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# TITLE VI CIVIL RIGHTS NEWS @FCS

VOLUME 3 | Issue 1

SPRING 2016

Dear Colleagues,

Our Title VI Newsletter is now available in a robust searchable web-based format! This Spring 2016 issue continues to expand our efforts to share important federal agency action to enforce Title VI of the Civil Rights Act of 1964 – the law that prohibits race, color, and national origin discrimination by recipients of federal financial assistance. So far, fiscal year 2016 has seen federal agency civil rights offices use Title VI to pursue nondiscrimination in education, policing, refugee resettlement, court access, transportation, worker’s compensation, child welfare, healthcare, environmental justice, and other critically important programs and activities funded by the federal government.

Federal civil rights offices use multiple tools to prevent and address discrimination by recipients of taxpayer dollars. In this issue, we highlight litigation in which the United States has asserted Title VI, constitutional, and other claims to address national origin discrimination against Syrian refugees in Indiana and Texas; to bring constitutional policing to Ferguson, Missouri; and to ensure that limited English proficient parents of students with disabilities in Philadelphia are afforded the opportunity to meaningfully participate in the development of their children’s education programs.

This issue also describes civil rights rulemaking and underscores outreach and engagement activities between federal civil rights offices and advocates, recipients, and other stakeholders. And it spotlights several administrative enforcement matters, including voluntary resolutions of Title VI investigations in Washington, Texas, California, and New Jersey. The agreements exemplify the ability to achieve compliance with Title VI through voluntary means.

The Federal Coordination and Compliance Section will offer trainings for federal civil rights agency staff throughout the year and facilitate roundtable interagency discussions as we continue to support Title VI coordination of enforcement, policy, and compliance efforts across the federal government.

Finally, we welcome several new civil rights directors: Leslie Proll, Department of Transportation; Willisa Donald, FEMA; and Roberto Contreras, Food and Nutrition Service, USDA. I look forward to a year of continued robust engagement with agencies and stakeholders and joint pursuit of justice using the full range of Title VI tools.

Sincerely,

Christine Stoneman  
Acting 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.*



# Title VI Civil Rights News @FCS

## FEDERAL PROTECTIONS AGAINST DISCRIMINATION

### Federal Protections Against National Origin and Religious Discrimination

Federal law makes it unlawful to discriminate on the basis of national origin and religion in many different areas, including federally assisted services, programs, and activities. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in federally assisted programs.

The Department of Justice's Civil Rights Division provides the following information as a reminder that individuals who believe that they are a victim of discrimination based on their actual or perceived national origin or religion (or any other protected category) should contact the Division. Information regarding how to send complaints or report civil rights violations is on our website at <http://www.justice.gov/crt/how-file-complaint>.

You may also contact us at:  
**(888) 736-5551 or (202) 514-3847**  
[CRT.NationalOrigin@usdoj.gov](mailto:CRT.NationalOrigin@usdoj.gov)  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530

or

**Department of Justice - Office of Justice Programs, Office for Civil Rights**  
810 7th St., NW  
Washington, D.C. 20531  
Phone: (202) 307-0690

Complaint Verification Form: <http://ojp.gov/about/ocr/pdfs/cvf.pdf>

*Federal Protections Against National Origin Discrimination* (Aug. 2010), [www.justice.gov/crt/publications/natorigin2.pdf](http://www.justice.gov/crt/publications/natorigin2.pdf); Available in the following languages in PDF: [Arabic](#), [Cambodian](#), [Chinese](#), [Farsi](#), [French](#), [Haitian Creole](#), [Hmong](#), [Hindi](#), [Korean](#), [Laotian](#), [Punjabi](#), [Russian](#), [Spanish](#), [Tagalog](#), [Urdu](#), and [Vietnamese](#)

*Protecting the Religious Freedom of All: Federal Laws Against Religious Discrimination* (Aug. 2015), [www.justice.gov/crt/combating-religious-discrimination-and-protecting-religious-freedom-10](http://www.justice.gov/crt/combating-religious-discrimination-and-protecting-religious-freedom-10)

Other federal agencies also have the authority to enforce certain federal civil rights laws, such as Title VI of the Civil Rights Act of 1964. These agencies include the Department of Agriculture, Department of Education, Department of Health and Human Services, Department of Homeland Security, and the Department of Housing and Urban Development.

