

TENNESSEE HUMAN RIGHTS COMMISSION



Title VI Compliance Program 2015 Annual Report

TABLE OF CONTENTS

Letter to the Governor & General Assembly	3
Introduction	4
History, Purpose, & Structure	5
Discriminatory Practices	7
Limited English Proficiency	7
Implementation Plans	8
Complaints	10
Inquiries	10
Complaints Received by the Commission: July 1, 2014 – June 30, 2015	11
Complaints Received by Other Departments: July 1, 2014-June 30, 2015	12
Compliance Reviews	15
Training and Technical Assistance	17





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LETTER TO THE GOVERNOR AND GENERAL ASSEMBLY

September 19, 2015

The Honorable Bill Haslam
Governor State of Tennessee
Nashville, Tennessee 37243

Members of the General Assembly
State of Tennessee Legislative Plaza
Nashville, Tennessee 37243

Dear Governor Haslam and Members of the General Assembly:

It is my honor to provide you with 2014-2015 Annual Report of the Title VI Compliance Program. Since 2009, when Title VI monitoring authority was transferred to the Commission, we have worked diligently to ensure compliance among all state agencies.

This report provides a summary of the services and accomplishments of the Title VI Compliance Program. We will continue to ensure that each executive branch department and agency promotes present and future compliance with Title VI requirements.

Thank you for the opportunity to serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Beverly L. Watts".

Beverly L. Watts
Executive Director

INTRODUCTION

This report covers Title VI Compliance Program activities during fiscal year (FY) July 1, 2014 - June 30, 2015 for compliance efforts and outcomes of each executive branch department and agency in the state of Tennessee. Title VI of the Civil Rights Act of 1964 (Title VI) prohibits discrimination on the basis of race, color or national origin under any program or activity receiving Federal financial assistance (FFA).

In practical terms, Federal agencies that distribute funds are empowered to withdraw that support if a recipient agency engages in discrimination. State agencies reported receiving over \$20 billion dollars of Federal Financial Assistance in the past fiscal year, and federal funds can represent as much as 40% of the state budget any given year.

Department	Federal Dollars Reported	% of total FFA
Department of Finance & Administration, Division of Healthcare (TennCare)	\$ 14,114,696,499.00	69.18%
Department of Human Services	\$ 2,639,027,868.00	12.93%
Tennessee Housing Development Agency	\$ 933,209,706.00	4.57%
University of Tennessee	\$ 635,759,258.01	3.12%
Department of Commerce and Insurance	\$ 455,568,691.00	2.23%
Department of Health	\$ 244,954,800.00	1.20%
Division of Intellectual Disabilities Services	\$ 209,510,800.00	1.03%
Department of Safety and Homeland Security	\$ 198,587,100.00	0.97%
Dept. of Labor & Workforce Development	\$ 133,697,530.32	0.66%
Dept. of Children's Services	\$ 132,460,500.00	0.65%
Tennessee Higher Education Commission	\$ 82,232,148.00	0.40%
All other Agencies	\$ 624,510,099.29	3.06%
TOTAL	\$ 20,404,214,999.62	100.00%

Therefore, a comprehensive statewide compliance program prevents the risk of loss of that federal funding due to discriminatory practices and is critical to maintaining high standards and ensuring continued compliance.

More importantly, the Title VI Compliance Program is an expression of the State of Tennessee's commitment to justice for its citizens. It maintains the public trust by insuring that the state's myriad interactions with its citizens are always free of discrimination based on race, color, or national origin.

The program has achieved some significant milestones in the past fiscal year. THRC staff completed compliance reviews of five state agencies, the most since the program's inception. Also for the first time, the program has achieved 100% compliance in statewide implementation plans.

The program continues to build upon those successes and develop new strategies for preventing discrimination in cooperation with every other state agency. The Title VI Compliance Program staff is grateful for the role it plays in the Tennessee Human Rights Commission's mission to safeguard individuals from discrimination through enforcement and education.

