



**U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION**

**ORDER
1400.11A**

National Policy

Effective Date:
09/30/2022

SUBJ: Nondiscrimination in Federally-Assisted Programs at the Federal Aviation Administration (FAA)

This Federal Aviation Administration (FAA) Order describes the FAA's implementation of Title VI of the Civil Rights Act of 1964 (Title VI), (Public Law (Pub. L.) 88-352, codified at Title 42 *United States Code* (U.S.C.) §§ 2000d – 2000d-7). Title VI prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance.

Title 49 U.S.C. § 47123 provides similar protections to individuals that participate in an activity carried out with money received from an FAA Airport Improvement Program (AIP) grant. It extends protection on the basis of sex and creed.

This Order also describes the FAA's implementation of the Age Discrimination Act of 1975, (Pub. L. 94-135, codified at 42 U.S.C. § 6102) that prohibits discrimination on the basis of age in Federally-assisted programs.

Finally, this Order addresses the FAA's responsibility to ensure that airport grant sponsors, airport operators, and other FAA recipients comply with Title VI and related nondiscrimination requirements in FAA-assisted programs and activities.

A handwritten signature in black ink, reading "Billy Nolen".

Billy Nolen
Acting Administrator

Table of Contents

Chapter 1. General Information.....	1
1. Purpose of this Order.....	1
2. Audience.....	1
3. Where to Find this Order.....	1
4. Cancellation.....	1
5. Explanation of Policy Changes.....	1
6. Distribution.....	1
7. Scope of Order.....	1
8. Authority to Change this Order.....	2
9. Policy.....	2
10. How to Provide Feedback.....	2
Chapter 2. Responsibilities.....	3
1. Overview.....	3
2. Office of Civil Rights (ACR).....	3
3. Office of the Chief Counsel, Airport Law Branch (AGC-610).....	3
4. Office of Environment and Energy.....	3
5. Headquarters Airports Organizations.....	4
6. Regional Airports Divisions and Airports District Offices.....	4
7. Other FAA Grant Program Organizations.....	4
8. Departmental Office of Civil Rights (DOCR).....	4
9. Department of Justice (DOJ) Civil Rights Division (CRT).....	5
10. DOT Office of Aviation Consumer Protection.....	5
Chapter 3. Title VI/Nondiscrimination Policy, Legal Authorities, and Discrimination Prohibited.....	6
1. Overview.....	6
2. Implementing Regulations.....	6
3. Executive Orders (E.O.).....	6
4. Directives and Guidance.....	7
5. Discriminatory Actions Prohibited.....	7
6. Reserved.....	8
Chapter 4. Effectuating Title VI Compliance.....	9
1. Overview.....	9
2. Federal Agency.....	9
3. Title VI Grant Assurances and Contract Provisions.....	9
4. Application of Requirements to Recipient Programs.....	10
5. General Responsibilities of LOB/SOs with Recipients of FFA.....	12
6. Reserved.....	12

Chapter 5. Title VI Pre-Award Reviews	13
1. Overview.....	13
2. Title VI Pre-Award Assessment (Title VI Checklist).....	13
3. Title VI Plan.....	13
4. Community Participation Plan (CPP).....	14
5. AIP Grant Applications.	14
6. Reserved.	14
Chapter 6. Compliance Reviews	15
1. Overview.....	15
2. Scope of Review.	15
3. Conducting the Compliance Review.....	16
4. Compliance Determinations.....	16
5. Compliance Report.....	16
6. Voluntary Compliance.	17
7. Reporting to DOCR.....	17
8. Enforcement.....	17
9. Reserved.	17
Chapter 7. Title VI/Nondiscrimination Complaints	18
1. Overview.....	18
2. Filing Formal Complaints.....	18
3. Acceptance of Complaints.....	19
4. Investigations.....	19
5. Closure Letter.....	19
6. Request for Reconsideration.....	19
7. Complaints of Employment Discrimination against Recipients.....	19
8. Complaints against the FAA.....	20
9. Complaints Based on Age (Age Discrimination Act).....	20
10. Complaints Investigated by Sponsors.....	20
11. Reserved.	20
Chapter 8. Monitoring and Enforcement Strategies	20
1. Overview.....	21
2. Informal Resolution.....	21
3. Training and Technical Assistance.	21
4. Monitoring of Grant Programs other than AIP.	21
5. Enforcement.....	22
6. Reserved.	22
Appendix A. Acronyms and Abbreviations	23

Chapter 1. General Information

1. Purpose of this Order. This Order describes how the FAA acts to ensure that airport sponsors over which the agency has jurisdiction, including those that receive Airport Improvement Program (AIP) grants, meet their Federal nondiscrimination obligations. The Order provides the policies, standards, procedures, and roles and responsibilities by which to implement Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d et seq.); the nondiscrimination provision (49 U.S.C. § 47123) in the Airport and Airway Improvement Act of 1982, as amended; and the Age Discrimination Act of 1975 (42 U.S.C. § 6102) in its Federally-assisted programs (hereafter, “the Nondiscrimination Statutes”). This Order also implements the FAA’s responsibilities under Department of Transportation (DOT) Order 1000.12C, “The U.S. DOT Title VI Program.” This Order helps ensure standardization and uniformity in the application of these requirements so that beneficiaries have non-discriminatory access to services, activities, and programs that are provided by FAA recipients, and there are no discriminatory effects or treatment under the services, activities, and programs.

2. Audience. All FAA employees involved in implementing the Nondiscrimination Statutes and related requirements.

3. Where to Find this Order. You can find this Order on the MyFAA Employee website: https://employees.faa.gov/tools_resources/orders_notices/. This Order is available to the public at https://www.faa.gov/regulations_policies/orders_notices/.

4. Cancellation. The FAA Order 1400.11, “Nondiscrimination in Federally-Assisted Programs at the FAA,” dated August 27, 2013, is canceled upon issuance of this Order.

5. Explanation of Policy Changes. This Order contains the following principal changes: organizational changes, including within the FAA Office of Civil Rights; programmatic changes required by DOT 1000.12C, including procedures to assess Title VI compliance during grant pre-award phases and reporting of Title VI deficiencies to the Departmental Office of Civil Rights; identification of responsibilities for the FAA implementation of the Nondiscrimination Statutes by non-AIP grant programs; and other program developments and regulatory updates since 2013.

6. Distribution. This Order is intended for: (1) Assistant and Associate Administrators, and heads of offices and services that have responsibility for any FAA grant or other FAA-assisted programs; (2) the division levels in the Offices of the Chief Counsel, Civil Rights, Airports, and (3) the Acquisition, Materiel, and Grants Division under the Air Traffic Organization (ATO), the UAS Integration Office, the Center of Excellence Program Office under the Office of NextGen, and the Office of Commercial Space Transportation.

