

THE CIVIL RIGHTS ACT OF 1964

CIVIL RIGHTS
UNDER
FEDERAL PROGRAMS

An Analysis of Title VI

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"As far as the writ of Federal law will run, we must abolish not some but all racial discrimination . . . All members of the public should be equally eligible for Federal benefits financed by the public."

State of the Union Message
of
President Lyndon B. Johnson
January 8, 1964

The Civil Rights Act of 1957, as amended in 1960 and 1964, authorizes the U.S. Commission on Civil Rights to review Federal laws and policies with respect to denials of equal protection of the laws under the Constitution. The 1964 Civil Rights Act directs the Commission to serve as a national clearinghouse for civil rights information. Pursuant to these directives, this Commission publication is designed to explain Title VI of the 1964 Civil Rights Act which requires non-discrimination in federally assisted programs, including:

- * the kinds of discrimination prohibited
- * the Federal programs covered
- * compliance procedures under Title VI

U.S. Commission on Civil Rights
Washington, D.C. 20425

SUMMARY OF RIGHTS GUARANTEED BY TITLE VI

All persons in the United States shall have the right to receive any service, financial aid or other benefit under the federally-aided program regardless of their race, color or national origin.

Specific discriminatory practices prohibited include:

- * *Any difference in quality, quantity or the manner in which the benefit is provided*
- * *Segregation or separate treatment in any part of the program*
- * *Restriction in the enjoyment of any advantages, privileges or other benefits provided to others*
- * *Different standards or requirements for participation*
- * *Methods of administration which would defeat or substantially impair the accomplishment of the program objectives*
- * *Discrimination in any activity conducted in a facility built in whole or part with Federal funds*
- * *Discrimination in any employment resulting from a program established primarily to provide employment*

All Federal offices responsible for federally-assisted programs must implement Title VI by issuing regulations approved by the President.

Any persons who believe discrimination because of race, color or national origin exists in a federally-aided program have the right to challenge such discrimination by making a complaint to the officials responsible for that program.

- * *Prompt investigations will be made of complaints received.*
- * *If discrimination is found, negotiation and persuasion will first be used in an effort to eliminate the prohibited practices.*
- * *Should these efforts fail, Federal assistance may be terminated or discontinued after a fair hearing.*
- * *Other means authorized by law, including court action, may also be used to enforce nondiscrimination.*

(For a complete text of Title VI, see page 15)

"... SIMPLE JUSTICE ..."

President Lyndon B. Johnson, explaining the basic reasons underlying the principle of equality under Federal programs, stated on December 10, 1964:

"It is simple justice that all should share in programs financed by all, and directed by the government of all the people."

Simple justice has not always governed the operation of Federal aid programs. As has been amply documented by the U.S. Commission on Civil Rights, many of our citizens, because of their race, color, or national origin, have not been free to participate equally in programs supported by Federal funds. For example, the Commission has found that in some circumstances:

- * Libraries receiving Federal aid either have not allowed Negroes to use the facilities or have subjected them to segregation or discrimination.*
- * Elementary schools built and operated with Federal aid have discriminated in the admission and treatment of students.*
- * Hospitals constructed with Federal funds either have refused to admit patients because of their race or have discriminated in their placement after admission; they also have refused to allow Negro physicians to practice there.*
- * Vocational training programs established with Federal funds have not been available to all students.*
- * Employment offices financed entirely by Federal funds have refused to refer all job applicants to available openings on a nondiscriminatory basis.*
- * Agricultural Extension Service offices operating with Federal funds have been established on a segregated basis and have provided unequal service to Negroes.*
- * Dormitories have been built with Federal grants in colleges that have discriminatory admission policies.*
- * Employers receiving business loans from the Federal Government, designed to increase employment opportunities, have discriminated in their hiring policies.*

In addition to the legal and moral grounds for correcting such discriminatory practices, there are very practical reasons for moving promptly to eliminate them from Federal programs.