HISTORY, PURPOSE, AND STRUCTURE

On August 9, 2002, Governor Don Sundquist issued Executive Order 34 which created the Title VI Compliance Commission. Executive Order 34 assigned the duties and responsibilities for Title VI monitoring to the 13-member Title VI Compliance Commission. Governor Sundquist appointed nine of the 13 members as required by the executive order. All of these appointments expired in October 2008 and remained unfilled.

On June 23, 2009, Governor Phil Bredesen signed legislation transferring the duties of the Title VI Compliance Commission to the Tennessee Human Rights Commission, effective July 1, 2009. This legislation grants the Commission the authority to verify that all state governmental entities comply with the requirements of Title VI. The Compliance Program dedicated itself first to the establishment and development of guidelines for a comprehensive statewide policy to ensure compliance by the executive branch of state government. In the subsequent years the Compliance Program has matured beyond establishing guidance into active oversight.

Each state agency receiving Federal Financial Assistance is responsible for conducting the necessary activities to remain compliant and avoid discrimination. Although this is a responsibility of the agency as a whole, each state agency selects a member of its staff to serve as Title VI Coordinator. The designated Title VI Coordinator serves as liaison between the agency and the Human Rights Commission and as a resource for the agency's Title VI related activity, including:

- Producing the annual Implementation Plan to be submitted for review before October 1 every year.
- Ensuring that recipients of the agency's funds are themselves compliant with Title VI. This is done by collecting assurances prior to the award of funding, training, and periodically reviewing the subrecipients for compliance with Title VI.
- Providing Title VI training on an annual basis to all employees, subrecipients, contractors and program area liaisons.
- Investigating and resolving any complaints made by recipients alleging discrimination on the basis of race, color, or national origin by the agency.
- Collecting and maintaining racial and ethnic data demonstrating the extent to which members of minority groups are beneficiaries of the department's federally assisted programs and/or services.
- Informing the public of the agency's non-discrimination policies, procedures for investigation of complaints, and the process of obtaining grants or bidding on contracts over which the agency has oversight.

The Compliance Program is overseen by the Director of Title VI Compliance, who reports to the Executive Director of the Human Rights Commission. Additionally, the unit employs a Compliance Officer and an Administrator. THRC staff provides support for and coordination among the Title VI Coordinators assigned for each state agency by:

- Acting as a clearinghouse for Title VI complaints, ensuring that any claim of non-compliance by a state agency is thoroughly investigated and resolved.
- Conducting compliance reviews of state agencies. These focused reviews highlight and remedy shortcomings found in those agencies' practices or procedures;
- Conducting annual training of all Title VI Coordinators; ensuring competence in Title VI issues across the state.
- Collecting and reviewing Implementation Plans from all recipient agencies. These plans represent a statewide comprehensive effort to prevent discrimination in every agency activity.
- Providing policy guidance and technical assistance for recipient agencies regarding Title VI compliance;
- Providing annual Report Cards to all Commissioners and Agency heads keeping them apprised of successes and areas of potential concern; and
- Directly investigating potentially discriminatory actions by public programs

The staff of the Tennessee Human Rights Commission is now directing its efforts to increasing its effectiveness in every program area. In the coming year the Compliance Program seeks to increase the number of Compliance Reviews, create new training tools for agency coordinators, and sharpen our investigation oversight.



DISCRIMINATORY PRACTICES

Departments that receive FFA must provide the public with fair and equal access to all of its programs and activities in a nondiscriminatory manner. Specific discriminatory actions are prohibited under Title VI. A department that is a recipient of federal funds may not, directly or through contractual or other arrangements, on the basis of race, color or national origin:

- Deny an individual any disposition, service, financial aid, or benefit provided under the program;
- Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
- Subject an individual to segregation or separate treatment in any matter related to the receipt of any disposition, service, financial aid, or benefit under the program;
- Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit under the program;
- Treat an individual differently from others in determining whether such person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function or benefit provided under the program;
- Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford such person an opportunity to do so which is different from that afforded others under the program; or,
- Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

LIMITED ENGLISH PROFICIENCY

On August 11, 2000, the President signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency" ([PDF](#)). The Executive Order requires federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP) and develop and implement a system to provide services so LEP persons can have meaningful access to them. The Federal Agencies extend that requirement in turn to all recipients of Federal Financial Assistance.

