

## Specific Discriminatory Practices

USDOT regulations declare that the following discriminatory practices must be prohibited by a State's Transportation Agency directives: (49 C.F.R. §21.5(b))

Note: To ensure uniformity and enforceability of agency regulations, DOJ and the U.S. Commission on Civil Rights cooperated to develop the compliance standards published in the U.S. Commission on Civil Rights, *Compliance Officer's Manual: A Handbook of Compliance Procedures under Title VI of the Civil Rights Act of 1964* (1966).

Examples include, but are not limited to:

- Denial to an individual any service, financial aid, or other benefit provided under the program;
- Distinctions in the quality, quantity, or manner in which the benefit is provided;
- Segregation or separate treatment in any part of the program;
- Restriction in the enjoyment of any advantages; privileges, or other benefits provided to others;
- Different standards or requirements for participation;
- Methods of Administration which directly or through contractual relationships would defeat or substantially impair the accomplishment of effective nondiscrimination;
- Discrimination in any activities related to highway and infrastructure or facility built or repaired in whole or in part with Federal funds;
- Discrimination in any employment resulting from a program, the primary purpose of which is to provide employment.

These are minimum requirements and are not intended to limit the scope of Title VI and the ability of states to tailor their Title VI regulations to address unique aspects of their federally assisted programs.

Illegal discrimination can occur when an individual or group representing a protected class are denied program services, aids, or benefits. Programs and activities include, but are not limited to:

Transportation	Right of Way and Utilities
Construction	Asset Management
Environmental Services	Materials
Transportation Planning	Programming
Location and Design	Administrative Services

## **Environmental Justice**

In 1994, President Clinton signed *Executive Order 12898: "Federal Action to Address Environmental Justice in Minority Populations and Low-Income Populations"* which focused attention on Title VI by providing that, "each agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations."

There are three fundamental environmental justice principles:

1. To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
2. To ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.
3. To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

Adverse impact may include:

- The denial of, reduction in, or significant delay in the receipt or benefits of DOT programs, policies, or activities.
- Bodily impairment, infirmity, illness, or death
- Air, noise, and water pollution.
- Soil contamination.
- Destruction or disruption of man-made or natural resources.
- Destruction or disruption of public and private facilities and services.
- Vibration.
- Displacement of persons, businesses, farms, or nonprofit organizations.
- Increased traffic congestion, isolation, exclusion, or separation of minority or low-income individuals within a given community or from the broader community.

## **Limited English Proficiency (Executive Order 13166)**

The federal government and those recipients of federal-aid must take reasonable steps to ensure that persons of Limited English Proficiency (LEP) have meaningful access to the programs, services and activities. Persons who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English can be limited English proficient. These individuals may be entitled to language assistance in with respect to a particular

type of service, benefit, or encounter. The U. S. DOT has provided an assessment tool entitled the “Four Factor Analysis.” The four factors include:

- Demography: number and/or proportion of LEP persons served and languages spoken in a service area.
- Frequency: rate of contact with service or program.
- Importance: nature and importance of program/service to people’s lives (transportation)
- Resources and costs