#### **Department of Agriculture– Assistant Secretary for Civil Rights**

1400 Independence Ave., SW  
Washington, D.C. 20250  
Phone: (202) 690-7442  
Toll Free: (866) 632-9992  
Fax: (202) 690-7442

Email: [program.intake@usda.gov](mailto:program.intake@usda.gov)

Website: [www.ascr.usda.gov](http://www.ascr.usda.gov)

Complaint form: [https://www.ascr.usda.gov/sites/default/files/Complain\\_combined\\_6\\_8\\_12\\_508\\_0.pdf](https://www.ascr.usda.gov/sites/default/files/Complain_combined_6_8_12_508_0.pdf)



## FEDERAL PROTECTIONS AGAINST DISCRIMINATION

### **Department of Education – Office for Civil Rights**

400 Maryland Ave., SW  
Washington, D.C. 20202-1100  
Phone: (800) 421-3481  
Fax: (202) 453-6012  
Email: [ocr@ed.gov](mailto:ocr@ed.gov)  
Website: [www.ed.gov/ocr](http://www.ed.gov/ocr)  
Online Complaint Form: <http://www.ed.gov/ocr/docs/howto.html>

### **Department of Health & Human Services – Office for Civil Rights**

Centralized Case Management Operations  
200 Independence Ave., SW Suite 509F, HHH Building  
Washington, D.C. 20201  
Customer Response Center: (800) 368-1019  
Fax: (202) 619-3818  
TDD: (800) 537-7697  
Email: [OCRComplaint@hhs.gov](mailto:OCRComplaint@hhs.gov)  
Website: [www.hhs.gov/ocr](http://www.hhs.gov/ocr)  
Online complaint portal (multiple languages): <https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf>  
Complaint form: <http://www.hhs.gov/civil-rights/filing-a-complaint/complaint-process/index.html>

### **Department of Homeland Security – Office of Civil Rights & Civil Liberties**

Compliance Branch  
245 Murray Lane, SW Building 410, Mail Stop #0190  
Washington, D.C. 20528  
Phone: (202) 401-1474  
Toll Free: (866) 644-8360  
TTY: (202) 401-0470  
Toll Free TTY: (866) 644-8361  
Fax: (202) 401-4708  
Email: [CRCLCompliance@hq.dhs.gov](mailto:CRCLCompliance@hq.dhs.gov)  
Website: <http://www.dhs.gov/office-civil-rights-and-civil-liberties>  
Complaint forms (multiple languages): <http://www.dhs.gov/publication/file-civil-rights-complaint>

### **Department of Housing and Urban Development– Fair Housing & Equal Opportunity**

451 7th St. SW  
Washington, D.C. 20410  
Phone: (800) 669-9777  
TTY Phone: (800) 927-9275  
Email: [fheo\\_webmanager@hud.gov](mailto:fheo_webmanager@hud.gov)  
Regional Offices: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/fheodir](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/fheodir)  
Website: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp)  
Online Complaint form: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/online-complaint](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/online-complaint)



## FREQUENTLY ASKED QUESTIONS

### FREQUENTLY ASKED QUESTIONS: Public Participation

#### Does Title VI apply to public meetings?

Yes, Title VI applies to all programs and activities of federal fund recipients. If a recipient plans to hold a public meeting, it must ensure that all persons who may be interested in attending or participating at the meeting are able to do so, regardless of race, color, or national origin.

#### Has any agency issued guidance on the application of Title VI to public participation?

Yes. In 2006, the Environmental Protection Agency issued a [guidance document](#) ([go.usa.gov/cu3ze](http://go.usa.gov/cu3ze)) that identified a number of items for consideration for early and meaningful public involvement throughout the permit decision-making process, including the suggestion that recipients develop and implement a "Public Involvement Plan." While Title VI does not require such a plan, meaningful engagement with affected communities has the potential to address early in the process what may later become a Title VI concern.

EPA suggested that an effective plan include the following elements: (1) An overview of the recipient's plan of action for addressing the community's needs and concerns, (2) A description of the community (including demographics, history,

and background), (3) A contact list of agency officials with phone numbers and email addresses to allow the public to communicate via phone or internet, (4) A list of past and present community concerns (including any Title VI complaints), (5) A detailed plan of action (outreach activities) recipient will take to address concerns, (6) A contingency plan for unexpected events, (7) Location(s) where public meetings will be held (consider the availability and schedules of public transportation), (8) Contact names for obtaining translation of documents and/or interpreters for meetings, (9) Appropriate local media contacts (based on the culture of the community), and (10) Location of the information repository.

When considering involving the public in decision-making, recipients may wish to consider providing background materials or training opportunities on the issue to be discussed so that participants are fully informed and able to effectively participate. After the public engagement, recipients may also wish to conduct an assessment through the use of informal feedback, questionnaires, debriefing sessions, or surveys to evaluate the public involvement program and to identify areas for improvement.

Recipients must also ensure access for persons with limited English proficiency and persons with disabilities to their programs, activities and services, including public involvement activities.