Tennessee State Agencies must have procedures in place for ensuring meaningful access to LEP individuals. Most commonly this involves the use of professional interpreter services, but can also include the use of bilingual staff.

Agencies must always evaluate the potential need for their printing their publically distributed documents in languages other than English. The Human Rights Commission recommends that each agencies most distributed materials be available in Spanish.

IMPLEMENTATION PLANS

A major component of the Title VI Compliance Program involves implementation plan review. The Commission conducted training on July 23, 2014 for 60 Title VI personnel and department heads representing 42 departments or divisions concerning the duties and responsibilities of the Title VI Compliance Program, plan guidelines and the obligation of executive branch departments to submit implementation plans to the Commission by October 1 annually.

Implementation plans include a report of compliance activities undertaken by the state department or agency for the previous fiscal year (e.g. FY2013-2014) and its plans for compliance for the current fiscal year. A department's implementation plan must consist of the following sections: an overview; a description of the federal programs or activities; the organization of the Civil Rights Office and duties of the Civil Rights Coordinator; data collection and analysis, including total number of complaints received; definitions; discriminatory practices; Limited English Proficiency (LEP); complaint procedures; compliance review of subrecipients; compliance/noncompliance reporting; Title VI training plan; public notice and outreach; evaluation procedures of Title VI implementation; and responsible officials.

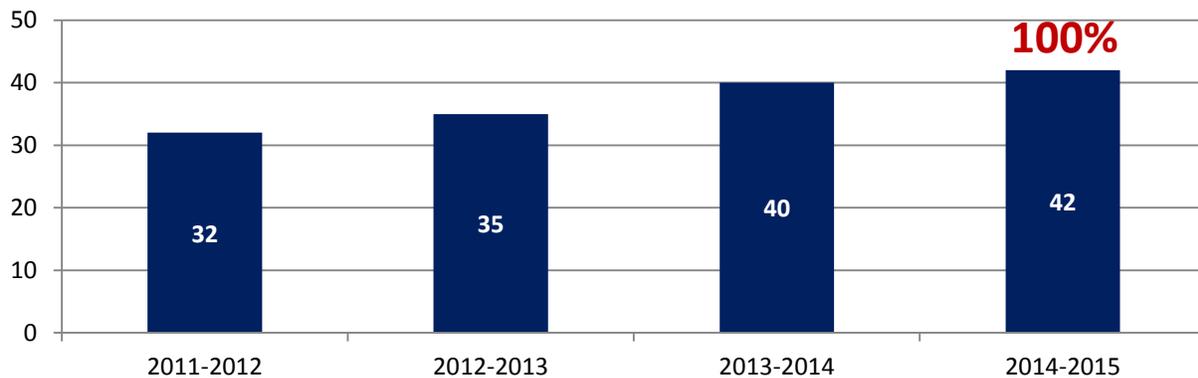
The Commission received and reviewed 42 implementation plans from departments statewide. One agency was not required to submit a plan as it did not receive FFA for the reporting period. The review analyzed several areas of compliance, to include whether departments train staff on Title VI, Limited English Proficiency (LEP) policies and procedures, data collection and the monitoring of subrecipients. Implementation plans were forwarded back to the departments for revision after an initial review and comment phase. Upon completion of the implementation plan review process, the Commission issued a "Notice of Final Findings" to the departments.