A Federal grant program which is enacted for the general welfare fails in its objectives if some citizens are intentionally excluded or provided inferior service. If a program is designed to promote better health standards, it will not achieve its purpose by allowing only white persons to benefit while Negro families are denied needed medical services.

In addition to frustrating the basic objectives of a given program, discrimination denies to those who are excluded an opportunity to improve themselves. For instance, both the Negro family and the economy suffer when the family's breadwinner is denied equal opportunity to participate in a federally supported job training program.

Federal payments to State and local governments, to private institutions and businesses play an important role in financing the many educational, health, welfare and economic programs required for our continued growth and development. When any person is denied the benefits of these programs because of race, color, or national origin, the fabric of our democratic society is weakened and our progress as a Nation is retarded.

EVOLUTION OF FEDERAL POLICY

The principle of equality under Federal programs was reflected in presidential actions long before the Civil Rights Act of 1964 became law. In the past twenty years, every President of the United States has directed the elimination of discrimination in a number of Federal programs and activities. Areas covered by presidential orders include: equality of treatment in the Armed Forces; employment by the Federal Government, by Government contractors and on construction projects financed with Federal funds; and equality of opportunity in federally-aided housing.

Other actions taken through departmental regulations have prohibited discrimination in particular programs. These include the Manpower Development Training activities, teacher-training institutes, mental health and mental retardation projects, apprenticeship programs, and employment in State agencies administering certain Federal programs.

Prior to the passage of the Civil Rights Act of 1964, all of these orders and regulations depended on executive initiative which was supported by a growing body of judicial decisions. These court rulings, based on constitutional requirements, held that no person, because of race or color, could be denied the benefits of a program receiving Federal assistance. However, these presidential orders, departmental regulations, and court rulings were limited to particular Federal activities or to only parts of Federal programs. In addition, in recent years attempts made in Congress to amend specific Federal aid proposals in order to prohibit discrimination have been unsuccessful.

By adopting Title VI of the Civil Rights Act, Congress has now written into law the right of all persons to participate in and receive the benefits of *any* federally-aided program or activity without discrimination on account of race, color, or national origin. The application of Title VI to federally-assisted programs is uniform and all-inclusive.

SCOPE OF FEDERAL ASSISTANCE

Congress has enacted many programs providing Federal funds to support public and private activities in such areas as health, education, employment, individual welfare, and the economic well-being of the general society.

Many citizens are not fully aware of the nature or extent of Federal assistance provided State and local governments, private institutions, businesses and individuals. The average citizen is likely to know about Social Security, veterans benefits, and a few other programs involving direct Federal administration. However, many significant Federal aid programs are administered at the local level by the States, localities and private institutions which share in their costs. As a result the degree of Federal support is not usually apparent.

Federal financial assistance includes grants and loans of Federal funds, donations of equipment and property, detail of Federal personnel, proceeds from Federal property, and any other arrangement by which Federal benefits are provided.

In all, more than 190 aid programs are sponsored in whole or in part by the Federal Government and there are many 'sub-programs' within these. Major areas of Federal involvement include:

Aids to Education

- College Facilities Construction
- College Dormitory Construction
- Research Grants and Equipment
- Surplus Materials Distribution
- National Defense Education Activities
- Impacted Areas School Construction and Assistance
- School Lunch and School Milk Programs
- Vocational Education Activities
- Economic Opportunity (Anti-Poverty) Programs
- Loans to College Students

Aids to Communities

- Accelerated Public Works
- Urban Renewal Projects
- Public Housing Projects
- Airport Construction
- Library Services and Construction
- Economic Opportunity (Anti-Poverty) Programs

Aids to Health

- Vocational Rehabilitation Grants
- Hill-Burton Hospital Construction
- Research Grants
- Nurses Training Programs
- Loans to Medical Students
- Mental Health and Retardation Programs
- Public Health Programs