7. Scope of Order. This Order addresses the FAA’s responsibilities in monitoring airport grant sponsors and other FAA recipients¹ for compliance with the Nondiscrimination Statutes and

¹ This Order will at times use the term “sponsor(s)” interchangeably with the terms “recipient(s)” and “applicant(s).” In most cases, “airport sponsor” (or sponsor) is used when a provision in this Order specifically applies to the Airport Improvement Program (AIP) or a recipient of an AIP grant.

related requirements. This Order does not have the force and effect of law and is not legally binding on airport sponsors in its own right. Mandatory terms such as “must” in this Order describe established statutory or regulatory requirements.

8. Authority to Change this Order. Unless specifically reserved by the Administrator, the Assistant Administrator of Civil Rights may approve changes to this Order, except those affecting policy, the delegation of authority, and the assignment of responsibilities.

9. Policy. The FAA is committed to compliance with all nondiscrimination laws, regulations and policies. It is the FAA’s policy to actively ensure that all recipients (and sub-recipients) of Federal financial assistance from the FAA do not discriminate on the basis of race, color, national origin (including limited English proficiency), sex (including sexual orientation, and gender identity), creed, age, or disability, and that all FAA recipients comply, as applicable, with the Nondiscrimination Statutes and related requirements as a condition of receiving Federal financial assistance. We will also ensure there is no discrimination in the workplace on the basis of race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), genetic information, national origin, age (40 and over), disability, or reprisal for participating in a protected Equal Employment Opportunity (EEO) activity, in accordance with Title VII of the Civil Rights Act of 1964 (codified at 42 U.S.C. 2000e et seq.).

10. How to Provide Feedback. Please submit any written comments or recommendations for improving this Order, or suggest new items or subjects be added herein, using the online feedback portal at Civil Rights Feedback² or the FAA Civil Rights App.³ When applicable, please also note the paragraph and page number of any errors (procedural or typographical) and the recommended corrections.

² <https://tcdeapps.tc.faa.gov/production/civilrightsfb.nsf/Start2?OpenForm&DIV0-BDQN57&ECTR-B4BQNE>

³ The FAA Civil Rights App is free and can be downloaded from the Apple and Google Play App Stores.

Chapter 2. Responsibilities

1. Overview. This Chapter identifies the lines of business, offices, and agencies with responsibilities for the Nondiscrimination Statutes and related requirements under this Order. Should their functions or names change, this Order applies to the successor entities.

2. Office of Civil Rights (ACR). The Office of Civil Rights develops and enforces policies and procedures to ensure that the Agency and airport sponsors comply with the Nondiscrimination Statutes and related requirements, as applicable.

a. Assistant Administrator for Civil Rights (ACR-1). The Assistant Administrator for Civil Rights is the FAA's principal advisor on matters concerning the agency's responsibilities under the Nondiscrimination Statutes and related requirements. In this capacity, ACR-1 assists the Administrator in carrying out the provisions of statutory and regulatory authorities described in this Order. ACR-1 has delegated the authority to act for, represent, and speak for the Administrator on civil rights issues.

b. Airport Disability and Nondiscrimination Compliance Program (ACR-4B). The Airport Nondiscrimination Compliance Program (ANCP), within ACR-4B, is responsible for investigating complaints of discrimination filed under the Nondiscrimination Statutes and related requirements and conducts periodic compliance reviews of airports. ANCP provides technical assistance and training to airport operators, sponsors, and other entities to facilitate compliance with program requirements. ANCP coordinates with FAA program and grant offices to determine the Title VI compliance status of potential FAA recipients. ANCP also provides appropriate assistance to members of the public who need additional information on compliance requirements, including applicable regulations and information on filing a complaint of discrimination, or reporting a violation of the Nondiscrimination Statutes and related requirements.

c. National Airport Civil Rights Policy and Compliance Program (ACR-4C). ACR-4C is responsible for developing policies, guidelines, standards, and operating procedures related to the Nondiscrimination Statutes and related requirements for FAA offices, compliance guidance for airport recipients, and coordinating with ANCP and AGC-610 to address complex operational and policy issues.

3. Office of the Chief Counsel, Airport Law Branch (AGC-610). This office is responsible for developing and recommending policies and procedures to ensure the agency's actions comply with the requirements of the law. As necessary, AGC or the designated field attorney will act as legal counsel for the agency and its officers in the determination of an airport sponsor's or other entity's compliance with the applicable statutes and regulatory provisions.

4. Office of Environment and Energy. The Office of Environment and Energy (AEE) in the Office of Policy, International Affairs, and Environment (APL) develops, recommends, and coordinates national and international aviation policy relating to environmental and energy matters. The Environmental Policy and Operations Division's (AEE-400) responsibilities include ensuring that FAA's environmental policies comply with Executive Order 12898 and DOT Order

5610.2C. (See Chapter 3 of this Order). AEE-400 will support ACR-4 in the interpretation and application of FAA's environmental policy and other pertinent DOT and agency directives, as ACR-4 considers Environmental Justice principles for actions identified herein.

5. Headquarters Airports Organizations. The Associate Administrator for Airports, Offices of Airport Planning and Programming (APP), Airport Safety and Standards (AAS), and Airport Compliance and Management Analysis (ACO) are responsible for planning and developing a safe and efficient national airport system. The Office of Airports (ARP) will assist ACR to the extent possible to implement this Order and will notify ACR if it becomes aware of any issues related to the Nondiscrimination Statutes and related requirements at the nation's airports.

6. Regional Airports Divisions and Airports District Offices. Regional Airports Divisions and Airports District Offices are responsible for implementing the Airport Improvement Program (AIP), the Passenger Facility Charge (PFC) Program, and other programs authorized by law. They are also responsible for all airport program matters pertaining to airport safety and certification, airport design, and planning. The Regional Airports Divisions and Airports District Offices will provide assistance to ACR to the extent possible to help ACR in the implementation of this Order; will notify ACR if they become aware of any issues related to the Nondiscrimination Statutes and related requirements, or if they carry out any grant-related sanctions via ACR-4-TitleVI@faa.gov.

7. Other FAA Grant Program Organizations. All FAA offices that award Federal financial assistance to recipients have Title VI monitoring and enforcement responsibilities. The Acquisition, Materiel, and Grants Division under the ATO, and the Centers of Excellence Program Office under the Office of NextGen, for example, are responsible for the management and administration of grants. Grants are one form of Federal financial assistance.⁴

8. Departmental Office of Civil Rights (DOCR). The DOCR is responsible for providing leadership, direction, and guidance to the Secretary and Deputy Secretary in carrying out DOT's civil rights programs. Specific functions include:

- a. Establishing Departmental policy concerning the implementation of DOT regulations;
- b. Serving as the Department's Title VI Coordinator;⁵
- c. Providing appropriate guidance, technical assistance, and training to the Operating Administrations (OAs);
- d. Periodically reviewing, evaluating, and monitoring the programs of the OAs; and
- e. Ensuring that all complaints alleging Title VI noncompliance under DOT programs are processed, investigated, and resolved.

