to their programs, services, and activities by eligible LEP persons. To comply with these federal requirements, Medicaid and CHIP providers, Medicare Part A providers, and organizations offering Medicare Part C and Part D Medicare Advantage Plans and Prescription Drug Plans, for example, may need to provide language assistance services, such as interpreters and translated documents. Such services should be provided free of charge and in a

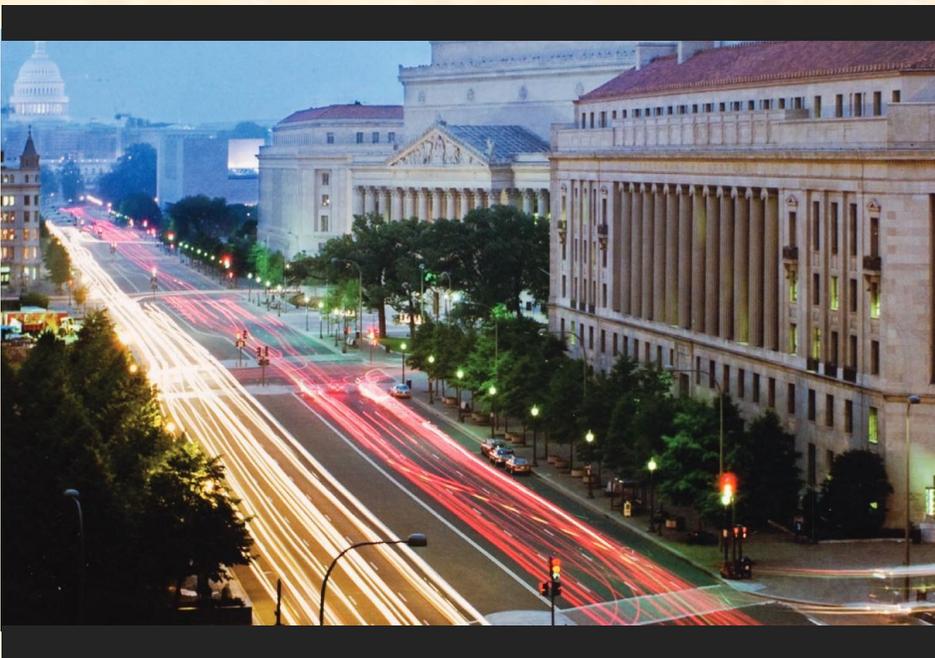
timely manner. Also, for markets with a significant non-English speaking population, Medicare regulations for the Medicare Advantage Program and Voluntary Medicare Prescription Drug Benefit program require recipients to provide materials in the language of these individuals. See 42.C.F.R. 422.2264(e) and 423.2264(e). Recipients are encouraged to implement language access plans.

May recipient hospitals and nursing homes take into account the racial preferences of patients or residents with regards to staff and room assignments?

No. HHS OCR's longstanding "Guidelines for Compliance of Hospitals with Title VI of the Civil Rights Act of 1964," make clear that assignment of hospital staff or patient rooms based on the racial preference of the patient violates Title VI. Hospitals and nursing homes are similarly prohibited from honoring patient requests for room transfers based on race. HHS OCR referenced this longstanding guidance in two resolution agreements executed in 2015. See [Hurley Agreement \(go.usa.gov/x9UWr\)](http://go.usa.gov/x9UWr) and [Shiawassee Resolution Agreement \(go.usa.gov/x9UW2\)](http://go.usa.gov/x9UW2).

Does Title VI apply to hospital closures and relocations?

Yes. Hospital relocations and closures are sometimes challenged on the grounds that they will force residents of predominantly minority neighborhoods to travel greater distances for service, without an attempt to demonstrate that this would cause a hardship or that the quality of service and care would be diminished. For example, in 2010 HHS OCR investigated a complaint against the University of Pittsburgh Medical Center (UPMC), which alleged the intended closure of UPMC's Braddock Hospital in Braddock, Pennsylvania would have a disparate impact on African-Americans. HHS OCR and UPMC reached a voluntary resolution in which UPMC agreed to provide a range of services. See [voluntary resolution agreement \(go.usa.gov/x9URX\)](http://go.usa.gov/x9URX).



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