

# External Civil Rights Program (Title VI)

U.S. Environmental Protection Agency

Office of Civil Rights

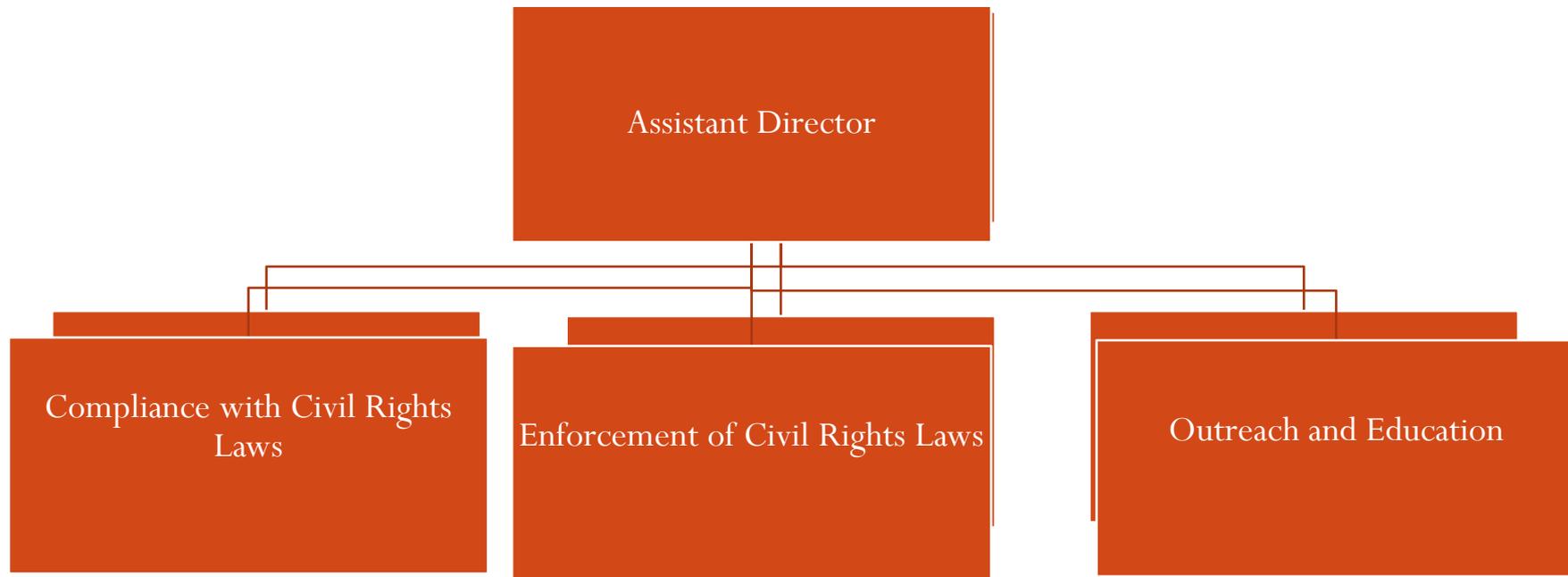
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# Purpose of Training

- To ensure awareness of the provisions of Title VI of the Civil Rights Act of 1964 and the minimum requirements to be in compliance with its rules, laws, and regulations.



# Organizational Structure



# Enforcement

- Complaint Process
  - Jurisdictional Reviews
  - Investigations
  - Final Agency Decisions
- Case Resolution
  - Alternative Dispute Resolution (3<sup>rd</sup> Party neutral)
  - Informal Resolution with Recipients (EPA)
  - Voluntary Compliance with Recipients

# Federal Non-discrimination Laws

- ❑ **Title VI of the Civil Rights Act of 1964**, prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in their programs or activities.
- ❑ **Section 504 of the Rehabilitation Act of 1973**, prohibits discrimination against persons with disabilities under Federally-assisted programs or activities;
- ❑ **Section 13 of the Federal Water Pollution Control Act Amendments of 1972**, prohibits discrimination based on sex under programs or activities receiving financial assistance under the Clean Water Act;
- ❑ **Title IX of the Education Act amendments of 1972**, prohibits discrimination on the basis of sex in Federally-assisted education programs; and
- ❑ **Age Discrimination Act of 1975**, prohibits age discrimination under Federally-assisted programs.