⁴ Department of Justice, Title VI Legal Manual, V – Defining Title VI: C. Federal Financial Assistance <https://www.justice.gov/crt/fcs/T6manual5>

⁵ See DOT 1000.12C, Ch. I, Sec. 9a; and 49 CFR § 1.40.

9. Department of Justice (DOJ) Civil Rights Division (CRT). The CRT is responsible for setting standards, providing guidance, and overseeing the enforcement of Title VI for all Federal agencies. In this capacity, the CRT may review regulations and policy guidance documents that address the implementation of Title VI, Title IX of the Education Amendments of 1972, and related Federal nondiscrimination laws.⁶ The CRT also receives Title VI complaints from the public and coordinates with Federal agencies to ensure that complaints are properly processed.⁷

10. DOT Office of Aviation Consumer Protection. The DOT Office of Aviation Consumer Protection is responsible for complaints alleging discrimination under 49 U.S.C. § 40127(a) and other Federal anti-discrimination statutes⁸ on the basis of race, color, national origin, religion, sex (including gender identity and sexual orientation), or ancestry in air travel.

⁶ Memorandum from the DOJ CRT concerning “Executive Order 12250 Clearance Requirements and Coordination for Nondiscrimination Regulations and Policy Guidance Documents and Related Executive Orders.” (Oct. 12, 2021).

⁷ Note: If the CRT receives a Title VI complaint that is within the jurisdiction of DOT that specifically relates to the FAA, the CRT will in general forward the complaint to DOCR which will forward it to ACR for processing.

⁸ The Department has also interpreted 49 U.S.C. §§ 41310(a), 41712, and 41702 as prohibiting discrimination against air travelers.

Chapter 3. Title VI/Nondiscrimination Policy, Legal Authorities, and Discrimination Prohibited

1. Overview. This Chapter identifies regulatory and other requirements that apply to airport sponsors under the Nondiscrimination Statutes and related requirements.

General Nondiscrimination Statutes that apply to airport sponsors (and other FAA recipients) that are overseen by ANCP include:

- (1) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d et seq.).
- (2) Title IX of the Education Amendments Act of 1972 (20 U.S.C. §§ 1681-1688).
- (3) The Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28).
- (4) Title 49 U.S.C. § 47123.
- (5) Age Discrimination Act of 1975 (“Age Act”), as amended (42 U.S.C. § 6101 et seq.).

2. Implementing Regulations.⁹

a. 28 CFR Part 42, Subpart F, “Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs.”

b. 29 CFR Part 1691, “Procedures for Complaints of Employment Discrimination Filed against Recipients of Federal Financial Assistance.”

c. 49 CFR Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.” (DOT’s Title VI rule)

d. 49 CFR Part 25, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.” (DOT’s Title IX rule)

e. A DOT rule for implementing the Age Discrimination Act has not been issued.

3. Executive Orders (E.O.).

a. E.O. 12250, “Leadership and Coordination of Nondiscrimination Laws” (Nov. 2, 1980).

b. E.O. 12898, “Federal Actions to Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations” (Feb. 11, 1994).

⁹ Title VI is a statutory basis for the Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) programs. This Order does not address procedures for the DBE and ACDBE programs, which are governed respectively by the regulations in 49 CFR parts 26 and 23.

c. E.O. 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP)” (Aug. 11, 2000).

d. E.O. 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government” (Jan. 20, 2021).

e. E.O. 13988, “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation” (Jan. 20, 2021).

f. E.O. 14008, “Tackling the Climate Crisis at Home and Abroad” (Jan. 27, 2021).

4. Directives and Guidance.

a. DOT Order 1000.12C, “The U.S. Department of Transportation Title VI Program” (June 11, 2021).

b. DOT Order 1050.2A, “DOT Standard Title VI Assurances and Non-Discrimination Provisions” (Apr. 24, 2013).

c. DOT Order 1000.18, “External Civil Rights Complaint Processing Manual” (Sept. 2007).

d. DOT Order 5610.2C, “U.S. Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-income Populations” (May 16, 2021).¹⁰

e. “Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons,” 70 FR 74087. (Dec. 14, 2005).

The FAA issues guidance to help its applicants and recipients meet their nondiscrimination obligations. Typically, these resources include toolkits, templates, and/or advisory circulars and are located online at the ACR website.¹¹

5. Discriminatory Actions Prohibited.¹² The DOT Title VI regulation at 49 CFR § 21.5(b) provides examples of discriminatory actions that are prohibited, based on race, color, or national origin, under DOT-assisted programs. Notably:

a. 49 CFR § 21.5(b)(1)(i-vii) prohibits disparate treatment (intentional discrimination).

b. 49 CFR § 21.5(b)(2) prohibits disparate impacts¹³ in general.

¹⁰ Engaging in EJ analysis under Federal transportation planning and NEPA provisions will not necessarily satisfy Title VI requirements. Similarly, a Title VI analysis would not necessarily satisfy EJ requirements, because Title VI does not include low-income populations. (DOT 5610.2C, Sec. 8a.)

¹¹ ANCP: https://www.faa.gov/about/office_org/headquarters_offices/acr/airport-nondiscrimination-compliance-title-vi-lep-ej; Policy: https://www.faa.gov/about/office_org/headquarters_offices/acr/airport-civil-rights-policy-and-compliance; and FAA Civil Rights Connect: <https://faa.civilrightsconnect.com/FAA/login.asp>.

¹² Recipients may not use criteria or methods of administration, either directly or through contractual or other arrangements, which subject, or have the effect of subjecting, persons to discrimination.

¹³ See DOT Order 1000.12C, Ch. 1, Sec. 8(f) for DOT’s definition of “disparate impact.”

c. 49 CFR § 21.5(b)(3) prohibits disparate impacts in determining the site or location of facilities.

6. Reserved.

Chapter 4. Effectuating Title VI Compliance

1. Overview. This Chapter applies to each line of business or staff office (LOB/SO) that provides Federal financial assistance (FFA), as defined under 49 CFR § 21.23(c). Each LOB/SO administering FFA shall take all measures necessary, consistent with existing law, for their applicants and recipients to comply with Title VI and other nondiscrimination requirements. This Order recognizes that there are differences in how each LOB/SO is structured and allocates FFA. Each LOB/SO should tailor its guidelines, as necessary, to ensure its applicants and recipients fully comply with Title VI. ACR will provide the technical assistance, education, and training necessary for each LOB/SO to effectuate Title VI compliance.

2. Federal Agency. The FAA is a Federal agency and a grantor of FFA, not a “recipient” of FFA as contemplated under Title VI. As a Federal agency, the FAA adheres to the nondiscrimination obligations of Federally-conducted programs and activities outlined in the executive orders and directives found in Chapter 3 of this Order. As a grantor of FFA, the FAA is responsible for monitoring and enforcing the compliance of FAA recipients with Title VI and related requirements. (See Chapters 5 through 8 of this Order.)

