

# Airport Nondiscrimination Compliance



**Federal Aviation  
Administration**

## FAA Title VI Legal and Policy Update

*Office Of Civil Rights*

*ACHIEVING SAFETY  
THROUGH DIVERSITY*

Presented to: NCRTC attendees

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# Title VI Legal Updates

## ***Cummings v. Premier Rehab Keller***, 142 S. Ct. 1562 (04/2022)

- Emotional distress damages are unavailable for violations of Section 504 of the Rehabilitation Act and Section 1557 of the ACA and, by extension, Title VI

## ***Rollerson v. Brazos Harbor Nav. Dist.***, 6 F.4<sup>th</sup> 633 (5th Cir. 2021)

- No cause of action against a federal agency, US Army Corp of Engineers, for alleged violation of Title VI.

## ***Edmonds-Radford v. Southwest Airlines Co.***, 17 F.4<sup>th</sup> 975 (10th Cir. 2021)

- Airline regularly using a federally assisted airport is not a recipient of “federal financial assistance,” even though airline directly benefitted from the FAA’s grants to the airport.

# Title VI Policy Updates

- ❑ Title VI Pre-award Checklist
- ❑ Title VI Plan Template
- ❑ Community Participation Plan Template
- ❑ Stakeholder Listening Session
- ❑ FAA Title VI Order



# Title VI Pre-Award Checklist

**Requirement:** “During the Pre-Award Review period, each [Operating Administration (OA)] must conduct a Title VI Assessment of each applicant for Federal financial assistance”

Reference: DOT 1000.12C, Ch. II, Sec. 2.

- Determine “probable” compliance or noncompliance
- Current Schedule: FY 2023
- Title VI Plans could meet the Assessment requirement (conditional)

# Title VI Plan Template

**Requirement:** “Each OA providing formula or continuing Federal financial assistance shall require that each recipient develop and adopt a Title VI Plan that outlines the recipient’s measures to ensure compliance with Title VI”

Reference: DOT 1000.12C, Ch. II, Sec. 3.

- Coordinate with FAA to develop your Plan
- Plan must be on file with FAA to satisfy the requirement
- Update Plan on a 3 year cycle

# Community Participation Plan (CPP) Template

**Requirement:** “Each OA shall develop comprehensive community participation requirements (Community Participation Plan) that applicants and recipients must satisfy as a condition of receiving an award of Federal financial assistance”

Reference: DOT 1000.12C, Ch. II, Sec. 4.

- Engage and communicate with Title VI populations
- Certify to FAA that you have the CPP
- Another public participation plan could satisfy the CPP requirement (conditional)

# Stakeholder Listening Session

- Implementation of DOT Title VI Order 1000.12C requirements
  - Title VI Assessment
  - Title VI Plans
  - Community Participation Plans
  - Implementation Timeline
- Tentative Schedule: August or September 2022

# FAA Title VI Order

- FAA Order 1400.11, *Nondiscrimination in Federally Assisted Programs at the Federal Aviation Administration* (2013)
- Describes how FAA ensures that applicants and recipients comply with Title VI and related requirements
- Incorporates updated federal requirements
- Not intended as guidance for sponsors
- Timeline: FY 2022

# Questions