Aids to Employment

- State Employment Offices
- Manpower Training Activities
- Area Redevelopment Grants and Training
- Loans to Small Businessmen
- Highway Construction Projects
- Public Works Acceleration Projects
- Other Construction (Schools, Hospitals, etc.)
- Economic Opportunity (Anti-Poverty) Programs

Aids to Welfare

- Old-age Assistance Programs
- Services to the Blind and Permanently Disabled
- Maternity and Infant Care Projects
- Child Welfare Services
- Other Public Welfare Programs
- Economic Opportunity (Anti-Poverty) Programs

Aids to Agriculture

- Extension Services
- Watershed/Flood Control
- Conservation Projects
- Rural Electrification
- Forest Protection

In short, citizens in all walks of life derive benefits directly or indirectly, from the services and assistance provided by the Federal Government.

During the fiscal year 1963, payments by the Federal Government to public and private recipients totaled nearly \$11 billion or ten percent of all Federal expenditures. Federal payments average 14% of the total revenues collected by States and localities; in some States these payments reach as high as 32% of all revenues.

TYPES OF DISCRIMINATION PROHIBITED BY TITLE VI

The effective administration of Federal programs depends on the cooperative efforts of both the Federal Government and the recipients of Federal aid. The aims of these programs cannot be fully achieved until they are equally available to all citizens. Thus it is vitally important that aid recipients and the Federal Government work closely together to eliminate segregation and discrimination in the programs for which they share responsibility.

In drafting the Civil Rights Act of 1964, Congress attempted to provide every possible means for voluntary compliance with the Act. Regulations, issued pursuant to Title VI, reflect this congressional intent by directing Federal officials

to seek the cooperation of recipients and to provide guidance and assistance to help them comply voluntarily with the Act.

As a first step in the process of voluntary implementation of Title VI, all concerned should fully understand the types of discrimination which must now be eliminated.

In order to be eligible for assistance under Federal programs, a recipient must give assurances that

**NO PERSON SHALL BE
EXCLUDED FROM PARTICIPATION,
DENIED ANY BENEFITS, OR
SUBJECTED TO DISCRIMINATION
ON THE BASIS OF RACE, COLOR, OR NATIONAL ORIGIN.**

Type of discrimination prohibited by Title VI are best illustrated by specific examples.

A recipient of Federal financial assistance violates his assurance to comply with Title VI if, *because of race, color, or national origin*, the recipient:

- (1) denies an individual any service, financial aid or other benefit under the program;

EXAMPLES: A federally-supported State Employment Office refuses to place a qualified job applicant because of his race.

A redeveloper of land in an urban renewal project area denies an apartment or office space to an applicant because of his race, color or national origin.

A National Guard Unit refuses to accept a volunteer because of his race, color, or national origin.

- (2) provides an individual with a service, financial aid or other benefit which is different, or is provided in a different manner from that which is provided to others under the program;

EXAMPLES: An Agricultural Extension Agent encourages and teaches white farmers, but not Negro farmers, to grow a variety of crops to increase their income.

A library receiving Federal aid requires some readers, because of race, to request books through a branch librarian rather than allowing the direct access available to others.

- (3) subjects an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

EXAMPLES: A federally-aided State Employment Office, Agricultural Extension Service Office, or airport maintains racially separate waiting rooms.

The aided program assigns employees of a certain race or color to serve only persons of the same race or color or to process job applications only from such persons.

- (4) restricts an individual in any way in the enjoyment of services, facilities, or any other advantage, privilege, or benefit provided to others under the program;

EXAMPLES: A federally-aided college admits students of a particular race but discourages their attendance at sports events and other college gatherings.

An aided hospital admits all patients but discourages use of the recreation room or specifies certain hours for use to patients of one race.

- (5) treats an individual differently in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which is a prerequisite to the service, financial aid or other benefit provided under the program;

EXAMPLES: A federally-aided hospital refuses to permit doctors of a particular race to practice in the hospital because such doctors are not members of a medical association which discriminates.

A State Employment Office refuses to send a Negro applicant to fill a job request because he is not enrolled in an apprenticeship program which discriminates against Negroes.