SUMMARY OF FINAL FINDINGS FOR 2014-15 TITLE VI IMPLEMENTATION PLANS	
Number of state agencies submitting Implementation Plans	42
Number of agencies not required to submit Implementation Plan	1
Percentage of state agencies receiving a finding	0
Number of state agencies receiving a finding	0
Number of agencies with untimely submission of Implementation Plan	0
Number of agencies with no findings	42
Number of agencies with one (1) finding	0
Number of agencies with three (3) findings	0
Number of agencies with five (5) findings	0
Number of agencies not responding to THRC initial review and request for additional information	0
Number of agencies providing response to final findings	0
Number of agencies receiving repeat findings	0

Implementation Plans -continued

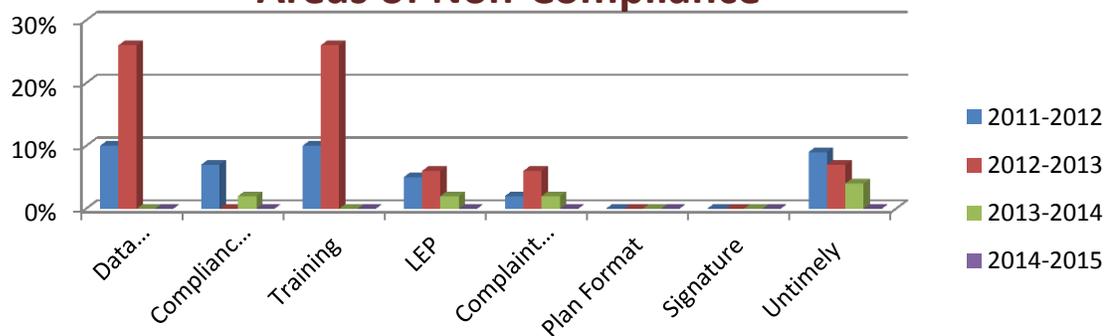
This fiscal year all 42 departments' implementation plans were received and finalized before the October 1, 2014 deadline. **All final implementation plans were in compliance, for the first time since the Commission began collecting them in 2010.**

State Agencies Meeting All Implementation Plan Requirements



The most common areas of non-compliance in previous fiscal years have been in LEP policies, Complaint Procedures, Training, Data Collection and timeliness. In each instance the Human Rights Commission issued a finding of non-compliance and listed the shortcoming in the agency report cards.

Title VI Implementation Plans Areas of Non-Compliance



The shortcomings were addressed through direct consultation with the agency Title VI Coordinators, through the annual coordinator training and through steady refinements of the implementation plan guidelines. The achievement of total implementation plan compliance is a considerable achievement of the Compliance Program and THRC staff intends to repeat the success in coming fiscal years.

COMPLAINTS

Any person alleging discrimination on the basis of race, color or national origin under any program or activity receiving FFA must be filed within 180 days of the alleged discriminatory conduct. Complaints may be filed either with the Commission or directly with the department, or its subrecipient, that is responsible for the alleged discriminatory conduct. Any person may file a complaint directly with the federal department or agency that provides funding to any state department in Tennessee.

INQUIRIES

All written inquiries alleging violations of Title VI by a state agency are reviewed by the Compliance Program staff. Each inquiry is examined to determine if the allegations meet the jurisdictional requirements to be classified as a complaint. To be considered a complaint the inquiry must allege discrimination on the basis of race, color, or national origin, by a state agency or its subrecipient. The allegations must also involve events occurring within the last 180 days.

Inquires that meet the requirements are assigned for investigation. When the allegations do not constitute a Title VI claim, but do make a formal complaint against a state agency, are referred to the appropriate state agency for a response. Those inquiries falling outside of either category are administratively closed.

Historically the majority of inquiries are directed at the Department of Corrections from imprisoned offenders. This past fiscal year the Commission reviewed 370 inquiries, 273 of which concerned the Department of Corrections.

Distribution of Inquiries	
Agency	# Inquiries
	273
Department of Corrections	
Non State entities*	66
Children's Services	5
Education	6
Safety	4
Intellectual Disabilities Services	3
Mental Health & substance Abuse	2
Administrative Office of the Courts	1
Board of Parole	1
Department of Health	1
Human Services	1
TBI	1
Environment & Conservation	1
Labor and Workforce Development	3
Wildlife Resources Agency	1
TennCare	1
Total	370

*Institutions which are not part of the State of Tennessee or a subrecipient of any state agency. All inquiries of this nature are outside of the jurisdiction of the commission and are administratively closed.

