



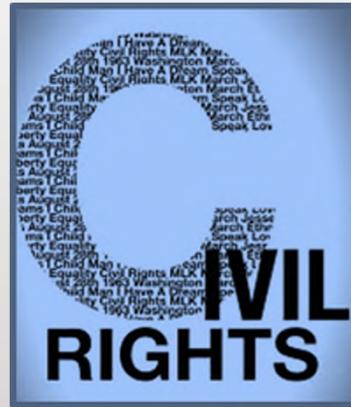
U.S. Department
of Transportation

Federal Highway
Administration



Space Shuttle Endeavor at Kennedy Space Center

Florida Division Office



Title VI: State and Local Requirements



U.S. Department of Transportation
Federal Highway Administration

Learning Objectives

1. Understand the history and purpose of Title VI
2. Become familiar with the roles and relationships between federal, state, and local agencies
3. Recognize the importance of data in program reviews and complaint investigation
4. Apply Title VI program principles to real world scenarios



Part One: Title VI Basics



Title VI - Basics

What is the law?

“No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d, et. seq.

Title VI - Basics

What is the law?

Title I – Voting Rights

Title II – Discrimination in Public Accommodations

Title III – Desegregation of Public Facilities

Title IV – Desegregation of Public Education

Title V – Commission on Civil Rights

Title VI – Non Discrimination in Federally Assisted Programs

Title VII – Equal Employment Opportunity

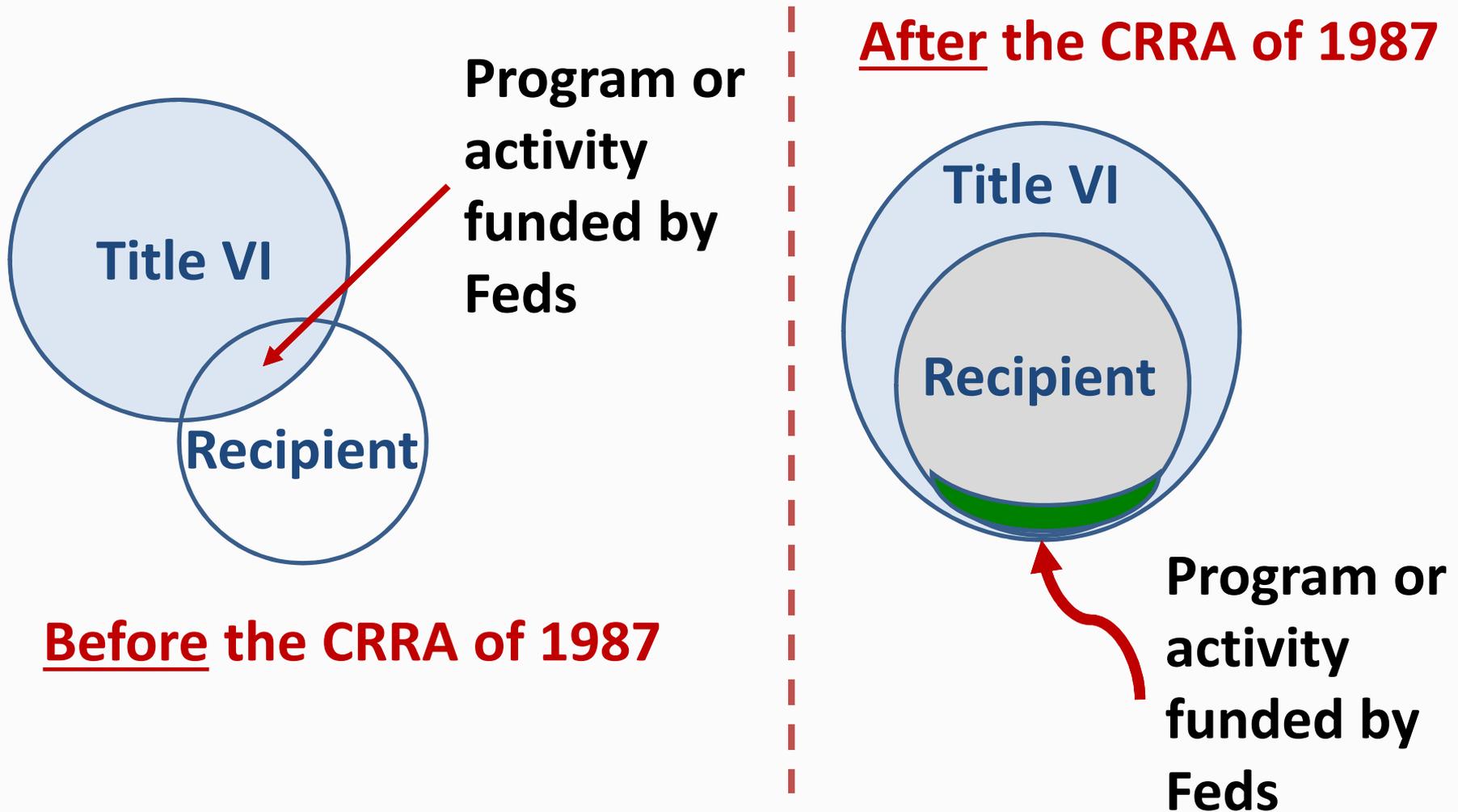
Title VI - Basics

What is the law?