3. Title VI Grant Assurances and Contract Provisions. Recipients become obligated to comply with Title VI and related nondiscrimination requirements when they apply for and receive any form of FFA.¹⁴ In accordance with 49 CFR § 21.7, each FAA LOB/SO providing FFA must require recipients to provide written assurance that they will comply with these requirements.

a. Standard DOT Title VI Assurances and Non-Discrimination Provisions (“DOT Title VI Assurances”). As a condition of receiving FFA from DOT, DOT/FAA recipients are required to adopt and comply with the DOT Title VI Assurances. ACR is responsible for coordinating with DOCR to receive approval of any FAA-specific alterations or addenda to the DOT Assurances and Appendices. See DOT 1000.12C, Ch. I, Sec. 9(a)(4). In addition, the FAA will maintain a current DOT-approved FAA version of the DOT Title VI Assurances online, on ACR’s Airport Civil Rights Policy and Compliance page.¹⁵

b. Airport Improvement Program¹⁶ (AIP) Grant Assurances and Contract Provisions.

(1) AIP grant agreements must include the appropriate FAA civil rights assurances, which incorporate the DOT Title VI Assurances and be signed by the sponsor before ARP awards the grant. These include Assurance #1 (containing the general civil rights references) and Assurance #30 of the Airport Sponsor Assurances or Assurance #17 of the Non-Airport Sponsor

¹⁴ Examples of FAA-specific FFA include, but are not limited to, grants authorized by the AIP (49 U.S.C. § 47101 et seq.), and FAA Aviation Research and FAA Centers of Excellence Programs (Pub. L. 101-508; 49 U.S.C. § 44513).

¹⁵ ACR-4C: https://www.faa.gov/about/office_org/headquarters_offices/acr/airport-civil-rights-policy-and-compliance

¹⁶ Grants authorized by the Airport and Airway Development Act of 1970, as amended (AADA), which set up the Airport Development Aid Program (ADAP), are subject to the provisions of 14 CFR part 152, Subpart E. Although the AADA has expired, grant assurances continue in effect. Any discrimination/affirmative action issue that may arise would be reviewed under current *Adarand* principles since part 152 has been superseded by operation of law. See *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995).

Assurances. The Office of Airports maintains a copy of the AIP grant assurances online.¹⁷

(2) AIP-related contracts or agreements entered into by the sponsor must contain the full current version of the appropriate general civil rights and Title VI clauses from the Required Federal Contract Provisions (currently Sections A5 and A6). The clauses are required by DOT Order 1050.2A. Solicitations must also include the required language (Section A6). ARP maintains a copy of the AIP contract provisions online.¹⁸

c. Duration of Recipient Obligations. A recipient is generally obligated to the requirements of 49 CFR Part 21 for the period during which the FFA is extended to the program. However, where the funds are to provide personal property, real property, or structures or improvements thereon, recipients are obligated for as long as the property is used for a purpose for which the FFA was extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer.¹⁹

4. Application of Requirements to Recipient Programs.

a. The Civil Rights Restoration Act of 1987 is codified in Title VI (race, color, or national origin), Title IX (sex in education programs or activities), and the 1975 Age Act, and extends these requirements to all portions of the recipient's airport programs or airport facilities, including those portions of facilities that do not receive Federal funding directly.

b. Title 49 U.S.C. § 47123 (AIP grants) adds sex and creed as protected categories in the programs and activities of airport sponsors and is coextensive with Title VI in terms of applying to all portions of the sponsor's airport programs or airport facilities.

c. FAA recipients must agree to ensure nondiscrimination based on age. ACR instructs recipients to reference "age" in nondiscrimination policies and investigate complaints based on age (See Chapter 7 of this Order).

d. The coverage of 49 CFR Part 21 is limited to the portion of the FAA grant recipient's organization involved in the grant-funded program (usually, an airport program). If enforcement becomes necessary, sanctions are limited to the particular entity or part thereof, and to the particular program or part thereof, in which noncompliance has been found. See 49 CFR § 21.13(c).

e. Title VI/Nondiscrimination requirements apply to primary or direct recipients and sub-recipients. Additionally, direct recipients and sub-recipients must require their contractors, concessionaires, lessees, and tenants to comply with Title VI/Nondiscrimination requirements, and to pass these requirements to their subcontractors, sublessees, and subtenants.

(1) Direct recipients (receive FFA *directly from* the FAA). Under the AIP, most airport sponsors are direct recipients;

¹⁷ AIP Assurances: https://www.faa.gov/airports/aip/grant_assurances.

¹⁸ AIP Required Contract Provisions. https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/

¹⁹ See DOT Order 1050.2A, "Specific Assurances," No. 8, which also clarifies 49 CFR § 21.7(a).

(2) Primary recipients (pass FFA on to other recipients and monitor the other recipients' Title VI compliance; often will be a direct recipient); and

(3) Sub-recipients (receive FFA from a primary recipient; typically report compliance efforts directly to the primary recipient²⁰).

(4) Under the AIP, the FAA has multiple State Block Grant sponsors (direct recipients) that distribute AIP or other FAA FFA to the states' non-primary airports (sub-recipients). The State Block Grant sponsor (primary recipient) must ensure that the non-primary airports (sub-recipients) fully comply with the Nondiscrimination Statutes and related requirements.

f. In applying the nondiscrimination requirements to project site selections, recipients are expected to collect racial/ethnic, language, and other relevant demographic data; conduct effective outreach to affected minority and disadvantaged populations; assess project impacts to these populations during environmental reviews; and propose measures that: (1) address disparate impacts to these populations, (2) avoid, minimize, and/or mitigate disproportionately high and adverse effects to EJ populations, and (3) achieve environmental justice and equity.

g. Title VI applies to employment where: (1) the primary objective of the FFA is to provide employment, or (2) discrimination in the recipient's employment practices results in discriminatory effects to beneficiaries of the recipient's programs and services. See 49 CFR § 21.5(c). In addition, airport sponsors shall ensure that employment by tenants and concessionaires is available regardless of race, color, national origin, sex, or creed, and enhance employment opportunities for the nearby disadvantaged and minority population. See 49 CFR Part 21, Appendix C(a)(1)(ix).

h. The recipient's contracting opportunities (including for non-FAA assisted contracts and airport concessions) are covered by 49 CFR Part 21 (including 49 U.S.C. § 47123 if a recipient of AIP grants), and FAA's nondiscrimination policy. Sponsors are obligated to assure that the minority community in the airport's area is advised of the airport's business opportunities, that bids are solicited from qualified minority firms, and that awards are made without regard to race, color, national origin, sex, or creed. See 49 CFR Part 21, Appendix C(a)(1)(x).

i. Applicants for, and recipients of, FFA from the FAA must cooperate and assist the FAA in its efforts to ensure their compliance with the requirements. See 49 CFR § 21.9.

j. Under 49 CFR § 21.5(b)(7) and 49 U.S.C. § 47123 (for airport sponsors), applicants and recipients must also take affirmative action to assure that no person is excluded from participation in, or denied the benefits of, their programs or activities (including in services, benefits, and use of facilities), based on race, color, national origin, sex, or creed, and to remove or overcome the effects of prior discriminatory practices.