**I see that one of the items concerns obtaining translation of documents or providing interpreters for meetings. Do recipients need to provide notice of the meetings in non-English languages? If so, which ones?**

When providing notice of a public meeting, recipients should consider: (1) whether limited English proficient (LEP) persons may be part of the target outreach audience; and, (2) the nature and purpose of the meeting - are LEP persons likely to be directly affected or interested in the subject of the meeting? Recipients can easily determine if LEP persons reside in a target geographical area by visiting [www.lep.gov/maps/](http://www.lep.gov/maps/). Community-based organizations and other LEP stakeholders can assist recipients in determining the language(s) and most accessible format for providing notice of the meeting to LEP persons. For written notices, funding agencies' LEP Guidance documents may also provide further information about the parameters for providing written translations of vital documents such as notices of public meetings that affect LEP populations. If a recipient or agency determines that it should provide a notice of the meeting in one or more non-English languages, the recipient also should request that LEP prospective attendees advise it that they plan to attend the meeting.

When a recipient is aware that LEP individuals are likely to attend the meeting, the recipient must take reasonable steps to provide appropriate language assistance services to ensure LEP individuals can meaningfully participate in the meeting.

<sup>1</sup> Although there is no affirmative obligation, such a plan may be required as a remedial measure.



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### Federal Agencies Celebrate the 15<sup>th</sup> Anniversary of Executive Order 13166 at a Convening of the Interagency Working Group on Limited English Proficiency:

On December 18, U.S. Citizenship and Immigration Services hosted a convening of the Interagency Working Group on Limited English Proficiency (IWG) in commemoration of the 15th anniversary of Executive Order 13166. The meeting was headlined by Leon Rodriguez, Director of USCIS, and Megan Mack, Officer for Civil Rights and Civil Liberties, from the Department of Homeland Security; Vanita Gupta, Principal Deputy Assistant Attorney General, and Deena Jang, Chief of the Federal Coordination and Compliance Section, of DOJ's Civil Rights Division; and Doua Thor, Executive Director of the White House Initiative on Asian Americans and Pacific Islanders. The IWG recognized federal efforts to advance language access since the passage of Executive Order 13166 in a [report of agency accomplishments \(go.usa.gov/cnHJH\)](#) and planned committees to address providing language assistance to LEP individuals. For more information on language access and Executive Order 13166, visit [www.LEP.gov](http://www.LEP.gov).

### Department of Education Reaches Agreement with a California School District that Required Enrolling Students to Submit a Birth Certificate:

On October 22, the Los Fresnos Consolidated Independent School District entered into a voluntary resolution agreement to resolve the following issues under Title VI: whether the District discriminated against Mexican nationals based on national origin by requiring a birth certificate, without exception, for all students seeking to enroll in the District and whether the District fails to provide equal educational opportunities with respect to identification, assessment, and placement to national origin language-minority students who are LEP. The Office for Civil Rights will continue to monitor the District's implementation of the Agreement and its compliance with the regulatory requirements of Title VI.

For further information about this case, please see the [resolution letter \(go.usa.gov/cnHz9\)](#) and [agreement \(go.usa.gov/cnHuY\)](#).

### Department of Education Resolves Three Complaints Against the Newark, New Jersey Public Schools Consolidation Plan:

On December 9, the Office for Civil Rights entered into a voluntary resolution agreement with Newark Public Schools to resolve three separate complaints against the District. The complaints alleged that the District discriminated against African-American and Hispanic students and students with disabilities by closing several schools at the end of school year 2011-2012; that the District discriminated against African-American and Hispanic students by closing Roseville Avenue Elementary School at the end of school year 2013-2014; and that the District discriminated against African-American students by enacting the "One Newark" plan to close thirteen neighborhood public schools at the end of school year 2013-2014. In the resolution agreement, the District agreed to:

- Develop and complete an assessment of the academic performance of transferring students.
- Compare the academic performance of transferring students at the receiving schools to other students to ensure that effective academic supports are provided.



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- Develop and complete an assessment of transportation services provided to transferring students.
- Develop and complete an assessment of pupil capacity and the availability of facilities/resources at the receiving schools.
- Convene a group of knowledgeable persons to complete an assessment of the continuation of services to transferring students with disabilities.
- Provide compensatory services to all transferred students with disabilities determined to need such services.

OCR will continue to monitor the District's implementation of the Agreement and its compliance with the regulatory requirements of Title VI, Section 504, and Title II.



### The Federal Highway Administration and Texas Department of Transportation Agree to Mitigate the Discriminatory Effects of Rebuilding the Harbor Bridge in Corpus Christi:

On December 17, the Federal Highway Administration, in consultation with the Department of

Justice, reached a [voluntary resolution agreement](http://go.usa.gov/cuYDJ) ([go.usa.gov/cuYDJ](http://go.usa.gov/cuYDJ)) with the Texas Department of Transportation settling an administrative complaint alleging violation of Title VI. The complaint, filed by Texas Rio Grande Legal Aid and the UT School of Law Environmental Clinic, alleged that the site selection for the Harbor Bridge Project would isolate the predominantly African-American Hillcrest and Washington-Coles communities from Corpus Christi hospitals, schools, grocery stores, and most businesses, and would increase the communities' exposure to air and soil pollutants. The site selected for the Harbor Bridge cuts through an historic African-American neighborhood that has endured decades of neglect and the encroachment of heavy industrial sites, Interstate 37, the Port of Corpus Christi, and a wastewater treatment plant, all impacting the environment and health of their community.

