

# Title VI and Title VII civil rights complaints-what's the difference?\*

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## 1. What is the difference between a Title VI and a Title VII complaint?

### Title VI - federally funded projects and activities:

Title VI prohibits discrimination in federally funded projects, activities or programs, including those at airports.

**42 U.S.C. § 2000d** provides:

*“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...”*

**49 U.S.C. § 47123** provides specific and broader nondiscrimination requirements for FAA funded AIP projects:

*“The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of **race, creed, color, national origin, or sex** from participating in an activity carried out with money received under a grant under this subchapter...”* \*\*

**Grant Assurance #30:** In federally funded AIP projects, facilities and activities, the nondiscrimination requirement is included in standard grant assurance 30.

### Title VII - employment.

42 USC 2000e (Title VII) protects employees and applicants from discrimination based on race, color, sex, national origin or religion.\*\* Reprisal for engaging in EEO activity or opposing discriminatory practices is also prohibited by Title VII.

For example, a person who wasn't hired due to their national origin would have a remedy against the concessionaire (perhaps the airport) under Title VII, such as via the EEOC.

#### **Certain civil rights claims can be filed under either statute.**

For the individual, discrimination complaints can be filed under either Title VI or Title VII. Title VII offers much broader relief and remedies in the employment arena.

\* Note: This document is not intended to be legal advice, is not all inclusive, and is prepared for informational purposes only as a summary of some of the requirements and processes of Title VI.

\*\* The Rehabilitation Act covers discrimination based upon disability.

## 2. Title VI complaints.

### a) If complaint filed with airport sponsor (15 days to notify FAA):

If a discrimination complaint is submitted to an airport owner or operator, then 49 CFR Part 21, appendix C (b)(3) requires the owner to forward a copy to the FAA within 15 days:

*(3) Reports. Each airport owner subject to this part shall, within 15 days after he receives it, forward to the Area Manager of the FAA Area in which the airport is located a copy of each written complaint charging discrimination because of race, color, or national origin by any person subject to this part, together with a statement describing all actions taken to resolve the matter, and the results thereof.*

### b) If complaint is filed with FAA:

1. **49 C.F.R. Part 21** is the primary regulation governing civil rights complaints filed with the FAA.

2. **14 C.F.R. Parts 13 and 16:**

In addition, a complaint may be filed under 14 C.F.R. part 13 (informal complaints) or 14 C.F.R. part 16 (formal complaints) when it raises other non-civil rights claims, such as violations of other grant assurances. These complaints are processed through the 14 C.F.R. parts 13 and 16 procedures. The FAA's Office of Civil Rights handles or confers regarding the civil rights claims made in multi-claim complaints.

## 3. Bases/grounds for a Title VI complaint.

Direct discrimination: A complaint should identify the specific conduct, practice or service involved in the alleged discrimination based upon race, color, sex or national origin etc., e.g., denial of services or access to a covered program, harassment by the program's employees, or unequal services in a program.

Disparate impact: Alternatively, discrimination can be more subtle and a given neutral policy can have a disparate impact on a member of a protected class. In these cases, the complaint should identify the practice, procedure, policy, or service alleged to have a disparate effect on one or more members of a certain protected class.

Examples: 49 CFR Part 21 Appendix C provides specific examples of prohibited practices and mandates.

*(1) Federal Aviation Administration. (i) The airport sponsor or any of his lessees, concessionaires, or contractors may not differentiate between members of the public because of race, color, or national origin in furnishing, or admitting to, **waiting rooms, passenger holding areas, aircraft tiedown areas, restaurant facilities, restrooms, or facilities operated under the compatible land use concept.***

*(ii) The airport sponsor and **any of his lessees, concessionaires, or contractors** must offer to all members of the public the same degree and type of service without regard to race, color, or national origin. This rule applies to fixed base operators, restaurants, snack bars, gift shops, ticket counters, baggage handlers, car rental agencies, limousines and taxis franchised by the airport sponsor, insurance underwriters, and other businesses catering to the public at the airport.*

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*(ix) **Employment** at obligated airports, including employment by tenants and concessionaires shall be available to all regardless of race, creed, color, sex, or national origin. The sponsor shall coordinate his airport plan with his local transit authority and the Federal Transit Administration to assure public transportation, convenient to the disadvantaged areas of nearby communities to enhance employment opportunities for the disadvantaged and minority population.*

Additional examples include:

- (a) Any difference in the quality, quantity, or manner in which a service or benefit is provided;
- (c) Restriction in the enjoyment of any advantages, privileges, or other benefits that are provided by the program;
- (d) Different standards, requirements, or eligibility factors for participation or entry...
- (e) Disparate treatment in any manner related to receipt of services or benefits;
- (f) Restriction of the membership of advisory or planning councils that are an integral part of federally funded programs;
- (g) Failure to provide information or services in languages other than English where a significant number or proportion of potential beneficiaries are of limited English-speaking ability;
- (h) Failure to adequately advise person(s) in the eligible population of the existence of services or benefits; or
- (i) Use of criteria or methods of administration that would defeat or substantially impair the accomplishment of program objectives or would more heavily affect members of a protected group.

**4. When must a Title VI complaint be reported to and filed with the FAA?**

**49 C.F.R. §21.11:**

Complaints must be filed within 180 days of the last date of the alleged discrimination, unless the time for filing is extended. The filing date of the complaint is the earlier of: (1) the post-mark of the complaint or (2) the date the complaint is received by any FAA office. See *also* FAA Order 1400.11, Chapter 8, pp 26.

## 5. FAA's processing of Title VI civil rights complaints.

### a) Jurisdiction over the complaint and the parties:

Subject matter: FAA must have jurisdiction over the subject matter of the complaint. The complaint must allege, or FAA must be able to infer from the available facts, an allegation of discrimination based on race, color, creed, national origin, sex, etc.

Parties: FAA must also have jurisdiction over the parties alleging the discrimination and over the person or entity that is discriminating.

### b) FAA then identifies the issues,

### c) Investigate the issues and collect data (when, where, how, why); prepares a report and

### d) Resolution (depends upon outcome).

## 6. Resolution of a Title VI complaint.

Different types of letters will be issued depending on the findings of an investigation on how the case is resolved. The standard for issuing letters resolving complaints is 180 days from receipt of the complaint.

A closure letter or letter of finding (LOF) of no violation is issued when the evidence is insufficient to show a recipient has failed to comply with nondiscrimination provisions.

A compliance agreement is issued when the recipient has voluntarily agreed to come into compliance.

A violation letter of findings is issued when the evidence shows a recipient has failed to comply with nondiscrimination provisions and has not come into compliance or agreed to comply. This letter may serve as the basis for additional enforcement action. See FAA ORDER 1400.11, Chapter 10, Enforcement, and 49 CFR §§21.11 through 21.19

## 7. Requests for reconsideration.

"Request for Reconsideration" must be in writing sent to ACR-1 **within 30 days** of receipt of FAA's letter closing the complaint. The request must identify (1) the specific finding to be reconsidered, and (2) the basis for the request, including facts or evidence to support the request. See FAA Order 1400.11, Chapter 8, p27.

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