

SUBJECT Title VI AND OTHER RELATED NON- DISCRIMINATION AUTHORITIES	POLICY NUMBER 3.11	
POLICY MAINTENANCE ADMINISTRATOR: Chief, Bureau of Personnel Services		
PURPOSE/SCOPE: To establish policy for Title VI compliance under Title VI of the Civil Rights Act of 1964 and other Related Nondiscrimination Authorities.		

I. AUTHORITY

Title VI of the Civil Rights of 1964, Title 42 U.S.C. § 2000d — 2000d-7, Subchapter V - Federally Assisted Programs

Section 324 of the Federal-Aid Highway Act of 1973, Title 23 U.S.C. § 324 (2012), Prohibition of discrimination on the basis of sex

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Title 42 U.S.C. §§ 4601-4655

Section 504 of the Rehabilitation Act of 1973, Title 29 U.S.C. § 794 (2012), Non-discrimination under Federal grants and programs; promulgation of rules and regulations

Title II of the Americans with Disabilities Act of 1990, Public Law 101-336

Age Discrimination Act of 1975, Title 42 U.S.C. §§ 6101-6107

Federal-Aid Highway Standards, Title 23 U.S.C. Part 109(h)

Civil Rights Restoration Act of 1987, Public Law 100-259, March 22, 1988

Section 20.055, Florida Statutes, Agency inspectors general

Section 760.01, Florida Statutes, Florida Civil Rights Act of 1992, Purposes; construction; title

Section 760.10, Florida Statutes, Discrimination in the Treatment of Persons; Minority Representation, Unlawful employment practices

Executive Order 12250, Leadership and Coordination of Nondiscrimination Laws,

Executive Director 	Origination Date <i>June 28, 2016</i>
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Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

Title 28 Code of Federal Regulations Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services

Title 28 C.F.R. Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities

Title 28 C.F.R. Part 41, Implementation of Executive Order 12250, Nondiscrimination on the Basis of Handicap in Federally Assisted Programs

Title 28 C.F.R. Part 42, Subpart C, Nondiscrimination in Federally Assisted Programs-Implementation of Title VI of the Civil Rights Act of 1964

Title 28 C.F.R. Part 50.3, Guidelines for the Enforcement of title IV, Civil Rights Act of 1964

Title 49 C.F.R. Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964

Title 49 C.F.R. Part 27, Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

Title 49 C.F.R. Part 303, Civil Rights, Purpose

Title 23 C.F.R. Part 200, Title VI Program and Related Statutes-Implementation and Review Procedures

Title 23 C.F.R. Part 1235, Uniform System for Parking for Persons with Disabilities

United States Department of Transportation Order 1000.12, Subject: Implementation of the Department of Transportation Title VI Program

United States Department of Transportation Order 1050.2A; Standard Title VI/Nondiscrimination Assurances

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Federal Transit Administration Circular 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients

Governor's Executive Order 11-03 and Code of Ethics, Effective January 4, 2011

Title VI Nondiscrimination Program (Florida Department of Transportation Policy # 001-275-006)

II. RELATED POLICIES

MP 3.02, Americans with Disabilities Act Compliance for Employment Applicants and Current Members

MP 3.05, Claims of Discrimination to include Sexual Harassment

MP 3.06, Disciplinary Process

MP 11.07, Internal Audit Compliance and Investigations

III. DEFINITIONS

- A. Bureau of Personnel Services - responsible for administering the Title VI Program and Related Nondiscrimination Authorities.
- B. Complainant - person who alleges discrimination under Title VI.
- C. Compliance - satisfactory condition existing when a recipient has effectively implemented all of the Title VI and related nondiscrimination authorities or can demonstrate every good faith effort toward achieving this end has been made.
- D. Department Title VI Coordinator - Chief of Personnel Services.
- E. Discrimination - any act or inaction, whether intentional or unintentional, in any program or activity of a federal-aid recipient, sub-recipient, or contractor, which results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency, in the case of disability, failed to make a reasonable accommodation.

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That act or inaction, whether intentional or unintentional, through which a person in the United States solely because of race, color, national origin, age, sex or disability, including income-level and Limited English Proficiency, has been otherwise subjected to unequal treatment, or who has been retaliated against under any program or activity receiving financial assistance from the Federal Motor Carrier Safety Administration (FMCSA) under *Title 49 U.S.C.*

F. Division Title VI Program Coordinator - Bureau Chief's and Troop Commanders.

G. Federal Assistance -

1. Any grants and loans of federal funds;
2. Any grant or donation of federal property and interests in property;
3. Any utilization of federal personnel;
4. Any sale or lease of, and the permission to use (on other than a casual or transient basis) federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by such sale or lease to the recipient; and
5. Any federal agreement, arrangement, or other contract which has, as one of its purposes, the provision of assistance.

H. Formal Complaint of Discrimination - written explanation of an event in which a person believes he or she, or any specific class of persons, has been subjected to discrimination prohibited by any of the Civil Rights laws, regulations and Executive Orders listed in the *AUTHORITY* section of this procedure, based upon race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency.