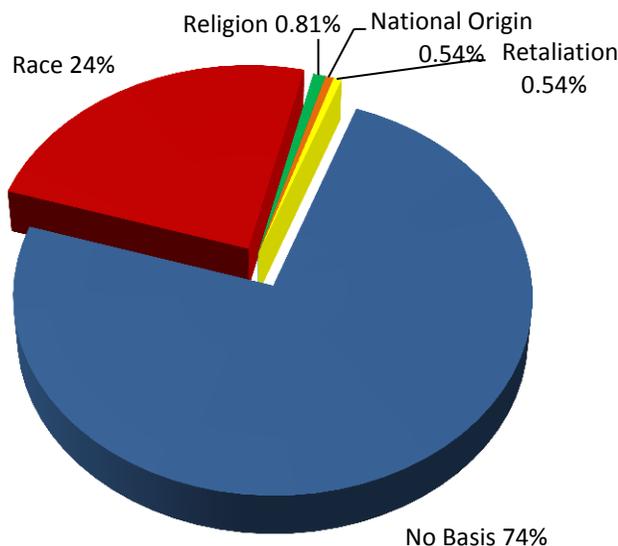
Complaints – continued

In fiscal year 2014-2015, program staff began tracking the speed of inquiry processing, but measuring the number of days from receipt of the inquiry to its disposition. **The Compliance Program maintained an average inquiry processing time of eleven (11) days from receipt.**

The number of inquiries and complaints received by the commission has varied only slightly over time.

Title VI Inquiry & Complaint Statistics					
Fiscal Year	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Inquiries	397	388	338	354	370
Non-Jurisdictional Inquiries	327	323	286	294	288
Complaints	70	60	45	60	82
Closed Cases	19	23	53	66	46

The majority of inquiries received do not cite a specific basis for discrimination. Unless a discriminatory basis is learned during processing, these cases are typically referred to other agencies for response. Of those that do include a discriminatory basis, Race is the most frequent basis cited.



COMPLAINTS RECEIVED BY THE COMMISSION: JULY 1, 2014 – JUNE 30, 2015

During the period covering July 1, 2014 - June 30, 2015, the Title VI Compliance Program received 325 inquiries; 249 of the inquiries were non-jurisdictional to Title VI, 76 of the inquiries were accepted as complaints; 46 complaints were closed. These 76 complaints were assigned to six different departments and agencies for investigation. Complaints ranged from allegations of discriminatory practices by state employees to the denial of services under specific, federally funded programs and activities.

Complaints that may be jurisdictional under Title VI are typically assigned to the executive branch department that administers the program or activity referenced in the complaint. All departments must inform the Commission of whether a referral is opened for investigation, provide status reports and copy the Commission on correspondence to complainants related to complaint closure. In some instances allegations were jurisdictional to the Human Rights Commission, but were not valid under Title VI. In those instances, the investigation is assigned to investigators in the appropriate divisions of the Commission (i.e. Housing or Employment).

The Commission will not consider a complaint that is assigned to another department as closed until it receives written notification from the department that the complaint has been resolved. Inquiries that are not covered under Title VI and are not otherwise jurisdictional to the Commission are forwarded to the relevant department for review and action where appropriate.

Departments	Complaints Filed
Department of Correction	73
Department of Education	4
Environment and Conservation	1
Labor and Workforce Development	2
Administrative Office of the Courts	1
Wildlife Resources Agency	1
TOTAL	82

As in all previous fiscal years, the greatest number of Title VI Complaints has been directed against the Tennessee Department of Correction by individuals currently imprisoned in a correctional institution. **Of the Complaints during fiscal year 2014-2015; Eighty (80) alleged race as a basis of discrimination and Two (2) alleged national origin.**

Complaints - continued

Forty-six (46) cases received by the Commission were closed during the fiscal year. None resulted in a finding of non-compliance. In fiscal year 2014-2015 The Compliance Program began tracking the investigation time of all complaints assigned for investigation. The average time from allegation to resolution for the past fiscal year was 110 days.

