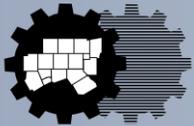


Title VI Requirements for Transit Subrecipients

Annual Transit Provider Meeting
February 11, 2020



North Central Texas
Council of Governments

Agenda

Defining Title VI

Prohibited Discrimination

Who Must Comply

Title VI Program

—Language Assistance Plan

Additional Resources



Defining Title VI

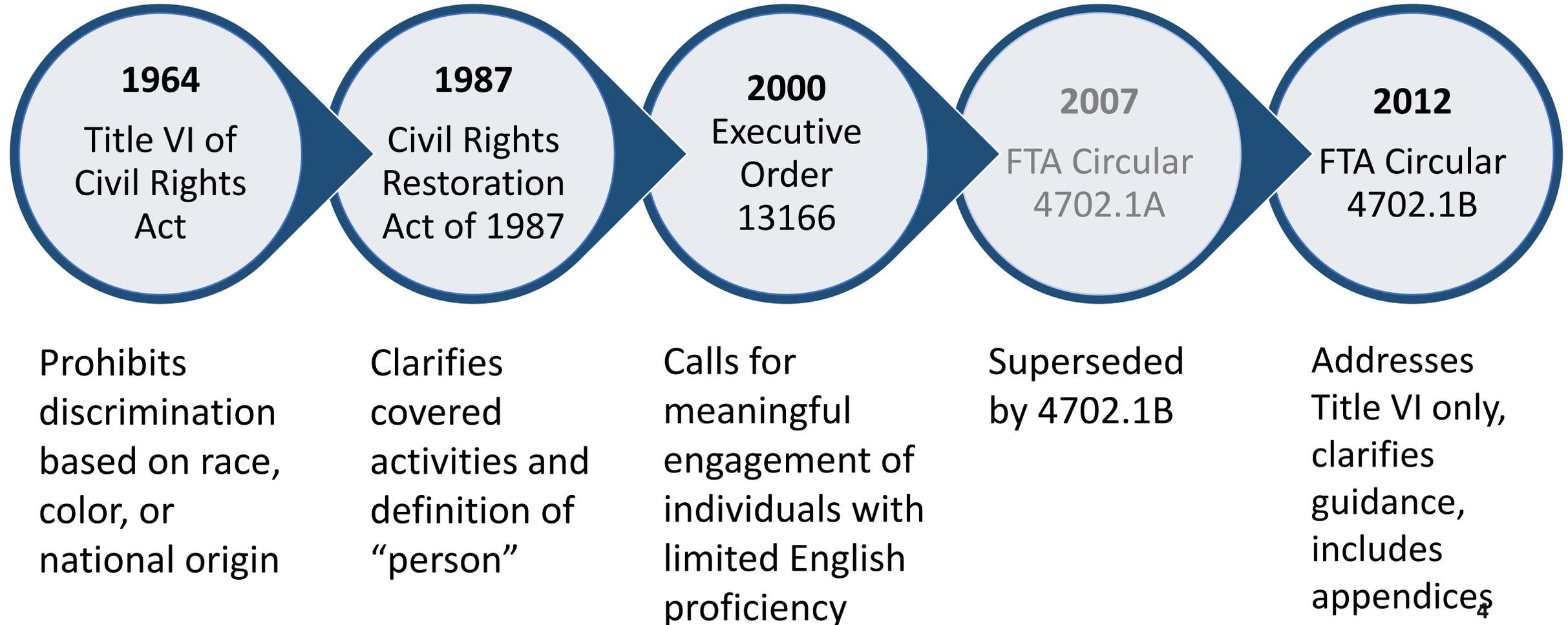
Civil Rights Act of 1964

“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.”