- (6) uses any criteria or methods of administration which would defeat or substantially impair accomplishment of the program's objectives for

individuals of a particular race, color, or national origin, or which would subject such individuals to discrimination;

EXAMPLES: In selecting or approving projects or sites for the construction of public libraries which will receive Federal assistance, a State agency uses standards which will have the effect of limiting use of the facilities by members of a particular race.

In a district where students are assigned to schools on the basis of their race, free and reduced-price lunches are not provided on an equitable basis.

- (7) discriminates against an individual in any program or activity which is conducted in a facility constructed in whole or in part with Federal funds;

EXAMPLES: A hospital constructed or improved with Federal funds segregates patients by race or discriminates in the selection of interns or student nurses. A hospital caring for indigent patients under contract with a welfare agency that receives Federal funds discriminates in like manner.

A federally-aided public housing authority either excludes tenants from a project or segregates them within a project because of their race, color, or national origin.

- (8) subjects an individual to discriminatory employment practices under any Federal program or activity whose primary objective is to provide employment:

EXAMPLE: Employers receiving Area Redevelopment loans hire on a discriminatory basis.

The above illustrations do not reflect the full scope of possible discriminatory practices. Nor do they include all the programs which are subject to Title VI. Whatever the federally-aided programs may be and whatever form the discrimination may take, the language of Title VI and the intent of Congress is to assure to every individual equal opportunity and access to Federal benefits.

It should be noted that if the *final* Federal payment for a project was made to a recipient *before* applicable Title VI regulations went into effect, the recipient is not covered by Title VI for that particular project. On the other hand, *after* applicable Title VI regulations went into effect, all Federal aid recipients had to agree to comply with these regulations in order to receive or to continue to receive Federal assistance.

EXAMPLE: A hospital received approval in 1963 for Federal funds to pay part of the cost of a new addition and Federal installment payments were still forthcoming when Title VI regulations became effective. As a condition to receipt of these additional installment payments, the hospital must agree to administer the entire facility in accordance with Title VI nondiscriminatory requirements.

COMPLIANCE UNDER TITLE VI

Title VI regulations provide the necessary framework for protecting the rights guaranteed to the recipients and to the ultimate beneficiaries under federally-aided programs. Compliance will first be sought by affirmative and voluntary means whenever possible. But in addition, provision is made for complaints, field reviews, investigations, informal adjustments, and, when necessary, more formal proceedings.

1. AFFIRMATIVE MEASURES

Recipients of Federal aid are to be given guidance and assistance to help them comply voluntarily with Title VI regulations. In public and private meetings and in instructions which accompany required nondiscrimination agreements, Federal aid recipients are to be assisted in making the changes necessary to bring their operations into compliance with Title VI.

2. COMPLIANCE REPORTS

Records and other information designed to show the extent of compliance with Title VI agreements must be maintained by recipients and reports sent to program administrators on a regular basis. A recipient is also required to inform the ultimate beneficiaries, participants and other interested persons of the provisions of Title VI regulations and of their applicability to the aid program.

3. PERIODIC FIELD REVIEWS

Reviews by designated officials are to be conducted on a scheduled basis to ensure compliance by aid recipients. Compliance reports, books, and other records may be reviewed during these regular field visits.

4. COMPLAINTS

An individual or organization may challenge any unlawful discriminatory practice in a Federal program or activity. All complaints must be filed with the appropriate Federal agency and should include sufficient information to serve as the basis for an investigation.

5. INVESTIGATION AND ADJUSTMENT

When a field review, complaint, or any other information indicates a possible violation of Title VI, an investigation is ordered. If any violation of the regulations is found, informal persuasion and conciliation will be used to secure the elimination of the prohibited discriminatory practices. During this entire process, names of complainants will be kept confidential to the extent possible.

No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual because he has made a complaint, testified, or assisted in a Title VI investigation, proceeding or hearing.