The resolution agreement includes mitigation of the impacts of the bridge construction such as a relocation program for homeowners and renters; access to a relocation counselor; coverage of moving costs; financial assistance for neighborhood churches, small businesses, and owners of rental properties; and mitigation of construction impacts, among other options. Texas DOT also entered into agreements with local government agencies to facilitate its compliance with the settlement agreement. This result illustrates the impact of working collaboratively with federal agencies,

legal services, advocates, and communities.



### Department of Labor and DOJ Reach Agreement with Washington State to Improve Workers' Comp Access for LEP Workers:

On October 1, the Department of Labor's Civil Rights Center and the Department of Justice's (DOJ) Civil Rights Division reached an agreement with the Washington State Department of Labor and Industries (L&I) to resolve civil rights complaints from LEP workers who alleged that they were subjected to national origin discrimination in the state's workers' compensation program. L&I signed a [Memorandum of Agreement \(MOA\)](http://go.usa.gov/cnHJV) ([go.usa.gov/cnHJV](http://go.usa.gov/cnHJV)) and developed a new [Language Access Policy](http://go.usa.gov/cnHJj) ([go.usa.gov/cnHJj](http://go.usa.gov/cnHJj)) that will implement significant improvements in the language assistance services L&I provides its LEP customers. Under the terms of the MOA, L&I commits to developing a Language Access Plan that sets out the management actions needed to implement their Language Access Policy and ensure compliance with federal civil rights laws. Other L&I commitments include providing effective language assistance services to its LEP customers at no cost and translating documents and electronic materials that are vital for LEP individuals to access L&I



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services and activities. L&I will also add advisory members to its Language Access Steering Committee to represent the interests of LEP workers and the Washington employer community.

For more information, a press release is available in [English](#) and [Spanish](#), and a [fact sheet](#) is available in [Spanish](#), [Chinese simplified](#), [Chinese traditional](#), [Korean](#), [Russian](#), [Vietnamese](#), [Khmer](#), and [Laotian](#).



### **DOJ and Department of Education File a Brief to Ensure Meaningful Access for LEP Parents of Students with Disabilities:**

On January 25, DOJ and the Department of Education filed a brief to advise the U.S. District Court for the Eastern District of Pennsylvania about the appropriate legal standards applicable to school districts under Title VI of the 1964 Civil Rights Act and the Equal Educational Opportunities Act of 1974 (EEOA) for communicating with LEP parents. The brief seeks to ensure that school districts afford LEP parents of students with disabilities the opportunity to meaningfully participate in the development of their children's education programs. In their lawsuit, the LEP parents of students with disabilities allege that the Philadelphia School District intentionally discriminates against them based on their national origin,

in violation of Title VI, by systematically failing to provide timely and complete translations and interpretation of educational materials (e.g., individualized educational plans).

The brief explains that the plaintiffs adequately alleged intentional national origin discrimination under the framework established by *Arlington Heights* and the Third Circuit's standard for deliberate indifference under Title VI. The brief further supports plaintiffs' claims that the School District violated the EEOA by failing to take appropriate action to overcome the language barriers of LEP parents and thereby denied their children the ability to participate equally in the District's instructional programs.

The [brief](#) is available at [LEP.gov](#) ([go.usa.gov/cEQEe](#)).



### **DOJ Asserts Title VI National Origin Discrimination in Syrian Refugee Resettlement Lawsuits:**

On February 29, a federal court in the Southern District of Indiana [ruled](#) ([go.usa.gov/cMmZR](#)) that the State of Indiana could not refuse to provide assistance to Syrian refugees in *Exodus Refugee Immigration, Inc. v. Pence*, No. 15-cv-1858. In granting a preliminary injunction in favor of the plaintiff Exodus Refugee Immigration, Inc., the court said:

“The State's conduct clearly discriminates against Syrian refugees based on their national origin. Although the State says it has a compelling reason for doing so—the safety of Indiana residents—the withholding of federal grant funds from Exodus that it would use to provide social services to Syrian refugees in no way furthers the State's asserted interest in the safety of Indiana residents.”