Getty Images

Defining Title VI Regulatory Framework



Defining Title VI

National Origin

National origin includes protection for individuals for whom English is not their primary language, and who have limited ability to read, write, or speak English

Individuals with limited English proficiency (LEP) have additional protection under Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency

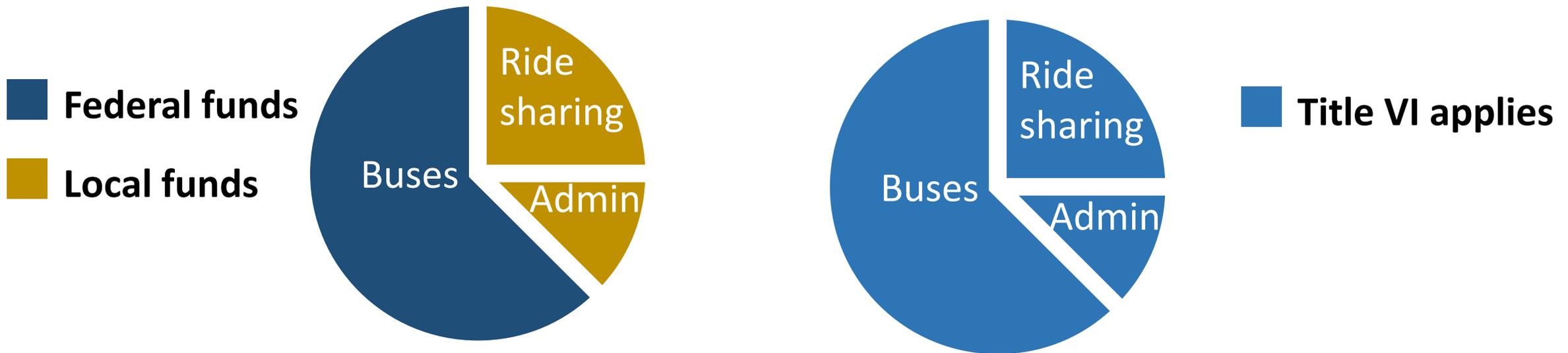


Defining Title VI

Federal Financial Assistance,
Person

Federal financial assistance can include grants, property, personnel

Civil Rights Restoration Act of 1987 amended Title VI, clarifying that Title VI applies to any programs or activities implemented by an entity that receives federal financial assistance



The 1987 act also clarified the definition of person to include non-citizens

Defining Title VI Discrimination

Disparate treatment, where people are intentionally treated differently because of their race, color, or national origin

- The person or group alleging discrimination *may* file a lawsuit

Disparate impact, where a facially neutral policy or practice disproportionately affects members of a group identified by race, color, or national origin, and

- The policy lacks a substantial legitimate justification
- The policy is implemented despite the existence of an alternative that would serve the same objective and less disproportionately affect members of a group identified by race, color, or national origin
 - The person or group alleging discrimination *may not* file a lawsuit, but the federal agency may enforce nondiscrimination

Retaliation is prohibited

Defining Title VI

Disparate impact

9:00 to 12:10



Prohibited Discrimination

Deny an individual a benefit	Deny participation on planning or advisory board
Provide different benefits	When determining benefits, use criteria that subjects an individual to discrimination
Subject an individual to segregation or separate treatment	When determining benefits, defeat or impair the ability to receive a benefit
Restrict individual of enjoyment or privilege enjoyed by others	When determining facility site or location, select with the effect of excluding individuals
Base qualification on different sets of criteria	When determining facility site or location, select with the purpose of defeating or impairing individuals from participating
Deny participation of service	

Who Must Comply

Recipients and subrecipients, who all must have a Title VI Program

Recipients' and subrecipients' contractors, including private corporations and nonprofits, who must comply with the Title VI Program of the recipient or subrecipient

Beneficiaries, such as people riding on a bus, do not need to comply



Who Must Comply

Basic Recipient Requirements

Recipients...

Shall submit a Title VI compliance report	Shall apprise beneficiaries of the protections afforded to them by Title VI
Are expected to take affirmative action to assure non-discrimination and to take affirmative action to remove or overcome the effects of the prior discriminatory practice or usage.	Shall not determine frequency of service, age, and quality of vehicles assigned, quality of stations, and locations of routes on the basis of race, color, or national origin.

Title VI is not an administrative exercise of creating a Title VI Program. It requires taking action to implement that program to ensure nondiscrimination, including preventing disparate impact (nonintentional discrimination).