I. Informal Complaint of Discrimination - verbal or non-written explanation of an event in which a person believes he or she, or any specific class of persons, has been subjected to discrimination prohibited by any of the Civil Rights laws, regulations and Executive Orders listed in the *AUTHORITY* section of this procedure, based upon race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency.

J. Noncompliance - recipient has failed to meet prescribed requirements and has shown an apparent lack of a good faith effort in implementing all of the *Title VI and Related Nondiscrimination Authorities*.

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- K. Program - any highway project, or activity for the provision of services, financial aid, or other benefits to individuals. This includes education or training, work opportunities, health, welfare, rehabilitation, housing, or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient.

- L. Recipient - any state, territory, possession, the District of Columbia, Puerto Rico, or any political subdivision, or instrumentality thereof, or any public or private agency, institution, or organization, or other entity, or any individual in any state, territory, possession, the District of Columbia, or Puerto Rico, to whom federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term "recipient" does not include every ultimate beneficiary under any such program.

- M. Sub-recipient - any sub-grantee, contractor, sub-contractor, transferee, assignee, or successor in interest in the program.

- N. Title VI Program - system of requirements developed to implement *Title VI of the Civil Rights Act of 1964* and related nondiscrimination authorities. References in this procedure to Title VI Program requirements shall not be limited to only *Title VI of the Civil Rights Act of 1964*. Where appropriate, this term also refers to the civil rights provisions of other related federal nondiscrimination authorities provided in the *AUTHORITY* section of this procedure to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency, in programs receiving federal financial assistance of the type subject to *Title VI* itself.

IV. POLICY

The Department is committed to eliminating discrimination and guarantees every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not. Employment discrimination is also covered under Title VI if the primary objective of the financial assistance is the provision of employment or where employment discrimination causes discrimination in providing services under such programs. The Department will ensure compliance with 49 CFR Part 21 and 49 CFR Part 303 and as specified in the Standard Title VI/Non-Discrimination Assurances document.

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The Department will provide initial education to all members upon employment through New Member Orientation and will provide a copy of this policy along with annual training to all members thereafter, about identifying and eliminating discrimination. The Department will post this policy and related materials on its website for notification to all non-members of the Department.

The Department will act swiftly and at a high level to resolve any claims of discrimination and will treat them with the greatest degree of confidentiality possible.

V ROLES AND RESPONSIBILITIES

A. Department Title VI Program Coordinator

Designated individual in the Bureau of Personnel Services who is responsible for monitoring and administering the Department's Title VI Program and Related Nondiscrimination Authorities.

1. Ensuring the Title VI Program Assurance is signed by the Executive Director or designee and submitting the Assurance with each new Notice of Funding Availability application;
2. Providing Title VI Program training for members of the Department;
3. Submitting the Department's Title VI Program Implementation Plan to Federal Highway Administration (FHWA) annually and the Department's Title VI Program Compliance Plan to FMCSA with each new Notice of Funding Availability application;
4. Developing Title VI and Related Nondiscrimination Authorities Information for dissemination to the public (in languages other than English as identified in the Language Access Plan or as identified by the Four-Factor Analysis);
5. Facilitating the investigation of formal complaints of discrimination under Title VI and Related Nondiscrimination Authorities filed against the Department's sub-recipient's on Highway Programs and FMCSA Programs, and forwarding recommendations to the FHWA for a final determination. Coordinating with the FHWA on all Title VI and related statutes for formal complaints of discrimination filed against the Department;;
6. Developing and maintaining the Department's Title VI Program and Related Nondiscrimination Authorities non-discrimination policy and procedures; and
7. Conducting Quality Assurance Reviews of division compliance with the Title VI Program and Related Nondiscrimination Authorities.

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B. Division Title VI Program Coordinator

Designated individual within each division and bureau who is responsible for monitoring and reporting Title VI and Related Nondiscrimination Authorities activities within each division/bureau/program area and ensuring overall compliance with the Title VI Program and Related Nondiscrimination Authorities at the division/bureau level. The Division/Bureau Coordinator will consist of all Bureau Chiefs and Troop Commanders. Responsibilities include:

1. Resolving informal Title VI and Related Nondiscrimination Authority issues within their respective division/bureau. Notifying the Department Title VI Program Coordinator and appropriate division management within five calendar days of receipt;
2. Referring complainants to the Department Title VI Program Coordinator in the event the issue is not satisfactorily resolved within the division/bureau, or if complainant files a formal complaint; and
3. Providing quarterly reports, within thirty calendar days after each quarter, to the Department State Title VI Program Coordinator. These reports will be submitted even if no complaints are received.

VI. PROCEDURES

The following informal and formal process will be used to resolve Title VI and Related Nondiscrimination Authorities complaints of discrimination consistent with the FHWA's External Complaint of Discrimination Processing procedures.