The ruling was consistent with the [brief filed by DOJ](#) ([go.usa.gov/cMm9d](#)) on February 11. The brief set forth the appropriate application of the Equal Protection Clause of the U.S. Constitution, Title VI, and the Refugee Act of 1980 to state refugee resettlement policies, and argued that the discriminatory treatment of Syrian refugees violates prohibitions of discrimination based on alienage, national origin, and nationality. In order to survive an equal protection or Title VI challenge, such discriminatory treatment must be narrowly tailored to achieving a compelling state interest. The brief makes clear that, while preserving safety and security is a compelling interest, Indiana's policy of withholding payments for services provided to Syrian refugees is not narrowly tailored to protect that interest and therefore would violate the Equal Protection Clause and Title VI. On March 8, 2016, Indiana filed an appeal.

DOJ also raised Title VI concerns in *Tex. Health & Human Servs. Comm'n v. United States*, No. 3:15-cv-3851 a lawsuit in which Texas seeks to prevent the federal government and refugee resettlement



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agencies from placing Syrian refugees in the state. In a January brief, the United States argued that it would be against the public interest to stop the settlement of Syrian refugees in Texas because, among other things, “a State’s refusal to provide federally funded resettlement assistance to refugees on the basis of their Syrian nationality would violate...Title VI of the Civil Rights Act...” See Federal Defendants’ Opposition to Plaintiff’s Motion for a Preliminary Injunction at 25 n.10, *Tex. Health & Human Servs. Comm’n v. United States*, No. 3:15-cv-3851 (DCG) (N.D. Tex. Jan. 5, 2016), ECF No. 46. In preliminary orders, the court ruled in favor of the United States, declining to “interfere with the executive’s discharge of its foreign affairs and national security duties” in the absence of a demonstration of a substantial threat of irreparable injury or legal right to relief. See Order denying Motion for Injunction, *Tex. Health & Human Servs. Comm’n v. United States*, No. 3:15-cv-3851 (DCG) (N.D. Tex. Feb. 8, 2016), ECF No. 70.

### **DOJ Files Lawsuit and Consent Decree to Bring Constitutional Policing to Ferguson, Missouri:**

On March 17, 2016, DOJ and the City of Ferguson, Missouri, [jointly filed an agreement resolving the United States’ pending lawsuit against Ferguson](#) ([go.usa.gov/cMmzH](http://go.usa.gov/cMmzH)). The court-enforceable decree, filed in the U.S. District Court for the Eastern District of Missouri, aims to remedy the unconstitutional law enforcement conduct that DOJ found during its civil pattern-or-practice investigation

into the Ferguson Police Department and the Ferguson Municipal Court. Under the agreement, Ferguson will implement reforms to bring about constitutional and effective policing, promote officer and public safety, ensure fundamental fairness and equal treatment regardless of race in the Municipal Court and foster greater trust between police officers and the communities they serve. On April 19, Judge Catherine Perry of the U.S. District Court for the Eastern District of Missouri approved the consent decree.

In March 2015, DOJ detailed its investigative findings in a 104-page report. The report found that Ferguson’s focus on generating revenue over public safety, together with racial bias, has had a profound effect on Ferguson’s police and court practices, resulting in conduct that routinely violates the Constitution and federal civil rights laws. On January 26, DOJ sent a [letter to Ferguson City councilmembers](#) ([go.usa.gov/cMmGh](http://go.usa.gov/cMmGh)) outlining the consent decree negotiated by the city’s team and DOJ. On Feb. 9, the Ferguson City Council voted to reject that consent decree. Unable to reach a mutually agreed upon court-enforceable settlement to remedy the findings, Attorney General Loretta E. Lynch announced on February 10, that [the Department of Justice filed a lawsuit in U.S. District Court against the city of Ferguson, Missouri](#) ([go.usa.gov/cMmy9](http://go.usa.gov/cMmy9)), alleging a pattern or practice of law enforcement conduct that violates the First, Fourth and 14th Amendments of the Constitution and federal civil rights laws, including Title VI.

The complaint alleged that from October 2012 to October 2014, African-Americans were more than twice as likely to be searched, to receive a citation or to be arrested, than other stopped individuals. From 2010 to August 2014, African-Americans accounted for 88 percent of all incidents in which a Ferguson police officer reported using force. In addition, for municipal offenses where Ferguson police officers have a high degree of discretion in charging, African-Americans were again disproportionately represented as compared to their relative representation in Ferguson. While African-Americans make up 67 percent of the Ferguson’s population, 95 percent of “manner of walking in roadway” charges; 94 percent of failure to comply charges; 92 percent of resisting arrest charges; 92 percent of disturbing the peace charges; and 89 percent of failure to obey charges involved African-Americans. DOJ also found that Ferguson’s law enforcement conduct has created a lack of trust between the police department and the community members it serves, especially African-Americans.