Civil Rights Restoration Act of 1987

- Rejected 1984 Supreme Court decision in *Grove City College v. Bell* (465 US 555)
- “Program or activity” means all of the operations—any part of which is extended Federal financial assistance—of:
 - a department, agency, special purpose district, or other instrumentality of a State or of a local government; or
 - The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local governmental of the operations of any entity” 42 U.S.C. § 2000d-4a(1).

Title VI - Basics



Title VI - Basics



**Nondiscrimination
Program**

Race,
Color and
National
Origin

Sex, Age
and
Disability

Family
Status; Religion;
Income; Sexual
Orientation &
Gender Identity

Part Two: Roles & Responsibilities



Who Does What?

FHWA

- Provides stewardship and oversight
- Approves Implementation Plans and conducts process reviews
- Provide policy and technical assistance training
- Investigates complaints against recipients

FDOT

- Perform required actions under 23 C.F.R. Part 200
- Submit annual Implementation Plan, assurances, and Report to FHWA Division
- Conducts internal and external reviews
- Process and investigate complaints against subrecipients

Responsibilities

Local Public Agency and MPOs:

1. Submit assurances to FDOT and use appendix contract inserts
2. Develop/Post policies and complaint procedures
3. Train staff
4. Develop a Limited English Proficiency (LEP) Plan
5. Collect and review demographic data on beneficiaries of your agency's decisions
6. Cooperate with federal or state reviews

Responsibilities



Good News!

- All of these requirements are part of the [FDOT Sub-recipient Compliance Assessment Tool \(SCAT\)](#)
- You can use the SCAT and related resources to develop and monitor your program, *even if you aren't LAP certified.*
- The SCAT website includes a ten-page handbook that guides users step-by-step through the process
- SCAT is a recognized best practice by FHWA for demonstrating Title VI compliance

Part Three:



**Managing Title VI/
Nondiscrimination
programs and
complaints: *Using
data***

Demonstrating Title VI Compliance

After the Basics:

1. Develop a process for at least triennially reviewing agency programs for nondiscrimination or for trends of inequity
2. Implement these reviews randomly, on a schedule or based on identified concerns or issues
3. Gather relevant data/information
4. Ensure you have access to staff that are experts in the program you are reviewing
5. Document what you find and, if necessary, take corrective action

Demonstrating Title VI Compliance

- We use the terms ‘programs, services, activities, projects’ quite a bit
- The terms simply describe the primary functions of your office . . . Those that *might* receive federal-aid, even if they do not.
- For FDOT, program areas are planning, environment, realty, construction, maintenance, etc.

Demonstrating Title VI Compliance

Collect data
and
information

Analyze

Act on
findings

Two types of data:
underlying
demographic data
(usually Census
products); and data
from the program or
project you are
reviewing (usually
internal info on
beneficiaries)

Along with program
staff, layer internal
data or information
on top of the
demographic data.
Are there
inconsistencies? Are
there reasons for the
inconsistencies

Document, however
informally the review,
your findings and
action you took, if
any.

Demonstrating Title VI Compliance

Sample questions that help identify data to collect/analyze:

- What is your service population, the actual beneficiaries of the program, service or project?
- Which program, service or project is receiving funding?
- Who will benefit and how? Who will be burdened and how?
- Is the public aware of the program, service or benefit and has it had the opportunity to provide input?
- Have you received formal *or informal* complaints or public comments?

Part Four: Group Exercises



Group Exercises

- **Discuss the scenario assigned to your group**
- **Assume that your group is an agency that receives federal funds and has all basic Title VI requirements in place (Policy, Procedure, Coordinator, Assurance, etc.)**
- **Elect a spokesperson**
- **Try to answer the following:**
 - Are any of the facts cause for concern ?
 - Could this be a Title VI or related issue?
 - What are some critical things you would do?
 - What data or information do you need to analyze?
 - What will this data or information tell you?
 - What conclusions can you draw from just the scenario?

Table One (Munchkin)

You are the Title VI/Nondiscrimination Coordinator for the County of Oz Planning Organization (OzPO). As you conduct the triennial Title VI program review, you locate a comprehensive Limited English Proficiency (LEP) plan based on Census American Community Survey data from 2007. It properly describes when OzPO will provide interpretation and which documents it will translate into Munchkin, which some County residents speak exclusively.

Table One Possible Answers

- **Concerns:** There is some concern associated with relying on outdated data, especially if you have a known population of LEP.
- **Title VI:** This could be Title VI related – Language is part of national origin and failure to provide services in accordance with an approved LEP plan could be discrimination.
- **Action:** Check to see if there is more recent ACS data; maybe contact school board, sheriff's offices, churches and or social services to see if LEP services are consistent with the data. Anything else?
- **What do we need:** The data category for ACS is 'English Spoken Less than Well' but you may have other sources of data that are more reliable – surveys, service providers . . .
- **What might it tell us:** Data can indicate if the population of LEP has grown or remained consistent and can suggest whether your Plan is in need of update or can remain in place.

