

Anatomy of FHWA 1273

Section III – Nonsegregated Facilities

(and related essential
nondiscrimination information)

First, a word about Title VI

- In the Federal Aid program, Civil Rights requirements are rooted in Title VI of the Civil Rights Act of 1964
- Though primarily related to employment (Title VII) the 1273 is nonetheless connected to the nondiscrimination responsibilities of State Highway Agencies
- Recipients may not discriminate on the basis of race, color or national origin, and are also prohibited from discriminating against other protected classes such as:
 - Sex (The Highway Act of 1973)
 - Age (Age Discrimination Acts 1967 and 1975)
 - Disability (Titles I and II of ADA and other laws)
 - Religion (State Civil Rights Act)
 - Family Status (State Civil Rights Act)

Title VI is so important, that we never miss
an opportunity to provide training

Some Title VI facts:

- It has never been amended
- It serves as the basic structure of other federal and state civil rights laws
- Proposed by Kennedy, signed into law by Johnson
- Its intent was clarified by the Civil Rights Restoration Act of 1987
- Noncompliance can result in removal of Federal Aid



**Other
Important Title
VI Concepts**



- **Environmental Justice** – a requirement of all highway and environmental legislation, EO 12898 required specific consideration of impacts on minority and low income populations
- **Limited English Proficiency** – EO 13166; part of national origin – important programs and services must be meaningfully accessible to LEP

So what is the 1273 Connection?



- YOU are!
- Recipients are required to review programs annually to ensure nondiscrimination
- Construction is a major program for State Highway Agencies
- Ensuring inclusion of and compliance with 1273 goes a long way toward fulfilling FDOT and local agency nondiscrimination requirements

Nonsegregated Facilities

Section III levies two important responsibilities, one stated, one understood:

- *For contractors, it requires prevention of disparate facilities for employees.*
- *For SHAs, it requires a method of ensuring 1273 compliance*



What images come to mind when you hear 'segregation'?

In the civil rights context, Segregation is *"the physical separation of categories of individuals, usually on the basis of gender, race, religion, or class, sanctioned either by law or by custom."*



FHWA 1273 is clear about what facilities must be free from segregation

- waiting rooms
- work areas
- restaurants
- other eating areas
- time clocks,
- restrooms, washrooms, locker rooms, and other storage or dressing areas
- parking lots
- drinking fountains
- recreation or entertainment areas
- Transportation
- housing provided for employees.

1273 permits segregation only when gender based privacy is necessary.

1273 also clearly defines the Contractor's responsibilities



- Cannot have policies of segregation
- Cannot sanction custom or habits of segregation
- Cannot allow assignments to segregated locations

However, It is important to remember that segregation, like any discrimination, falls into two categories

1. Intentional, or disparate treatment. . . Cause and direct effect

-Or-

2. Unintentional, or disparate impact . . . Cause and indirect or unforeseen effect

- The first is insidious and far less common in the modern workplace.
- The second is generally based upon a facially neutral policy or practice that tends to discriminate; a more common occurrence these days.

Can you think of possible examples of unintentional segregation?

- Women work inside; men outside
- Inside bathrooms for office staff; outside bathrooms for field workers
- Assignment of equipment or other facilities on the basis of 'safety'
- Steering committees open only to underrepresented groups

What roles do we play as compliance staff?

- We ensure Contractor certification.
- We conduct labor interviews, observing and asking about conditions.
- We examine bulletin boards to ensure employees understand their rights.
- We train contractors on the Workbook (Section 3.6).
- We conduct contractor compliance reviews under 23 CFR 230.
- We randomly pull contracts and subcontracts to check 1273 inclusion.
- We report unusual activities and conditions, as well as complaints to the District, Central Office and/or Federal Highway.
- We document, document, document

Questions?



Thank you, Erica, Charlotte and Carey
(he's the thin one)