### **DOJ Files Brief Addressing Race Discrimination Claims by Gullah Geechee Community of Sapelo Island, GA**

On March 21, the Department of Justice filed a [brief](#) (<http://go.usa.gov/cur6w>) setting forth the interests of the United States in *Drayton v. McIntosh County, Georgia*, No. 2:16-CV-5 (S.D. Ga.). The Plaintiffs in that case are members of the Gullah Geechee community, descendents of slaves,



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who are current, former, and prospective land owners and residents of Sapelo Island in McIntosh County, Georgia, and two organizations that have assisted them. On December 9, 2015, Plaintiffs filed a lawsuit alleging violations of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act by Defendants McIntosh County, the State of Georgia, the Georgia Department of Natural Resources, and others. Plaintiffs allege that these Defendants have denied them numerous services for decades such as safe water, sewer service, trash removal, and paved roads available to the predominantly white mainland residents of McIntosh County, because of their race. In arguing for dismissal of the Title VI claims, State Defendants asserted that Eleventh Amendment immunity precludes the Title VI claim against them, and both the State and County Defendants contended that Plaintiffs could not bring Title VI claims because they were not the intended beneficiaries of the federal funds Defendants received. The brief filed by DOJ addresses waiver of States' Eleventh Amendment immunity for Title VI claims and sets forth the appropriate elements of a *prima facie* Title VI claim, which does not require Plaintiffs to be the intended beneficiaries of the specific grant or funds the Defendants receive. The brief also discusses the application of Title VI to all the operations of a State or local government department, agency or other instrumentality receiving federal financial assistance. In addition, DOJ addressed challenges to the Fair

Housing Act (FHA) claims, and concurrently filed a second brief and motion to intervene addressing the Americans with Disabilities Act claims.

### ***DOJ Outreach and Engagement on Title VI***

#### **DOJ Present at NLADA Webinar on School-to-Prison Pipeline:**

On March 23, DOJ staff presented at the National Legal Aid and Defender Association's Webinar *Civil Rights Enforcement Actions to Dismantle the School-to-Prison Pipeline*. DOJ Civil Rights Division's Federal Coordination and Compliance Section (FCS), Special Litigation Section and Educational Opportunities Section, the Office of Justice Programs, and the Department of Education's Office for Civil Rights participated. An audience of over 200 people registered to participate in this webinar.

#### **DOJ Staff Present at Title VI & Environmental Justice Workshop:**

On March 11, Civil Rights Division staff and members of the Environmental Justice Interagency Working Group's Title VI subcommittee presented a workshop entitled "Title VI of the Civil Rights Act: Strengthening Title VI Enforcement Related to Environmental Justice Issues." This interactive workshop provided participants with an overview of Title VI; its application to environmental justice issues; and

information on how to file an administrative complaint with a federal agency and how such complaints are processed. Participants had the opportunity to dialogue with representatives from multiple federal civil rights agencies (HUD, EPA, DOT, and USDA), who discussed how their agencies are strengthening their Title VI enforcement and compliance activities. Representatives from community organizations and various federal agencies attended the workshop.

#### **DOJ Co-hosts Webinar on Accessing LEP Poverty Data:**

On March 10, FCS staff presented a webinar on *How to Access and Use Limited English Proficient Poverty Data* through the National Language Access Advocates Network (NLAAN). This webinar provided step-by-step instructions on how to access the American Community Survey (ACS) from the U.S. Census Bureau to examine data on the intersection of LEP populations and household income. Participants learned how to access the LEP and household income data, use Excel to cross-tabulate the poverty rate of LEP populations, and summarize the data in easy to understand statistics.

#### **DOJ Participates in White House Regional Convening on New Americans:**

On March 10, FCS staff led a roundtable discussion on language access at a White House Regional Convening on New Americans in Atlanta, GA. At this regional



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convening, federal, state, and local agencies, service providers, the private sector, and local community leaders met to highlight current multi-sector partnerships on immigrant integration and discuss promising practices to strengthen the regional infrastructure in supporting existing and emerging immigrant communities. FCS staff discussed essential elements of successful language access program planning in order to help agencies ensure access to information and services through effective in-language policies. This convening is part of a series of regional convenings and the White House Task Force on New Americans' plan to engage with communities across the country.

### **DOJ Engages Advocates at Two New Orleans Conferences:**

From November 5 to 7, FCS staff participated in or led five presentations at the Annual Conference of the National Legal Aid and Defender Association and the Annual Convention of the National Asian Pacific American Bar Association. Session topics included: (1) collaborative approaches to improving language access in the courts; (2) combating discrimination in emergencies and disasters with Title VI and Executive Order 13166, 10 years after Hurricane Katrina; (3) language access remedies; (4) language access in the federal and state courts and administrative agencies – state of affairs and recommendations for further improvements; and (5) language

access rights to services and agencies, 15 years after EO 13166. The sessions, attended by over a hundred advocates and officials, featured expert attorneys, judges, court administrators, and other federal agency representatives.