Department	Cases Closed
Department of Correction	40
Department of Education	2
Labor and Workforce Development	2
Administrative Office of the Courts	1
Wildlife Resources Agency	1
TOTAL	46

One of the duties of the Commission is to investigate allegations of non-compliance with Title VI at state agencies and departments. The commission opts to directly investigate Title VI complaints in circumstances where the allegations are unusually complex or when more than one state agency may have oversight authority over the respondent entity. In the last fiscal year, Commission staff engaged in two direct investigations, one of which was conducted in cooperation with the Tennessee Department of Transportation Civil Rights Office.



COMPLAINTS RECEIVED BY OTHER DEPARTMENTS: JULY 1, 2014-JUNE 30, 2015

All state agencies are required to report any Title VI Complaints received to the Human Rights Commission. Agencies are required to investigate and resolve each complaint received. The Compliance Program may review those investigations at any time, but will always do so when conducting a compliance review.

The total number of complaints received by departments statewide is determined by the data reported in each department's implementation plan. According to the data provided, individuals filed complaints with 15 out of 42 or 33% of the departments receiving federal funds. The chart below summarizes the complaints received directly by the departments during this reporting period. **No state agency has reported a Title VI investigation resulting in a finding of non-compliance in the past fiscal year.**

As with those complaints submitted directly to the Tennessee Human Rights Commission, the Department of Corrections receives the greatest number of Title VI Complaints. All such Complaints are filed internally by persons currently imprisoned under the care of the Department of Corrections.

Department	Complaints
Dept. of Correction	1,480
Bureau of TennCare	188
Tennessee Board of Regents	29
Dept. of Education	17
Dept. of Transportation	7
Dept. of Human Services	6
University of Tennessee	5
Dept. of Health	3
Division of Intellectual Disabilities Services	3
Administrative Office of the Courts	2
Alcoholic Beverage Commission	2
Treasury Department	2
Board of Probation and Parole	1
Dept. of Children's Services	1
Dept. of Commerce & Insurance	1
Total	1747

COMPLIANCE REVIEWS

One of the responsibilities of the Tennessee Human Rights Commission ("Commission") is to verify that all state governmental entities comply with Title VI of the Civil Rights Act of 1964 ("Title VI"). According to the Tennessee Human Rights Act (Tenn. Code Ann. §4-21-203), the Commission is

authorized to periodically and systematically, review, evaluate and report on Title VI compliance efforts and outcomes for each state department and agency.

The on-site compliance reviews are conducted to determine the extent to which an agency or state entity is in compliance with Title VI as it relates to program objectives, complaint procedures and referral process, and the actual execution for processing complaints. This review also serves as a mechanism for the Commission to provide technical assistance and make recommendations regarding corrective action, where appropriate.

Compliance Reviews involve extensive reviews of documentation, as well as interviews with the subject agency's staff. The THRC review staff first notifies the subject agency that they are under review and requests documentation of any changes since their last Implementation Plan. Compliance staff will then visit one or more offices of the subject agency, and interview staff members of the subject agency. The reviewers may also view additional documentation during the on-site visit. The review staff will examine a variety of the agency's activities including:

- Record keeping. All agencies are required to maintain records of any Title VI related activity, their sources of federal funding, and demographic data on all program beneficiaries and members of any boards or commissions.
- The monitoring of subrecipients. Agencies are required to obtain assurances from all subrecipients that they will comply with Title VI as well as conduct periodic reviews.
- Investigations of Complaints. The review staff will confirm that any alleged violations of Title VI have been thoroughly investigated.
- Training. Review staff will confirm that all agency employees have been trained annually on Title VI and that those employees retain a basic understanding of the agency's anti-discrimination policies. Agencies are also required to insure that any subrecipients receive Title VI training every year.
- LEP policy. Every state agency must have working procedures in place for providing meaningful access to persons with limited English proficiency. All state employees are expected to know the procedures.
- Public information and outreach. Review staff will confirm that agency publications or applications include appropriate anti-discrimination language and inform beneficiaries of how to report potential discrimination. Agencies are further required to ensure that outreach efforts reach all racial populations.