²⁰ The FAA may request information pertinent to the compliance of any sub-recipient through the primary recipient, or directly from the sub-recipient itself, to perform its compliance oversight responsibilities. See 49 CFR § 21.9(a)-(c).

k. Under certain circumstances, the FAA may lack authority to regulate an airport sponsor's use of its non-Federally sponsored land or facilities under section 163 of the FAA Reauthorization Act of 2018, Pub. L. 115-254. The application of section 163 to non-Federally sponsored land or facilities at an airport is determined on a case-by-case basis.

5. General Responsibilities of LOB/SOs with Recipients of FFA.²¹

a. Each FAA LOB/SO that is responsible for programs that award FFA to recipients shall make such programs, and any recipients thereunder, known to ACR. Consistent with 49 CFR § 21.5(c), this includes programs that award FFA that can be used by recipients to provide (or maintain) employment.

b. Each LOB/SO that awards grants, or other types of FFA, must ensure that its application processes (and those of its recipients) contain the appropriate Title VI and other civil rights assurances and contract provisions.

c. Each LOB/SO that awards FFA is responsible for informing its applicants that they will undergo a Title VI Assessment. Each applicant must provide the information necessary for ACR to conduct a Title VI Assessment. (See Chapter 5 of this Order.)

d. Each LOB/SO providing formula or continuing FFA shall require that each recipient develop and adopt a Title VI Plan that outlines the recipient's measures to ensure compliance with Title VI. (See Chapter 5 of this Order.)

e. Each LOB/SO will provide assistance to its applicants and recipients to the extent practicable in their efforts to voluntarily comply with Title VI and related requirements.

f. Each LOB/SO will cooperate and assist ACR to the extent necessary during pre-award and post-award reviews (See Chapters 5 and 6 of this Order), investigations (See Chapter 7 of this Order), and monitoring and enforcement activities (See Chapter 8 of this Order) to ensure that applicants and recipients comply with Title VI and related requirements.

6. Reserved.

²¹ ACR will coordinate with each LOB/SO that awards grants or other FFA, and issue agency guidance, as needed, to ensure that the FAA's internal Title VI administration, monitoring and enforcement responsibilities are met.

Chapter 5. Title VI Pre-Award Reviews

1. Overview. The FAA is responsible for reviewing each application for Federal financial assistance (FFA) to determine if applicants and recipients will comply with the Nondiscrimination Statutes and related requirements. A Title VI pre-award review is required under each FAA line of business or staff office (LOB/SO) process for awarding FFA to recipients, such as the AIP grant application process. This Chapter describes how the FAA will verify Title VI compliance before FFA is awarded to new applicants and continuing recipients.

2. Title VI Pre-Award Assessment (Title VI Checklist). A Title VI Checklist must be completed by applicants indicating that all of the identified Title VI requirements, as summarized in the checklist, have or will be addressed prior to the award of FFA from the FAA (e.g., prior to the award of an AIP grant to the sponsor). Completed Title VI Checklists provide confirmation from the recipient that it has specified processes in place and documents and information on file and/or has provided them to the FAA, such as an approved Title VI Plan and a Community Participation Plan (CPP). The documents and information concern the recipient's complaints, lawsuits, investigations, other grant applications, compliance reviews, the status of corrective actions, and public information about its commitments to nondiscrimination and complaint communication, at the time of application. See DOT Order 1000.12C, Ch. II, Sec. 2.

a. The LOB/SO awarding the FFA (e.g., ARP for AIP grants) is responsible for ensuring that the Title VI Checklists are completed and provided to ACR for review and approval. ACR will make the compliance determination and inform the FAA office of the applicant's compliance status.

b. The FAA will not ordinarily deny financial assistance if an applicant has Title VI deficiencies at the Checklist stage; however, the applicant must commit to correcting their deficiencies as a condition of receiving the FFA.²²

c. ACR will provide technical assistance, advice, or guidance to LOB/SOs (e.g., ARP) and to recipients seeking input on their Title VI Checklists, and for any necessary corrective actions.

d. The assessment obligation met through the Title VI Pre-Award Checklist may be verified through a post-award compliance review.

e. A current ACR-approved Title VI Plan on file with the FAA that meets the current DOT Title VI Plan requirements should meet most or all of the assessment requirements when an applicant is seeking continuing FFA, so long as the plan is no more than three years old.

3. Title VI Plan. Title VI Plans provide for the assignment of Title VI responsibilities to designated personnel and evidence of the recipient's intent to comply with the Nondiscrimination Statutes and related requirements. Title VI Plans also explain how records are compiled and maintained so that the FAA can determine the Title VI compliance of the recipient and any sub-recipients. ACR has developed a template for Title VI Plans that meets the specific requirements of DOT Order 1000.12C, Ch. II, Sec. 3. Each FAA office that awards FFA should coordinate

²² See DOT Order 1000.12C, p. 10, n. 5.

with ACR to confirm that the template meets, or is tailored so that it meets the programmatic needs of its office.

4. Community Participation Plan (CPP). ACR has developed comprehensive community participation requirements that applicants and recipients must satisfy as a condition to receiving an award of FFA, consistent with the DOT Title VI regulation at 49 CFR Part 21, and the Title VI Coordination regulations at 28 CFR Part 42. The goal of the CPP requirement is to facilitate full compliance with Title VI by requiring meaningful public participation and engagement to ensure that applicants and recipients are adequately informed about how programs or activities will potentially impact affected communities, and that diverse views are heard and considered throughout all stages of the consultation, planning, and decision-making process. ACR has developed a CPP template that meets the specific requirements of DOT Order 1000.12C, Ch. II, Sec. 4. Each FAA office that awards FFA should coordinate with ACR to confirm that the CPP template meets, or is tailored so that it meets, the programmatic needs of its office.

5. AIP Grant Applications.

- a.** The FAA will not award discretionary FFA until an applicant undergoes a Title VI assessment and signs the FAA assurances.
- b.** If a project will be funded through a combination of AIP grant funds and PFC revenue or successive AIP grants, any pre-award determination of the project should be accomplished only once.
- c.** ARP will be responsible for ensuring that applicant airport sponsors complete the Title VI Checklist and that each completed Checklist is uploaded to the appropriate grant-making records systems prior to grant award.
- d.** Entitlement funds are a form of continuing FFA. The FAA will implement a phased approach to ensure that each sponsor awarded entitlement funds also has an approved Title VI Plan and CPP on file with the FAA.