### **DOJ Co-hosts Child Welfare & Race Listening Session:**

On October 13, FCS staff along with staff from the Department of Health and Human Services' (HHS) Office for Civil Rights, and the Children's Bureau at the HHS Administration for Children and Families, hosted a Child Welfare & Race Listening Session. Although data show improvements over time in providing stability and permanency for children and families generally, African-American children and their families continue to be disproportionately represented in child welfare systems throughout the country. Child welfare advocates from across the country shared their insights with DOJ, HHS, and staff from U.S. Immigration and Customs Enforcement at the Department of Homeland Security.

### **DOJ Engages Local Leaders on Language Access in White House Convening:**

On October 7, FCS staff led roundtable discussions focused on language access at the White House Task Force for New Americans' Building Welcoming Communities Convening. The event provided representatives from approximately

35 state and local government agencies an opportunity to meet with federal agency staff to discuss pressing immigrant integration challenges. Attendees discussed the cost and logistics of implementing a language access plan, shared challenges and opportunities in establishing language access policies, and sought specific advice on hiring multilingual employees and using community-based organizations to assist with translations. The purpose of the session was to help communities striving to be more welcoming to LEP immigrants.

### **DOJ Meets with Environmental Justice Advocates:**

On September 11, DOJ held a listening session with Title VI environmental justice advocates representing 17 advocacy organizations and public interest law groups. The Assistant Attorneys General of the Civil Rights Division and the Environment and Natural Resources Division jointly led the meeting. FCS also facilitated a second conversation between advocates and the Community Relations Services (CRS) on the role that CRS might play as communities struggle to overcome barriers to environmental justice. CRS staff provided an overview of the work of the office and provided contact information for the regional offices that can follow up on advocates' specific concerns. Visit [www.justice.gov](http://www.justice.gov) to learn more about CRS ([www.justice.gov/crs](http://www.justice.gov/crs)) and DOJ's environmental justice efforts ([www.justice.gov/ej](http://www.justice.gov/ej)).



## AGENCY TITLE VI DEVELOPMENTS

### Update on the Courts Language Access Initiative:

In April 2016, [DOJ announced the closure \(go.usa.gov/cur25\)](http://go.usa.gov/cur25) of its Title VI language access investigation of the Rhode Island Judiciary following a successful completion of the [settlement agreement \(go.usa.gov/cuxsH\)](http://go.usa.gov/cuxsH) terms and a monitoring period. Earlier this spring, on March 1, the American Bar Association Journal published an [article on access to justice for limited English proficient court users](#), and featured national efforts, including Civil Rights Division [guidance and enforcement efforts \(go.usa.gov/cMyWH\)](http://go.usa.gov/cMyWH) that have improved access to courts for LEP individuals. The article also discussed ongoing challenges for LEP court users. In other news, a recent federal 9<sup>th</sup> Circuit Court decision cited the Department of Justice's 2002 LEP Guidance in discussing the critical need for court interpretation for LEP individuals. *United States v. Murguia-Rodriguez*, No. 14-10400, 2016 WL 791241, (9<sup>th</sup> Cir. Mar. 1, 2016). And in November, the current Acting Chief of FCS met with the leadership of the Conference of State Court Administrators and Language Access Advisory Committee, as well as the President of the National Center for State Courts and the Executive Director of the State Justice Institute to continue the dialogue around expansion of language assistance services in state courts.



### HHS Office for Civil Rights Publishes Blog Post on Language Access in Health Care:

In December, the Department of Health and Human Services Office for Civil Rights (HHS OCR) published a [blog post](#) highlighting ways in which the agency is helping to improve access to health care coverage and services for LEP individuals ([go.usa.gov/cub4m](http://go.usa.gov/cub4m)). As part of the 2015 Open Enrollment period of the Health Insurance Marketplaces, HHS participated in the "LEP Week of Action," a weeklong HHS campaign to promote language access across the Department and to share in-language resources with community partners who work closely with LEP populations.

### HHS Health Resources and Services Administration Completes Milestone Training Initiative:

In September 2015, HHS Health Resources and Services Administration (HRSA), Office of Equal Opportunity, Civil Rights, and Diversity Management in partnership with HHS OCR concluded a three-year English and Spanish training initiative entitled "Addressing Health Disparities through Civil Rights Compliance and Enforcement." This training

initiative offered guidance to more than 1,750 federal and non-federal entities of their crucial role in addressing discriminatory effects that create serious inequities in health and access to care. Trainees collectively spent more than 4,500 hours learning about their civil rights obligations through web-based trainings. HRSA is in the process of developing additional non-discrimination technical assistance for its 3,000 grantees, many of whom provide direct health services to the public.