# Jurisdictional Review Process

- A. Recipient
- B. Discriminatory act
- C. Timely
- D. Written
- E. Other considerations

*See 40 C.F.R. Part 7*

# Discriminatory Act Bases – Title VI of the Civil Rights Act of 1964

- Race
- Color
- National Origin

# Theories of Discrimination

- A. Disparate impact  
(*i.e.*, discriminatory effects)
- B. Intentional discrimination  
(*i.e.*, disparate treatment)
- C. Retaliation

# Disparate Impact

## Elements of a Disparate Impact Claim

Causation

Adversity

Disparity

# Disparate Impact

## Elements of a Disparate Impact Claim - Adversity

### Specific regulatory prohibitions -

- Deny service, aid, or benefit, or provide them differently

- Segregation

- Deny opportunity to participate in advisory groups

### Examples -

- Denial of driver's license b/c of English-only test

- Segregation in education based on flawed criteria

- Absence of health services due to lack of facilities

# Intentional Discrimination

## Potential sources of evidence

- Statements by decision makers
  - Sequence of events
- Departure from standard procedure
- Legislative or administrative history
  - Past history of discrimination
- Disparate impact
- Different treatment than other groups

*See Arlington Heights v. Metropolitan Hous. Redevelopment Corp.*,  
429 U.S. 252, 266-68 (1977).

# Retaliation

*Prima facie* case

- An individual engaged in a protected activity
- The alleged retaliator\* was aware of the activity
- The individual experienced different and adverse treatment, and
  - The negative conditions followed the activity

\* Need not be a recipient

*See* 40 C.F.R. 7.100

# EPA's LEP Order 1000.32

- In compliance with Executive Order 13166, the Office of Civil Rights (OCR) has developed a **LEP Order 1000.32**, “Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency” sets forth EPA’s expectations and requirements to ensure compliance with Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency (LEP)
- The LEP Order 1000.32 requires that EPA ensure their programs and activities are meaningfully accessible to LEP persons. The starting point for ensuring that EPA’s programs and activities are meaningfully accessible is a flexible, fact dependent and individualized four factor assessment

# What are the Four factors?

## **The Four Factor Assessment**

1. The number or proportion of LEP persons encountered in the impacted population
2. The frequency with which LEP individuals come in contact with the EPA program or activity
3. The nature and importance of the program, activity, or service provided by EPA
4. Resources and costs

*See* Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 69 Fed. Reg. 35602. (June 25, 2004), <http://www.gpo.gov/fdsys/pkg/FR-2004-06-25/pdf/04-14464.pdf>

# Compliance

- Compliance Monitoring
  - Pre-Award Compliance Review Program
  - Post-Award Compliance Review Program
- Compliance Assistance
  - Technical Assistance
    - Development and Delivery of Guidance to Recipients
    - Development and Delivery of Training to Recipients

# Outreach and Education

- Outreach
  - Public
  - EPA Programs
- Education/Training
  - Public (OCR has on-line training that can be found at [www.epa.gov/ocr](http://www.epa.gov/ocr) )
  - EPA Programs (HQ and Regions)

# Sample Fact Pattern

- The Complainant was born in Spain, speaks fluent Spanish, and resides in the United States for the past 5 years. The alleged Recipient is County X (Recipient). The Complainant was attending a public meeting hosted by the Recipient involving a facility that is to be built in her community.
- After the public meeting the Complainant felt excluded from the meeting because she, and the other Spanish speaking community members in attendance, could not fully understand the technical presentation. She claims that the community members requested an interpreter one month prior to the public meeting but was denied. The next day the Complainant filed and mailed an administrative complaint with the Office of Civil Rights, US Environmental Protection Agency.
- Shortly after the Complainant filed the administrative complaint, she was notified in writing that she was being banned from attending all future public meetings hosted by the Recipient. When the Complainant asked why, the Recipient did not provide an explanation as to why. The Complainant immediately called her friend who had attended the same public meeting. The Complainant's friend informed her that he had not been banned from future public meetings but was actually being invited to another public meeting hosted by the Recipient.

# It's time for a Test!

Please answer the following questions.

1. *Title VI of the Civil Rights Act of 1964*, states that no person in the United States shall be excluded from participation in any programs, be denied the benefits of, or be subjected to discrimination based on what?
  - a. Religion
  - b. Disability
  - c. Age
  - d. Race, Color or National Origin
  
2. *Section 504 of the Rehabilitation Act of 1973* prohibits discrimination on the basis of sex in federally-assisted programs.
  - a. True
  - b. False

# It's time for a Test!

Please answer the following questions.

3. What are the discriminatory act bases under Title VI?

- a. Age
- b. Race or Color
- c. National Origin
- d. B and C

4. The LEP Order 1000.32 requires that EPA ensure their programs and activities are meaningfully accessible to LEP persons.

- a. True
- b. False

# For more information please contact:



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