A. Informal Complaints

1. Division Title VI Program Coordinators are encouraged to resolve informal issues internally within their respective area. If the issue has not been satisfactorily resolved through informal means, or if at any time the person(s) desires to file a formal complaint, the respective Division Title VI Program Coordinator will refer the Complainant to the Department Title VI Program Coordinator who will advise the Complainant of the formal process for filing a complaint (outlined below).
 - a. The Division Title VI Program Coordinator will advise the Department Title VI Program Coordinator and appropriate district management within **five calendar days** of receipt of the informal issue(s). The following information will be included in every notification to the Department Title VI Program Coordinator:

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1. Name, address, and phone number of the complainant;
 2. Name(s) and address(es) of respondent;
 3. Basis of complaint (race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency);
 4. Date of alleged discriminatory act(s);
 5. Statement of the Title VI and Related Nondiscrimination Authority issue(s);
 6. Explanation of the actions the Division Title VI Program Coordinator took or proposed to resolve the Title VI and Related Nondiscrimination Authority issue(s).
- b. Within **ten calendar days** of receipt, the Division Title VI Program Coordinator will acknowledge receipt of the issue(s), inform the Complainant of action taken or proposed action to address the issue(s), and advise the Complainant of other avenues of redress available.
- c. Within **ninety calendar days** of receipt, the Division Title VI Program Coordinator will notify the Complainant in writing of the division management's decision, for the proposed disposition of the matter. The notification will advise the Complainant of his/her right to file a formal complaint if he/she is dissatisfied with the decision of the division management. The Division Title VI Program Coordinator will also provide the Department Title VI Program Coordinator with a copy of this information.
- d. Each Division Title VI Coordinator will maintain a log of all informal issues received by the division. The log will include the following information:
1. Name of complainant;
 2. Name of respondent;
 3. Basis of complaint (race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency);
 4. Date informal issue(s) were received by the division;
 5. Date respective division notified the State Title VI Program Coordinator of the informal issue(s); and
 6. Explanation of the actions the division management took or proposed to resolve the issue(s).

B. Formal Complaints

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All formal complaints received by the Department's division offices will be referred immediately to the Department Title VI Program Coordinator for processing. The Department Title VI Program Coordinator will advise the Division Title VI Program Coordinator and respective division management of all formal complaints of discrimination accepted for investigation.

1. Persons Eligible to File

Any person who believes that he or she, or any specific class of persons, has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities listed in the *AUTHORITY* section of this policy, based upon race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency, may file a written complaint. The complaint may be filed by the affected person or a representative and must be provided in writing.

2. Time Limits for Filing

A formal complaint must be filed no later than **180 calendar days** after the following:

- a. The date of the alleged act of discrimination; or
- b. The date when the person(s) became aware of the alleged discrimination; or
- c. Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

3. Form of Formal Complaints

All formal complaints filed with the Department through the Bureau of Personnel Services must include the following information:

- a. A written explanation of what happened, signed by the complainant(s) or by the complainant(s) representative(s);
- b. The Complainant's name, address, and telephone number;
- c. The basis of the complaint (race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency);
- d. The respondent's name, address, and telephone number; and
- e. Sufficient information to understand the facts that led the complainant(s) to believe that discrimination has occurred and when the event complained of occurred.

C. Agencies Authorized to Receive Formal Complaints

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Formal complaints should be submitted either to the Department or to the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), Federal Aviation Administration (FAA), or the U.S. Department of Justice (USDOJ).

D. Processing Formal Complaints
Responsibilities:

1. Complaints filed with the Department in which the Department is named as the respondent, will be reviewed and resolved by the Department. The Department's Title VI Coordinator will forward the information to the FHWA, FTA, or FAA.
2. Within **ten calendar days** of receipt, the Division Title VI Program Coordinator will acknowledge receipt of the issue(s).

E. Investigative Report Review and Issuance

Complaints received by the Bureau of Personnel Services will be reviewed by the Chief of Personnel Services and the Office of Inspector General to determine whether an investigation is warranted. If investigated, a copy of the complaint, together with a copy of the report of the investigation, will be forwarded to the FHWA within **sixty calendar days** of the date the complaint was received. An extension of an additional **sixty calendar days** may be granted by the FHWA, Director, Office of Civil Rights, for justifiable reasons.

F. Final Agency Decisions

The Department Title VI Program Coordinator will notify the respective District Title VI Program Coordinator of all final agency decisions and dismissals issued by the FHWA, FTA, FAA, USDOT, or USDOJ.

G. Records

The Department Title VI Coordinator will maintain records of formal complaints filed with the Bureau of Personnel Services, identifying each complaint by race, color, national origin, sex, age or disability, including income-level and Limited English Proficiency. These records will be maintained for five years from the date of the Grant application. The record should contain:

1. The complaint;
2. The agency with which the complaint was filed;
3. The date the complaint was filed;
4. The investigative plan;

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5. The investigative report;
6. The complaint disposition and date; and
7. Other pertinent information.

H. Training

To effectively implement and sustain the Title VI Program and Related Nondiscrimination Authorities, mandatory training will be provided annually by the Department Title VI Program Coordinator. This training shall be:

1. Conducted during Quality Assurance Reviews or as needed;
2. Provided to Division Title VI Program Coordinators.