

# Overview of Nondiscrimination Obligations for Airports, Beyond Title VI



Federal Aviation  
Administration

*Office Of Civil Rights*

ACHIEVING SAFETY  
THROUGH DIVERSITY

Presented to:

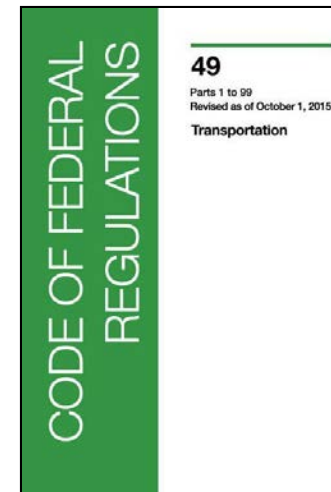
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# Title VI of the Civil Rights Act of 1964

“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.”

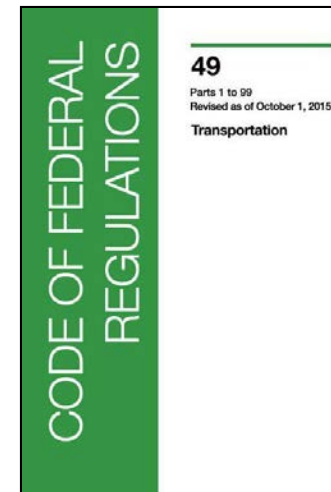
# Title VI Implementing Regulations – 49 CFR Part 21

- Effectuates Title VI requirements on DOT recipients.
- Applies to all programs and activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not.
- Prohibits both
  - Disparate treatment, and
  - Disparate impact.



# Title VI Implementing Regulations – 49 CFR Part 21

- Airport sponsors may not discriminate by:
  - Denying any individual service, financial aid, or benefit under the program.
  - Providing any service, financial aid, or benefit that is different from that provided to others.
  - Subject an individual to segregation or separate treatment.



# Program Authorities Beyond Title VI and Part 21

Authority	Citation
Executive Order 13166 and DOT guidance	Federal Register: 70 FR 74087
Executive Order 12898 and DOT guidance (DOT Order 5610.2(a))	Federal Register: 77 FR 27534
Airport and Airway Improvement Act of 1982, Section 520	49 USC § 47123
Title IX of the Education Amendments Act of 1972	20 USC § 1681
Age Discrimination Act of 1975	42 USC § 6101

# Limited English Proficiency (LEP)



- Four-Factor Analysis and LEP Plan.
- Recipients should apply these four factors to determine the extent of their obligation to provide LEP services:
  1. Number/proportion of LEP persons in a recipient's area.
  2. Frequency of contact with LEP individuals for recipient's services.
  3. Importance of the service provided by the recipient.
  4. Resources available to the recipient and costs.

# Four-Factor Analysis – 1<sup>st</sup> Factor

## Number/proportion of LEP persons in a recipient's area.

- The greater number or proportion of LEP individuals in the service area, the more likely language services will be needed.

# Four-Factor Analysis – 2<sup>nd</sup> Factor

## Frequency of contact between LEP individuals and the recipient's services.

- The more frequent the contact between the services and the LEP population, the more likely the need for enhanced language services.



# Four-Factor Analysis – 3<sup>rd</sup> Factor

## **Importance of the service provided by the recipient.**

- The more important the activity or service or the greater consequences of the contact to the LEP individuals, the more likely language services are needed.
- In essence, if a delay or denial of access to a particular service could have serious health or life threatening implications it is probably “important.”

# Four-Factor Analysis – 4<sup>th</sup> Factor

## Resources available to the recipient and costs.

- A recipient's level of resources and the costs imposed may have an impact on the nature of steps it should take in providing meaningful access for LEP individuals.

# Four-Factor Analysis – Application

## Construction Information.

- Posted notices for detours.
- Information about construction activities on website.
- Additional mitigations identified in environmental documents.

## Emergency Planning.

- FAA Advisory Circular 150/5200-31C - Airport Emergency Plan

# Environmental Justice (EJ)

- **Executive Order 12898** requires all Federal agencies to identify and address disproportionately high and adverse health or environmental effects of its programs, policies, and activities on minority and low-income populations.
- **DOT Order 5610.2A** requires Operating Administrations to fully consider environmental justice principles throughout planning and decision-making processes in the development of programs, policies, and activities that address or affect infrastructure planning and decision-making; social, economic, or environmental matters; public health; and public involvement.

# EJ Concepts and Definitions

- **Minority** – a person or group of people that are a member of the following population groups: American Indian or Alaskan Native; Asian or Pacific Islander; Black, not of Hispanic origin; or Hispanic
- **Low-income** – a person whose median household income is at or below the Health and Human Services poverty guidelines
- **Minority/Low-income population** – minority/low-income persons who live in geographic proximity to one another or, if circumstances warrant, geographically dispersed/transient persons

# EJ Concepts and Definitions, cont.

- EJ concerns are triggered by human health or environment effects, including interrelated social and economic effects:
  - Displacement (e.g., of people and businesses) is the most likely significant EJ issue at and around airports.
  - Noise and air quality are the most likely environmental issues.
- Where possible, avoid impacts.
- Mitigation measures may include property acquisition, sound insulation of homes and schools, or compensation through the purchase of navigation easements.

# Airport and Airway Improvement Act of 1982, Section 520

## 49 U.S.C. § 47123 (a):

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. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Act.

# Airport and Airway Improvement Act of 1982, Section 520, cont.

- Protected bases:
  - Sex
  - Creed
- Airport obligations addressed in FAA Procurement Clauses and Airport Improvement Program (AIP) Grant Conditions.
- No DOT regulations, but Title VI regulations create analogous obligations to race, color, and national origin protections.



# Title IX of the Education Amendments Act of 1972

- Protected basis:
  - Sex
- Applies to education programs and related activities.
- DOT Implementing regulations at 49 CFR 25.
  - Enacted in 2000.
  - Designated employee for coordination of compliance efforts.
  - Procedures for student and employee complaints.
  - Self-evaluations were required by Sept. 2001, followed by remedial steps.

# Age Discrimination Act of 1975

- Protected basis:
  - Age
- Different from the Age Discrimination in Employment Act of 1967 ( $\geq 40$ ).
- Airport obligations addressed in FAA Procurement Clauses and AIP Grant Conditions.
- No DOT regulations, but Title VI regulations create analogous obligations to race, color, and national origin protections.

# Resources

Description	Website Link
EJ Interagency Working Group	<a href="https://www.epa.gov/environmentaljustice/federal-interagency-working-group-environmental-justice-ej-iwg">https://www.epa.gov/environmentaljustice/federal-interagency-working-group-environmental-justice-ej-iwg</a>
DOT EJ Order 5610.2(a)	<a href="http://www.fhwa.dot.gov/environment/environmental_justice/ej_at_dot/orders/order_56102a/index.cfm">www.fhwa.dot.gov/environment/environmental_justice/ej_at_dot/orders/order_56102a/index.cfm</a>
LEP Information	<a href="http://www.lep.gov">www.lep.gov</a>
EJSCREEN	<a href="http://www.epa.gov/ejscreen">www.epa.gov/ejscreen</a>
FAA Civil Rights Connect	<a href="https://faa.civilrightsconnect.com/FAA/login.asp">https://faa.civilrightsconnect.com/FAA/login.asp</a>
FAA Order 1400.11	<a href="http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1021906">www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/1021906</a>

# Questions