6. Reserved.

Chapter 6. Compliance Reviews

1. Overview. Compliance reviews are an essential means of affirmatively enforcing Title VI. In accordance with DOT Order 1000.12C, the FAA’s Title VI compliance reviews are conducted (led) by ACR and incorporate the Title VI requirements from Section 6 of the DOT Order.

a. Under 49 CFR § 21.11(a), the FAA is responsible for periodically reviewing the practices of airport sponsors and other FAA recipients (“recipients”) that have been awarded Federal financial assistance to determine their Title VI compliance status.

b. The compliance review process is discussed in the National External Operations and Policy Programs (NEOPP) Standard Operating Procedure (SOP) ACR-4 Compliance Review-SOP, which is available through the internal FAA website, and incorporated herein by reference.

c. ANCP is responsible for planning and conducting compliance reviews of recipients, and for assisting recipients in complying with their obligations under the Nondiscrimination Statutes and related requirements. To the extent possible, ANCP may develop a multi-year plan for conducting compliance reviews and may use a variety of methods for conducting reviews, including online assessments, desk reviews, and comprehensive on-site reviews, or a combination of methods.

2. Scope of Review. A post-award Title VI review may examine any aspect of a recipient’s compliance with nondiscrimination requirements, including whether commitments made during a pre-award review are being implemented. The scope of a compliance review primarily covers the following:

a. The recipient’s documented efforts to meet the Nondiscrimination Statutes and related requirements (including requirements for the Community Participation Plan (CPP)).

b. The recipient’s posted information at facilities and on websites related to obligations under the Nondiscrimination Statutes and related requirements (including the FAA “Unlawful Discrimination” poster²³).

c. Review of contracts, leases, and licensing agreements between the recipient and third parties, such as airport concessionaires and ground transportation operators, for inclusion of Title VI contract clauses, per the FAA contract provisions or DOT Order 1050.2A, as applicable.²⁴

d. ANCP may also conduct reviews of a recipients’ projects at any stage (as opposed to the recipients’ operations), in accordance with Title VI (including limited English proficiency), 49 U.S.C. § 47123, 49 CFR Part 21, and DOT Order 5610.2C on Environmental Justice.

²³ https://www.faa.gov/sites/faa.gov/files/about/office_org/headquarters_offices/acr/discrimination_poster.pdf

²⁴ DOT Order 1050.2 and the FAA Required Contract Provisions are updated periodically. ANCP assesses whether the recipient has incorporated the appropriate editions of the clauses based on the dates of the contracts reviewed.

3. Conducting the Compliance Review.

a. Desk Review or Online Assessment. ANCP may conduct a desk review or online assessment. This is a limited review via a request to the recipient to submit written responses to a list of questions, and supporting documents. At a minimum, the review covers the administrative requirements and efforts to ensure compliance with requirements referenced in this Order, to the extent possible while not on-site. A more in-depth, comprehensive on-site review may occur after the initial desk review or online assessment.

b. On-site Review. The purpose of the on-site review is to provide ANCP staff the opportunity to (1) review the recipient's compliance with Nondiscrimination Statutes and related requirements; (2) review original airport documents such as airport leases and contracts; (3) make in-person observations during the airport facilities tour; and (4) identify issues and confirm findings through interviews with all pertinent parties. Coupled with an initial review of documents requested in advance, the on-site review presents the best opportunity to conduct a comprehensive and in-depth analysis. There are two types of compliance reviews that may be conducted, a limited scope "mini" compliance review and a full scope comprehensive review.

c. Review Team. The review team consists of ANCP staff and may include regional FAA staff from the ARP to review the airport's compliance with nondiscrimination requirements. Other components of ACR-4 staff or other associated LOB/SO staff members may also participate in the review. ANCP may also request the LOB/SO's assistance at any stage of the review to ensure the recipients' cooperation in the process.

4. Compliance Determinations.

a. A recipient is in compliance with nondiscrimination regulatory requirements when it correctly and fully implements the provisions specified in the requirements. A recipient has not achieved compliance if it has not implemented the regulatory provisions; if it incorrectly applies the requirements; or if it applies some aspects of the requirements correctly but needs to make an additional effort or changes to achieve full compliance. A recipient also has not achieved compliance when there is evidence that it has discriminated against individuals or groups of airport beneficiaries; or where its neutral policies or practices result in discrimination against a particular group based on its race, color, national origin, sex, creed, or age.

b. A recipient will fall into noncompliance when it fails to take corrective action after attempts have been made by the FAA to resolve the matter voluntarily.²⁵

c. The goal of the compliance review is to ensure that recipients are complying with the applicable obligations and regulations and to assist recipients in achieving compliance through technical assistance and training if full compliance has not been achieved.

5. Compliance Report. ANCP will typically produce a formal written report of its compliance findings within 90 days of the preliminary findings and initial draft report unless extenuating circumstances are present. The formal written report addresses each area or issue reviewed, the

²⁵ See DOT 1000.12C, Ch. I, Sec. 8h for DOT's definition of "noncompliance."

applicable regulatory reference and requirement, the findings and compliance determination, and recommended actions. The report should include a summary table of each finding and recommended action, and columns for the recipient to respond with a voluntary compliance action and response date. Alternatively, ANCP should provide a detailed list of identified compliance issues to the recipient, along with applicable requirements and suggested follow-up actions with sufficient specificity for the recipient to take necessary corrective actions.

6. Voluntary Compliance. The goal of the compliance review, where deficiencies are found, is to achieve voluntary compliance by the recipient. ANCP will make all efforts to assist the airport sponsor in achieving voluntary compliance, including providing technical assistance and training (See Chapter 8 of this Order), and seeking the assistance of the responsible LOB/SO, when appropriate.

7. Reporting to DOCR.²⁶ To the extent required by DOCR, the FAA will make draft compliance reports available to DOCR for evaluation and comment for findings of disparate impact discrimination; for reviews of recipients with an active complaint alleging disparate impact or a history of complaints or violations; or at the request of DOCR. Upon request by DOCR, the FAA will provide DOCR with a copy of the final compliance report to the recipient.

a. Remedial Steps. If findings of deficiency exist in the final compliance report, the recipient will be required to take corrective action, develop a timeline for compliance, and report on its progress to the FAA on a timely basis. The LOB/SO that awarded the Federal financial assistance should cooperate with the FAA to the extent necessary to ensure that the recipient corrects the deficiencies. Upon request by DOCR, ACR shall update DOCR on the recipient's progress, through data, narrative, or other means.

b. Closeout. When the recipient has satisfactorily responded to the compliance review's findings, ACR shall inform the recipient that the review process has ended and release the recipient from further reporting based on the compliance review. ACR may follow a compliance review with additional reviews as necessary and inform DOCR of such steps and any outcome.

