



What is Title VI?

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities of any entity that receive federal assistance. The law provides that:

“[n]o 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 assistance.” 42 U.S.C. § 2000d.

Entities, whether public or private, that receive federal assistance (called recipients) from any federal agency, including the Federal Highway Administration (FHWA), must take concrete steps to ensure nondiscrimination in their programs and activities.

What are the “programs and activities” to which Title VI applies?

Title VI does not only apply to the discrete program or activity to which a recipient directs federal funds. Congress clarified its intent regarding the broad coverage of Title VI and related civil rights laws with the Civil Rights Restoration Act of 1987. That Act amended Title VI to say that “programs” or “programs and activities” means “all of the operations of” any department, agency, or instrumentality of a state or local government, any part of which is extended federal assistance. To be clear, if a department of a state or local government receives federal assistance, all of the operations of that department would be covered by Title VI, but not all of the operations of the State or local government as a whole. The amended definition of “programs and activities” also makes clear that Title VI does not only apply to activities of a recipient of federal assistance that are federally funded, but applies to “all the operations of” a recipient, even those that are not federally funded. Title VI also applies to the programs and activities of entities that distribute federal funds to other entities (called “subrecipients”) as well as those actions taken by private firms under contract with the recipient. Taken together, this means that the scope of Title VI is quite expansive.

For example, state departments of transportation in every state (the state highway agencies or SHAs) receive federal funds from the FHWA, which means Title VI applies to all of the SHAs’ programs and activities (e.g. transportation planning, project development, contracting,

residential and business relocations, construction, etc.), whether those programs and activities are federally-funded or not. Title VI would also apply to every contract for highway or road construction awarded by an SHA, whether federally-funded or not. Further, most SHAs distribute federal assistance to cities, counties, and metropolitan planning organizations, as well—and Title VI would then apply to all of those highway and road programs as well.

Where does Title VI not apply?

However, there are certain areas in which Title VI typically does not apply. Title VI does not typically apply to employment matters, unless the recipient received federal assistance specifically for the purpose of providing employment. Title VI also does not apply to activities of federal agencies, themselves, because the law only applies to “recipients.” Finally, except for educational institutions, Title VI applies to the programs and activities of public agencies—not entire state, city, or county governments. Multiple agencies within a state or local government may receive federal funds, but Title VI would still only apply to those agencies and any other state or local agencies through which funds are passed.