Compliance Reviews- Continued

During fiscal year 2014-2015, the division conducted five (5) compliance reviews. More detailed findings and outcomes from the reviews can be made available on request.

- ❖ The **Tennessee Department of Education** was reviewed in September and October of 2013. The Compliance program identified findings in four program areas; Limited English Proficiency, Complaint Procedures, Title VI Training, and Public notice and Outreach. A corrective action plan addressing each are of concern was completed on April 15, 2015. The Tennessee Human Rights Commission currently finds the Department of Education in full compliance with Title VI.
- ❖ The **Tennessee Commission on Children and Youth** was reviewed in January of 2015. The program issued one finding that was immediately corrected. The Commission on Children and Youth are currently in compliance with Title VI.
- ❖ The **Administrative Office of the Courts** was reviewed in March of 2015 and found to be in full compliance with Title VI.
- ❖ The **Department of Finance and Administration** was reviewed in April and May of 2015. The Compliance program identified findings in three program areas; Limited English Proficiency, Complaint Procedures, and Title VI Training. The Department is currently making adjustments to its training program to correct the deficiencies. Once the corrections are made Finance and Administration will be in compliance.
- ❖ The **Alcoholic Beverage Commission** was reviewed in June of 2014. The Compliance Program identified findings in four program areas, Limited English Proficiency, Complaint Procedures, Title VI Training, and Data Collection. The commission is currently making adjustments to its training program and data collection practices. Once the corrections are made Finance and Administration will be in compliance.

In the four years prior to the past fiscal year, the Compliance Program completed a total of five (5) compliance reviews. Those reviews included the Department of Corrections, The Department of Agriculture, the Tennessee state Museum, the Tennessee Wildlife Resources Agency, and the Department of Veteran's Affairs. **As is evident, the THRC has quickened the pace of the Compliance reviews.** That process is ongoing, and the Compliance Program is pursuing a schedule that will produce five (5) more compliance reviews in the 2015-2016 Fiscal Year, and eight (8) per year after that point in a regular cycle.

TRAINING AND TECHNICAL ASSISTANCE

The Title VI Division provided technical assistance to state departments and agencies on Title VI compliance, issued implementation plan guidelines and conducted several training sessions on Title VI compliance requirements to various entities.

The annual training for state Title VI Coordinators was held on July 23, 2014. Information presented during this session included Fundamentals of Title VI Compliance for new Coordinators, Implementation Guidelines for FY2013-2014 and Guidelines for the investigation of Title VI Complaints.

Also on July 23, 2014 the Commission issued forty two (42) single-page "Report Cards" to all department heads. These one-page summaries are issued annually and include observations and suggestions regarding the subject agency's Title VI compliance efforts. Each agency is rated as Compliant, Non-Compliant, or Under Review. This fiscal year, all but three agencies were given "Compliant" grades. The remaining three were given "Under Review". The Department of Finance and Administration and the Alcoholic Beverage Commission were still the subject of a compliance review when the report cards were released. The Department of Corrections was graded as "Under Review" because complaint processing procedures were under being examined.

The Title VI staff responded to thirty-nine (39) requests technical assistance from state departments and agencies on Title VI compliance. Topics of concern included complaint investigation, providing appropriate signage, and capturing racial data in services. Typically these requests are resolved within twenty four hours of the request. Often, program staff directly assisted Title VI Coordinators by attending employee Title VI training sessions, composing non-discriminatory language for agency publications, and helping draft presentations.



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*Indicates the individual as a former staff member who served the Tennessee Human Rights Commission during fiscal year 2015

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