8. Enforcement. If any FAA recipient refuses to correct deficiencies or does not meet the terms of a voluntary compliance agreement, and efforts to resolve the matter are not successful, ANCP will follow procedures for enforcement in Chapter 8.

9. Reserved.

²⁶ See DOT Order 1000.12C, Ch. II, Secs. 6d and 6e.

Chapter 7. Title VI/Nondiscrimination Complaints

1. Overview. This Chapter provides FAA offices that oversee Federal financial assistance programs with basic information on the processing of Title VI and related nondiscrimination complaints. This information is intended to assist FAA offices in responding to initial inquiries on complaint matters from recipients and others.

a. Any person who believes that he or she or any specific class of persons has been subjected to discrimination based on race, color, national origin, sex, creed, or age may, personally or through a representative, file a complaint with DOCR or ACR²⁷.

b. The overall complaint investigation process requirements are established by DOT Order 1000.18, External Civil Rights Complaint Processing Manual.²⁸

c. The FAA complaint investigation process procedures, implementing DOT Order 1000.18 and other requirements, are discussed in the NEOPP SOP ACR-4 Complaints-SOP, which is available through the internal FAA website, and incorporated herein by reference.

2. Filing Formal Complaints.

a. Timeframes. Complaints must be filed within 180 days of the alleged violation or discriminatory act unless the timeframe for filing is extended by ACR. See 49 CFR § 21.11(b).

b. Citation of specific statute/regulation. A complainant need not specifically allege that Title VI, 49 CFR Part 21, or any other Nondiscrimination Statute or related requirement has been violated. An allegation of discrimination because of race, color, national origin, sex, creed, or age by a complainant is sufficient.

c. Complaints against Air Carriers and other non-Airport Entities. If the complaint is related to nondiscrimination requirements that are normally addressed to the DOT Office of Aviation Consumer Protection, ANCP will forward the complaint (or relevant portion thereof) to the following office responsible for processing:

Office of Aviation Consumer Protection, C-70
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Allegations that fall under the jurisdiction of the Department of Homeland Security are referred, as appropriate, to:

²⁷ Any person who believes that he or she has been discriminated against by an airport sponsor, in violation of a civil rights grant assurance, may alternatively file a complaint with the FAA Administrator under 14 CFR Part 16, "Rules of Practice for Federally-Assisted Airport Enforcement Proceedings." Those complaints are processed and docketed by the FAA Office of the Chief Counsel. This Order does not cover the 14 CFR Part 16 complaint process.

²⁸ Available at: <https://www.transportation.gov/civil-rights/civil-rights-library/external-civil-rights-processing-manual>.

CBP Information Center, MS-1345
U.S. Customs and Border Protection
1300 Pennsylvania Ave NW
Washington DC, 20229

Transportation Security Administration
601 S. 12 St.
Arlington, VA, 22202

3. Acceptance of Complaints. ACR-1 has the vested authority to accept or reject complaints of discrimination against FAA recipients under Title VI and other Nondiscrimination Statutes. ANCP generally has the delegated authority to accept or reject complaints. ANCP will coordinate decisions for the acceptance or rejection of complaint issues for unusual, highly complex, highly sensitive, or novel complaints.

4. Investigations. The FAA will conduct a prompt investigation whenever a compliance review, report, complaint, or any other information, indicates a possible failure by an FAA recipient to comply with Title VI. There is no required timeframe for completing an investigation, but ANCP will typically complete the investigation within 180 days of receipt of the complaint.

5. Closure Letter. ANCP closes the complaint by sending a notification to the airport operator and the complainant in a closure letter with a specific stated reason. Consistent with SOPs and Orders, ANCP issues different types of letters depending on the findings of an investigation or how the case is resolved. ANCP may issue a corrected letter addressing errors in a prior version of the closure letter.

6. Request for Reconsideration.

a. The FAA utilizes an informal review process called “Request for Reconsideration.” This applies to any party in a complaint proceeding who has received a no violation letter of findings (LOF) or a violation LOF. The Request for Reconsideration may be filed by either party in a complaint proceeding. 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. Requests for reconsiderations based solely on general disagreements with the investigative findings or remedies negotiated to bring the airport sponsor into compliance with the law will not be accepted.

b. See DOT Order 1000.18, for listed reasons for reconsidering a decision.

7. Complaints of Employment Discrimination against Recipients. Regulations of the Equal Employment Opportunity Commission (EEOC), 29 CFR part 1691, and the DOJ, 28 CFR part 42, govern the handling of complaints alleging employment discrimination based on race, color, national origin, sex, or religion (creed), by tenant employees or Federally-assisted contract employees against recipients. ACR may refer these complaints to the EEOC, or process them if

special circumstances warrant FAA's attention. Special circumstances may include allegations of a pattern and practice of employment discrimination or a Title VI impact related to the allegations of employment discrimination.

8. Complaints against the FAA. There is no private cause of action to file a discrimination complaint against Federal agencies under Title VI and related Nondiscrimination Statutes. The FAA will attempt to resolve allegations of noncompliance with Federal nondiscrimination requirements against the FAA by informal means, whenever possible, or when circumstances warrant, by other means authorized by law, or by investigating the claims consistent with FAA's investigative process described in this Chapter.

9. Complaints Based on Age (Age Discrimination Act).

a. Complaints against recipients involving services or benefits. ACR will use the procedures referenced in this Chapter to investigate allegations of discrimination based on age in services, benefits, or accommodations against a recipient of Federal financial assistance from the FAA, including age complaints against a recipient's contractors, tenants, or lessees.

b. Employment complaints against recipients. ACR will refer any allegation of employment discrimination based on age to the EEOC for review under the Age Discrimination in Employment Act of 1967, as amended.

10. Complaints Investigated by Sponsors. Discrimination complaints filed with the sponsor should be investigated by the sponsor. The FAA has oversight responsibility over these complaint investigations. Airport sponsors are required to provide a copy of every complaint based on race, color, national origin, sex, creed, or age to the FAA within 15 days of receipt, together with a description of any actions taken at that point to resolve it and the results of those actions.²⁹ ANCP maintains records of sponsor-conducted complaint investigations in FAA Civil Rights Connect.

11. Reserved.

²⁹ See 49 CFR 21, Appendix C(b)(3).

Chapter 8. Monitoring and Enforcement Strategies

1. Overview. The DOT Order 1000.12C requires each OA to effectively monitor the performance of each applicant and recipient to ensure full compliance with Title VI.³⁰ FAA's monitoring and enforcement responsibilities include compliance reviews during the pre-award (Chapter 5) and post-award (Chapter 6) periods, complaint investigations (Chapter 7), and the other mechanisms identified in this Chapter.