### HHS Office for Civil Rights Issues Notice of Proposed Rulemaking to Implement Civil Rights Regulations for the Affordable Care Act:

In September 2015, HHS OCR issued a Notice of Proposed Rulemaking to implement Section 1557. Section 1557 is the civil rights provision of the Affordable Care Act and prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability in certain health programs and activities, including all health programs and activities that receive federal financial assistance from any Executive agency. The comment period ended November 9. HHS OCR is currently reviewing comments and drafting the final rule, which will be published in 2016. Section 1557 extends nondiscrimination protections to individuals enrolled in coverage plans through the Health Insurance Marketplaces and certain other health coverage plans,



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## AGENCY TITLE VI DEVELOPMENTS

and provides that HHS's health programs are covered by the rule. The proposed rule would enhance language assistance for LEP individuals and require covered entities to provide notice of the availability of language assistance services in 15 languages.

For more information, see [go.usa.gov/cnRqF](http://go.usa.gov/cnRqF).

### HHS OCR Launches Redesigned Website:

HHS OCR has launched a redesign of its website ([www.hhs.gov/ocr](http://www.hhs.gov/ocr)). The new site boasts improved search functionality, improved content layout, mobile platform optimization, and a streamlined process for online complaint submission.



### Department of Homeland Security (DHS) Proposes Civil Rights Disbursement Review Process:

The Department of Homeland Security Office for Civil Rights and Civil Liberties (CRCL) is developing a new process to obtain civil rights related information from entities selected to receive an award of federal financial assistance from the Department. The proposed Civil Rights Disbursement Review Process is designed to advise recipients of their civil rights obligations and ensure that they

have in place adequate policies and procedures to achieve compliance with Title VI and related requirements. The related Civil Rights Compliance Form will serve as the primary tool to obtain a comprehensive assurance of compliance from each recipient and collect pertinent civil rights information, including data on complaints and findings of discrimination, and policies and procedures to fulfill various civil rights obligations. DHS will review the data and information submitted to determine what further action (e.g., technical assistance, training, compliance review, etc.) may be needed to ensure that the recipient is able to carry out its programs and activities in a nondiscriminatory manner. DHS is committed to working proactively with recipients to address concerns that could lead to noncompliance and this new process will support efforts to obtain voluntary compliance during the award-making process.



### EPA Office for Civil Rights Releases Draft Strategic Plan for Public Comment:

On September 10, the EPA Office for Civil Rights (EPA OCR) released the FY 2015-2020 External Compliance and Complaints Draft Strategic Plan for public comment ([www.epa.gov/ocr/external-compliance-title-vi-new-](http://www.epa.gov/ocr/external-compliance-title-vi-new-developments)

[developments](#)). The Draft Strategic Plan sets forth an overall strategy for EPA OCR to leverage internal resources and maximize them by thinking more globally as "One EPA." The Draft Strategic Plan replaces past approaches with a more strategic approach to program enhancement and management. The Draft Strategic Plan also promotes mission-critical program accountability through measurable goals that will (1) institute strategic docket management to ensure prompt, effective and efficient complaint resolution; (2) invigorate a proactive compliance program; and 3) strengthen OCR's workforce through strategic human capital planning, organizational development, technology and training to promote a high-performing organization. The Draft Strategic Plan not only sets out these three strategic goals, but it also provides measurement frameworks to evaluate the performance for each goal. The public comment period closed on October 13, 2015.

### EPA Proposes to Amend Nondiscrimination Regulations and Holds Public Meetings:

On December 14, EPA published the [Notice of Proposed Rulemaking](#) (NPRM) ([go.usa.gov/cnHS4](http://go.usa.gov/cnHS4)) to amend its Nondiscrimination Regulations in the Federal Register. EPA revised its regulations to be consistent with the regulations of other Federal agencies. The modifications will (1) reaffirm EPA's discretion to initiate compliance reviews to ensure compliance with civil rights laws;

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(2) provide EPA with the ability to request and receive compliance information from recipients on a regular basis; (3) reaffirm EPA's discretion to determine how to ensure the prompt, effective, and efficient resolution of its cases; and 4) reaffirm EPA's enforcement discretion to tailor its approach to complaints to match their complexity, scope and nature. OCR hosted six outreach public meetings to solicit input and feedback on the NPRM by EPA's critical partners and stakeholders. Public meetings

took place in Chicago, Houston, North Carolina, Oakland, and Washington, D.C. The public comment period ended on March 14, 2016.

**EPA Releases Draft Case Resolution Manual for Public Comment:**

The EPA OCR posted its Draft Case Resolution Manual (CRM) for public comment on its website ([go.usa.gov/cnRxH](http://go.usa.gov/cnRxH)). The CRM will transform management of OCR's

complaint resolution docket. It will include standardized processes and templates and empower program staff and management to exercise EPA's regulatory discretion and develop innovative approaches to collaborative case resolution. The CRM provides OCR with procedures, strategies and resources to promptly and efficiently evaluate, investigate, and resolve complaints and conduct compliance reviews.



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