6. FORMAL ENFORCEMENT PROCEEDINGS

If informal efforts at persuasion have failed to correct the situation, formal means for resolving violations of Title VI regulations are available.

a. Termination of Funds

Title VI authorizes "the termination of or refusal to grant or continue assistance" under any Federal program in which there has been a violation of nondiscrimination requirements. This action may be taken only after:

- (1) the recipient has been given an opportunity for a fair hearing and a finding is made that Title VI has been violated, and
- (2) appropriate congressional committees have been notified 30 days before any termination of assistance.

A recipient may seek judicial review of the final order issued by the agency.

b. Other Formal Actions Authorized by Law

Rather than follow internal administrative proceedings, an agency may take other formal actions authorized by law, including:

- (1) Referral to the Department of Justice for appropriate legal action.

If there is a formal contract with a non-discrimination agreement between the Government and the recipient, the appropriate legal action may be a civil suit to enforce the agreement or to invoke any other contractual remedies.

If the recipient is a public institution, such as a public hospital or a public school,

the appropriate legal action may be a civil rights suit to secure a court order barring the unlawful practices under Title III or IV, respectively, of the 1964 Civil Rights Act.

- (2) Referral to State or local authorities responsible for enforcing similar nondiscrimination standards.

When a recipient's violation of Title VI involves discriminatory employment practices, the case may be referred to a State or local Fair Employment Practices Commission or comparable body.

7. LIMITATIONS ON COMPLIANCE PROCEEDINGS

Compliance proceedings may only be directed against 'recipients' of Federal aid who are conducting a program for the benefit of others. A 'recipient' does not include the individual who ultimately receives the service, financial aid or other benefit under the program.

A farmer receiving Federal aid is not required to adopt nondiscriminatory policies in the operation of his farm.

An individual receiving unemployment insurance is likewise not a recipient. However, the State unemployment insurance office is a 'recipient' of Federal aid and must not discriminate against applicants for assistance.

In addition, any compliance activities must be limited to:

- a. the particular recipient found to be in violation of Title VI; and
- b. the particular program or activity in which non-compliance is found.

WHEN TITLE VI DOES NOT APPLY

The statutory language in Title VI specifically excludes programs involving "a contract of insurance or guaranty." Activities such as the FHA home mortgage insurance program are thereby excluded. However, Executive Order 11063, which prohibits discrimination in all Federal housing programs, continues in full force and effect.

CONCLUSION

The administration of Federal grant-in-aid programs over the years has been marked by a high degree of cooperation among the Federal, State and local agencies and private institutions involved.

Title VI of the Civil Rights Act of 1964 affords an additional opportunity for these agencies and institutions to improve the administration and efficiency of cooperative programs. The President expressed confidence in the future when he signed the first set of Title VI regulations on December 4, 1964:

"The broad and encouraging compliance with the Public Accommodations Title of the Civil Rights Act has demonstrated the overwhelming desire of the people of this Nation to accept and to comply with the law of the land. I am confident that the provisions of the Civil Rights Act to be implemented by these regulations will be received in the same spirit of acceptance and cooperation."

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U.S. COMMISSION ON CIVIL RIGHTS

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The 1964 Civil Rights Act directs the Commission on Civil Rights to serve as a national clearinghouse for civil rights information. Accordingly, Commission resources are available to assist interested persons seeking information on Federal laws and programs and applicable civil rights policies.

The Commission is collecting data on successful patterns of compliance with Title VI. It is also developing information on major Federal programs operating in particular cities and localities. Recipients of Federal aid, State and local officials, private citizens and other groups may all benefit from this information and assistance.

Interested persons may also obtain information from Federal, State and local officials and from other recipients of Federal aid responsible for the administration of particular programs.

For further information, write to:

U.S. Commission on Civil Rights
Washington, D.C. 20425

TITLE VI—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Sec. 601. 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.

Sec. 602. Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: Provided, however, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

Sec. 603. Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

Sec. 604. Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

Sec. 605. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.