Who Must Comply

NCTCOG Role

Title VI Program

Monitor subrecipient activity, including Title VI Programs

Provide sample notices, complaint procedures, and complaint form

Provide sample procedures for tracking and investigating Title VI complaints

Provide demographic information of residents served by the subrecipient

Provide any other recipient-generated or obtained data

Accept assurances with each subrecipient application for financial assistance for FTA; language is on FTA website

Who Must Comply

Subrecipient Role

Title VI Program – may not adopt NCTCOG’s, but may use some elements

Provide signed assurances with each application for financial assistance for FTA; language is on FTA website



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Title VI Program Overview

4:34 to 14:00

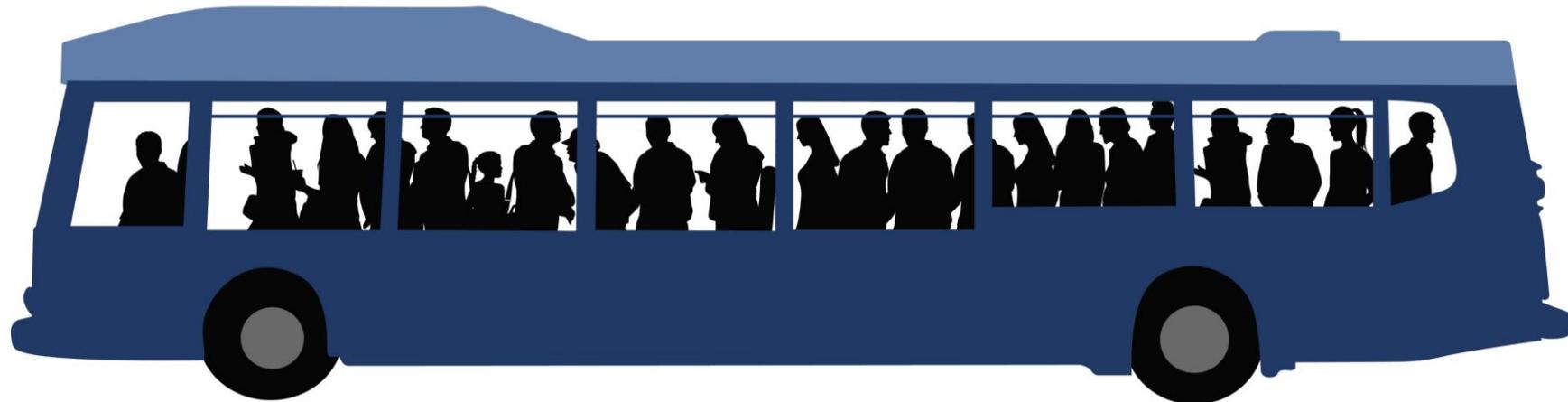


Title VI Program

Levels of Subrecipients

Different requirements for:

- Demand-response only
- Small fixed-route provider
- Large fixed-route (50 or more vehicles peak, in urbanized area >200,000) – we won't review these requirements today



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Title VI Program All Subrecipients

Title VI Program (cannot adopt NCTCOG's)

Program adopted by Board of Directors or similar body, with resolution or meeting minutes included in Program

Enforcement of contractors' implementation of subrecipient's Title VI Program

Title VI Program Details

Components of Title VI Program	Can you adopt NCTCOG's?	Suggested changes if adopting NCTCOG's
Notice to the Public, including nondiscrimination statement, procedures to request additional information, and procedures to file a Title VI complaint	Yes	NCTCOG's notice covers discrimination policy above and beyond Title VI. NCTCOG'S notice would not include your address for filing a complaint directly with your agency. Your notice may need to be translated into more or fewer languages, depending on your Language Assistance Plan.
Complaint Procedures and Form	Yes	NCTCOG'S complaint form covers discrimination above and beyond Title VI. NCTCOG'S complaint form would not include your agency as a recipient of the complaint.

Title VI Program Details

Components of Title VI Program	Can you adopt NCTCOG's?	Suggested changes if adopting NCTCOG's
List of Title VI investigations, complaints, or lawsuits	No	N/A
Public Participation Plan that includes plan to engage minority and LEP populations	Yes	You may want to provide a plan that is more specific to the service you provide and to your community. NCTCOG's plan does not have a process for soliciting and considering public comment before raising a fare or carrying out a major reduction of transportation; such a process may be required for federal grants.