2. Informal Resolution. The FAA's ultimate responsibility is to ensure nondiscrimination in the programs to which it provides financial assistance. If the FAA finds reasonable cause to believe that a sponsor or recipient has failed to comply, it will notify the recipient and attempt to resolve the issue through informal means. Title 49 CFR § 21.11(d) requires that compliance matters (deficiencies and noncompliance found as a result of a complaint or a compliance review) be resolved informally whenever possible. Informal means of resolution include all methods to obtain the respondent's voluntary compliance prior to starting enforcement proceedings.

Follow-Up Monitoring. The FAA will carry out appropriate monitoring activities to ensure that a recipient implements the remedial steps to which it committed in a voluntary compliance agreement or in another format to the FAA. If there is a finding that the terms of such an agreement have not been implemented, ANCP will consult with ACR-4, regional counsel, and the responsible Airports regional office (or the responsible LOB/SO) to determine whether the matter should be referred to AGC-610 to commence enforcement proceedings in accordance with this Chapter.

3. Training and Technical Assistance.

a. Training. The FAA provides training to FAA offices and recipients on the Nondiscrimination Statutes and related requirements. The training covers the nondiscrimination obligations of Federally-assisted and Federally-conducted programs, including FAA's Title VI enforcement responsibilities over airport sponsors and other recipients. ACR consults with FAA offices and recipients to determine the most effective formats for the training. The formats often include webinars, one-on-one training, consultations, Question & Answer sessions, DOT Learns modules, and ACR's Annual National Civil Rights Training Conference for Airport Sponsors.

b. Technical Assistance. The FAA provides technical assistance to FAA offices and recipients to ensure the nondiscrimination obligations are met. This assistance includes reviewing and providing feedback on Title VI-related program documents, including complaint investigations conducted by airport sponsors. The ANCP records significant Title VI-related technical assistance in FAA Civil Rights Connect.

4. Monitoring of Grant Programs other than AIP. The FAA administers other grant programs, in addition to the AIP (See Chapter 2 of this Order). The recipient obligations for several FAA grant programs other than the AIP are described in Chapter 4. Most recipients

³⁰ See 49 CFR part 21, 28 CFR § 42.406 (Data and information collection), 28 CFR § 42.407(b) (Application review), and 28 C.F.R. § 42.407(c) (Post-approval review).

awarded grants under these programs are educational institutions. The Department of Education (ED) provides Federal financial assistance programs to many educational institutions. The ED Office of Civil Rights (OCR) is responsible for monitoring the compliance of those institutions. DOT's policy is to defer to the ED in making compliance determinations regarding educational institutions under Title VI, whenever appropriate, to avoid duplication of efforts. This Order reflects that approach. ACR will coordinate with the ED OCR to the extent required by DOCR.³¹

5. Enforcement.

a. Enforcement under 49 CFR part 21 for Federal recipients. See 49 CFR §§ 21.11-19, DOT Order 1000.12, and DOT Order 1000.18.

(1) **Referrals.** ACR will refer noncompliance matters for coordination with AGC-610 under 49 CFR § 21.13 when ANCP and the responsible regional counsel and Airports Division (or LOB/SO) are unable to informally resolve the matter.

(2) ANCP may recommend suspension or termination of grants or other appropriate steps. ACR has determined that 180 days is a reasonable period of time to resolve issues informally. ANCP will advise ARP (or the responsible LOB/SO) of its recommendation. AGC-610 or designated regional counsel will coordinate with the DOT Office of General Counsel (OGC), as appropriate, when carrying out the provisions of 49 CFR § 21.13. ACR must notify DOCR of the referral to AGC-610. Whenever OGC completes the enforcement procedures set forth in 49 CFR §§ 21.13, 21.15, and 21.17, ACR-1 will notify ARP-1 (or the executive of the responsible LOB/SO) and request assistance implementing appropriate grant-related sanctions.

b. Deferring Action on a Recipient Grant Application. If ACR has determined that noncompliance has occurred, ANCP may request that the responsible Airports regional office (or LOB/SO) temporarily defer action on a pending application for a recipient grant under 49 CFR § 21.13(b), to the extent allowed by law. Alternatively, similar actions intended to promote compliance, such as conditions in the grant restricting the drawdown of grant funds, may be used.

(1) Deferral may only be used with respect to applications. Payments on previously approved grants must continue until the procedures of 49 CFR §§ 21.13, 21.15, 21.17, and the legal processes required under 49 U.S.C. § 47107, are completed.

(2) Deferral is appropriate for a reasonable period of time if it is consistent with the achievement of the objectives of the statute authorizing the FFA. See 28 CFR § 50.3.

(3) Initiate and complete efforts to secure voluntary compliance without delay. If the efforts fail, promptly refer the matter to AGC-610 to commence enforcement proceedings in accordance with this Chapter.

6. Reserved.

³¹ DOCR has the responsibility to coordinate and act as a liaison with other Federal agencies and offices to achieve Title VI program objectives. See DOT 1000.12C, Ch. I, 9(a)(8). See also 28 CFR § 42.413.

Appendix A. Acronyms and Abbreviations

<u>Acronym</u>	<u>Description</u>
AADA	Airport and Airway Development Act of 1970
AAS	Office of Airport Safety and Standards
ACDBE	Airport Concession Disadvantaged Business Enterprise
ACO	Office of Airport Compliance and Management Analysis
ACR	Office of Civil Rights
ACR-1	Assistant Administrator for Civil Rights
ACR-4	National External Operations and Policy Programs
ACR-4A	Airport Disadvantaged Business Enterprise Program
ACR-4B	Airport Disability and Nondiscrimination Compliance Program
ACR-4C	National Airport Civil Rights Policy and Compliance Office
ADAP	Airport Development Aid Program
ADO	Airport District Office
AEE	Office of Environment and Energy
AEE-400	Environmental Policy and Operations Division
AGC	Office of the Chief Counsel
AGC-610	Office of the Chief Counsel, Airport Law Branch
AIP	Airport Improvement Program
ANCP	Airport Nondiscrimination Compliance Program, ACR-4B
APL	Office of Policy, International Affairs, and Environment
APP	Office of Airport Planning and Programming
ARP	Office of the Associate Administrator for Airports
ARP-1	Associate Administrator for Airports
ATO	Air Traffic Organization
CFR	Code of Federal Regulations
CPP	Community Participation Plan
DBE	Disadvantaged Business Enterprise
DOCR	DOT Departmental Office of Civil Rights
DOJ	Department of Justice
EJ	Environmental Justice
E.O.	Executive Order
EEOC	Equal Employment Opportunity Commission
EIS	Environmental Impact Statement
FAA	Federal Aviation Administration
FFA	Federal financial assistance
FR or Fed. Reg.	Federal Register
LEP	Limited English Proficiency
LOB/SO	Line(s) of Business/Staff Office(s)
LOF	Letter of Finding
NEOPP	National External Operations and Policy Programs, ACR-4
NEPA	National Environmental Policy Act
OA	Operating Administration
PFC	Passenger Facility Charge
Pub. L.	Public Law
U.S.C.	United States Code