Table Two (Emerald City)

Emerald City has experienced a lot of staff overturn this year. Everyone is new, even the Director of Parks & Rec. His first decision as Director is to apportion a grant for new playground equipment equally among the City's five parks.

Table Two Possible Answers

- **Concerns:** High overturn of key staff should concern you, especially if they have not yet been trained in Title VI compliance. Any others?
- **Title VI:** It could be an issue, we just don't know enough to be sure. Equal and fair aren't the same thing.
- **Action:** We might recommend a survey of the equipment in the five parks to see which are more in need of replacing. Some may present safety issues, other not. We might also remind the Director that equal and fair aren't necessarily the same things.
- **What info do we need:** We need to know the condition of the current equipment to see if there is a disparity. Maintenance records could help, for the same reason. Demographics can assist us, since lower income and minority communities may have heavier use of their parks than those in more affluent areas.

Table Three (Winkies)

Dorothy, the new receptionist in Public Works, complains to you that Emerald City residents are nothing but complainers. For example, she says that PW received two phone calls from an irate witch who lives in Winkie Country, just east of Emerald City. The witch's mother, who is 90 years old, keeps slipping on cracks along the sidewalk. Last week, the old lady fell, shattering her hip. The witch demanded action, saying that the sidewalks in Quadling Country don't have cracks. She yelled at Dorothy, "don't make me fly down there."

Table Three Possible Answers

- **Concerns:** Dorothy is new and needs training; caller does not say 'discrimination' but suggests a protected basis (age); an injury is involved.
- **Title VI:** No, but it could be ADA or Age.
- **Action:** We probably need to log this as a potential discrimination complaint. We also must ensure that someone followed-up and that the trip hazard was eliminated, if required. Next, we might examine call logs as a focus review for Title VI triennial reporting
- **What we need:** We might need to know the age demographic in the west, conduct a survey of west side sidewalks, and/or compare maintenance expenditures in downtown Emerald versus those on the west side
- **What it can tell us:** This information may suggest a disparity in sidewalk conditions and maintenance.

Table Four (Gillikins)

Public meetings for Oz County take place at 7:00pm on the third Tuesday of each month at the Green Glass Pavilion, a public hall located in downtown Emerald City. The space is ADA compliant and conveniently located along the Broom Area Transit (BATran) fixed route system. Of course, BATran discontinues service to downtown stops at 7pm on weekdays. In addition, the meetings are sparsely attended – usually the same few folks that drive over from the Quads.

Table Four Possible Answers

- **Concerns:** Poorly attended meetings with no diversity; Transit dependent may not be able to access the meeting or return from it.
- **Title VI:** Very possibly. Oz is a fed-aid recipient and public meetings are a service. If minorities cannot access the meetings, it could be discrimination.
- **Action:** Research whether this is the only public involvement method used by the county; review data collected at all public involvement activities to see if it's representative.
- **What do we need:** demographic makeup of the county versus the representation of those participating in public involvement events.
- **What might it tell us:** whether participation by various communities is representative or whether there is a disparity.

Table Five (The Quads)

The Quad Country High School Tennis teams took the All-Emerald Championship! This means that both men's and women's teams are invited to compete in the Over-Rainbow World Tournament in Kansas this summer. Sadly, travel by air balloon is costly. The Oz County School Board decides to send just the men's team saying, "we're lucky to be going at all." The Boosters complain to you. They think this is pure sexism and forbidden by, like, a thousand different laws.

Table Five Possible Answers

- **Concerns:** allegation of disparate treatment in funding should raise red flags.
- **Title VI:** Sex is not specifically the Title VI statute and likely not as many as a thousand other laws, but certainly Title IX, CRRA and (for FDOT/FHWA), the Highway Act of 73.
- **Action:**
- **What do we need:** School Board policy for team travel; what funds are being used; how are the funds raised (revenue or other).
- **What it can tell us:** If there is a legitimate reason for choosing the men's team. Can you think of any possibilities?

ALL

OzPO has included the YBR Extension in its cost feasible plan and the project is consistent with both the long range and transportation improvement plans. The project is now in development and there is a lot of controversy over the alignment though interestingly, not about the need for expansion. Discuss the benefits and burdens the project would have on your community, based on the alignment. Is Title VI a concern?

There is no firm right or wrong answer.

Here are some considerations:

- Expansion of transit?
- Ped or multi use trail facilities?
- Connects communities with employment?
- Improves evacuation/emergency response?
- Cost differences?
- Robust public involvement of all communities?
- What does the census show?
- Remedies past inequity?
- Economic development?
- Driving habits of the various communities?
- Who will use the facility?
- Who will simply be next to the highway?
- What are the values of various communities?
- Community goals that might be served?
- Impacts to air, water quality along alignment?