Title VI Program Details

Components of Title VI Program	Can you adopt NCTCOG's?	Suggested changes if adopting NCTCOG's
Language Assistance Plan	Yes	Your community may have fewer requirements for translation. Your four-factor results will be different. Different language assistance measures may be sufficient to ensure meaningful access to different types of programs or activities.
Table depicting racial breakdown of transit-related, non-elected planning boards, committees, etc.	No	N/A

Title VI Program Details

Components of Title VI Program	Can you adopt NCTCOG's?	Suggested changes if adopting NCTCOG's
Title VI equity analysis from planning stage of constructed facility	No	N/A
System-wide service standards and policies (fixed route)	No	N/A

Language Assistance Plan Components

An implementation plan for timely and reasonable language assistance that complies with Title VI, including the following components:

Four-factor analysis

Language assistance measures

Strategies for providing notice to LEP individuals about free language services

Training and guidance for staff

Strategies for monitoring and updating the plan as needed

- LEP population in service area changes,
- Frequency of encounters changes, nature and importance of activities change
- New resources become available,
- Current plan is identified as not meeting needs of LEP individuals....

Language Assistance Plan

Meaningful Access Example

15:20 to 19:42



Title VI Program

Small Fixed-Route Providers

For all fixed-route providers, including those with fewer than 50 vehicles in peak service or located in urbanized area with fewer than 200,000 residents

Additional requirements only apply to fixed-route service, even if provider also provides demand response:

- System-wide service standards
- System-wide service policies

Specifics provided in [Title VI Fixed Route Transit Requirements](#) video from FTA

Title VI Program

Small Fixed-Route Providers

System-wide service standards (applies only to fixed-route services, not demand response) include:

- Vehicle load for each mode (in NCTCOG subrecipients' case, this is probably only one mode, bus)
- Vehicle headway for each mode
- On-time performance for each mode
- Service availability for each mode

Include in Title VI Program

Title VI Program

Small Fixed-Route Providers

System-wide service policies (applies only to fixed-route services, not demand response) include:

- Distribution of transit amenities for each mode
- Vehicle assignment for each mode

Include in Title VI Program

Title VI Program

Equity Analysis of Facilities

Complete Title VI equity analysis during planning stage for construction of storage facilities, maintenance facilities, operation centers, etc.

Analysis *not* required for bus shelters, transit stations, power substations, etc.

Must:

- Compare equity impacts of different site alternatives
- Conduct outreach to potentially affected communities
- Consider cumulative adverse impacts of existing facilities in area

Opportunity for using demographic data

If disparate impact, can still be located at site if there is legitimate justification and no alternatives exist that have less disparate impact

Additional Resources

A Note on Resources

This presentation draws directly from many of the resources on the following slides.

These resources are more comprehensive than what was provided in this presentation. Federal law and FTA guidance, not NCTCOG, provide the final word on Title VI requirements.

FTA Title VI Circular 4702.1B includes appendices with sample checklists, templates, etc., for transit providers to review as they develop their Title VI programs.

Additional Resources

Title VI

National Transit Institute Training Course: Title VI and Public Transit

<https://www.ntionline.com/courses/>

Free for public agencies!

FTA Title VI Circular 4702.1B

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/title-vi-requirements-and-guidelines-federal-transit>

FTA Training (Presentations, Videos)

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/title-vi-training>

FTA Training Email Address

FTATitleVItraining@dot.gov

Department of Justice Training Video

<https://www.justice.gov/crt/video/title-vi-civil-rights-act-1964>

Code of Federal Regulations Title 49 → Subtitle A → Part 21

<https://www.ecfr.gov/cgi-bin/text-idx?SID=397def600bdb738a9244ee7bd47a4f04&mc=true&node=pt49.1.21&rgn=div5>

Additional Resources

LEP

Executive Order 13166

<https://www.govinfo.gov/content/pkg/FR-2000-08-16/pdf/00-20938.pdf>

Department of Transportation LEP Guidance

<https://www.govinfo.gov/content/pkg/FR-2005-12-14/html/05-23972.htm>

Federal Interagency Website

<https://www.lep.gov/>

“I Speak” Card

<https://www.lep.gov/resources/resources.html#ispeak>

Additional Resources

NCTCOG Contacts

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tbenjamin@nctcog.org

www.nctcog.org/EJ

(sample notices, complaint procedures, and complaint form)

<https://www.nctcog.org/trans/plan/transit/transit-providers/transit-provider-resources>

(demographic data)

Additional Resources

Transit Accessibility Improvement Tool

