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September 19, 2017

Governor Bill Haslam
State of Tennessee
1st Floor, State Capitol
Nashville, TN 37243

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

I am pleased to provide the 2016-2017 Annual Report of the Title VI Compliance Program. This report was prepared pursuant to the requirements of Section 4-21-203, Tennessee Code Annotated and covers the period of July 1, 2016 through June 30, 2017.

Since 2009, when the Commission received Title VI monitoring authority, we have worked diligently to ensure compliance among all state agencies. The program is a central clearing house of discrimination complaints, a source for training and technical assistance, and thorough examination of other state agencies’ efforts to combat discrimination.

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 maintains present and future compliance with Title VI requirements.

Thank you.

Sincerely,

Beverly L. Watts
Executive Director
INTRODUCTION

This report covers Title VI Compliance Program activities during the fiscal year (FY) July 1, 2016 - June 30, 2017 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. In fiscal year 2016-2017 the State of Tennessee received billions of dollars of FFA in the past fiscal year, and federal funds can represent as much as 40% of the state budget any given year.

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’s trust by ensuring that the state’s many interactions with its citizens are always free of discrimination based on race, color, or national origin.

This year, the program reviewed the Title VI implementation plans of forty-one state agencies. One agency plan submission was untimely, resulting in an overall rate of 98% compliance. The compliance staff completed compliance reviews of six state agencies, and Title VI staff members responded to seventy-nine requests for technical assistance.

The Tennessee Human Rights Commission (THRC) will continue to build upon these 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 we play in the Tennessee Human Rights Commission’s mission to safeguard individuals from discrimination through enforcement and education.
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 their Title VI Coordinator. The designated Title VI Coordinator serves as liaison between the agency and the Commission and as a resource for the agency’s Title VI related activity.

The Compliance Program is overseen by the Title VI Director. Additionally, the unit employs a Compliance Officer and an Administrator. Commission staff provides support for and coordination among the Title VI Coordinators assigned for each state agency.
HUMAN RIGHTS COMMISSION COMPLIANCE PROGRAM ACTIVITIES

- 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 annual training of all Title VI Coordinators; ensuring competence in Title VI issues across the state.

- Providing policy guidance and technical assistance for recipient agencies regarding Title VI compliance.

- Directly investigating potentially discriminatory actions by public programs.

- Collecting and reviewing Implementation Plans from all recipient agencies. These plans represent a statewide comprehensive effort to prevent discrimination in every agency activity.

- Conducting compliance reviews of state agencies. These focused reviews highlight and remedy shortcomings found in those agencies’ practices or procedures.

- Providing annual Report Cards to all Commissioners and Agency heads keeping them apprised of successes and areas of potential concern.

RESPONSIBILITIES OF EACH AGENCY’S TITLE VI COORDINATOR

- 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 complaints made by beneficiaries 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 Title VI-related policies and procedures.
On August 11, 2000, President Bill Clinton signed Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency” (LEP). The Executive Order requires federal agencies to maintain procedures that ensure their services reach beneficiaries who have a limited command of the English language. The requirement is extended in turn to all recipients of federal financial assistance, including Tennessee state agencies.

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 Commission recommends that each agency’s most distributed materials be available in Spanish.

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. 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.
A major component of the Title VI Compliance Program involves implementation plan review. In FY 2016-2017, 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 multiple areas of compliance, including Limited English Proficiency (LEP) policies and procedures, data collection, the monitoring of subrecipients, and whether departments train staff on Title VI. 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.

This fiscal year 41 of the 42 departments’ implementation plans were received and finalized before the October 1, 2016 deadline. The Department of Agriculture submitted its implementation plan three months late, and was untimely. All of the implementation plans were reviewed and revised to be in total compliance by February 7, 2017.
COMPLAINT PROCESS

Any person alleging discrimination on the basis of race, color or national origin under any program or activity receiving FFA must file a complaint 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. During FY 2016-2017, a total of 928 complaints were lodged against all state agencies. Sixty-nine complaint investigations remain open pending the completion of investigation.

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.

Inquiries that meet the requirements are assigned for investigation. Allegations that 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. This fiscal year the Commission reviewed 382 inquiries, 340 of which concerned the Department of Corrections.
During the period covering July 1, 2016 - June 30, 2017, the Title VI Compliance Program received 382 inquiries. Of these, 278 inquiries were not jurisdictional to Title VI and 104 were accepted as complaints. In some instances, allegations were jurisdictional to the Commission, but were not valid under Title VI. In those instances, the investigation was assigned to investigators in the appropriate divisions of the Commission (i.e. Housing or Employment). 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.

There were 63 total closures for the fiscal year. Complaints ranged from allegations of discriminatory practices by state employees to the denial of services under specific, federally funded programs and activities.

Complaints are typically assigned to the executive branch department that administers the program or activity referenced in the complaint, but in certain cases where the allegations are unusually complex or when more than one state agency has oversight authority over the respondent, the Commission may choose to directly investigate.

When investigations are assigned to departments, the investigating departments are required to keep the Commission apprised of the progress of the investigation, provide status reports and copy the Commission on correspondence to complainants related to complaint closure. 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.
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 FY 2016-2017, 96 alleged race as a basis of discrimination, four alleged national origin, and three were complaints of retaliation.

The Commission closed 63 cases received during the fiscal year. Two resulted in a finding of non-compliance. In FY 2016-2017 the average time from allegation to resolution for the past fiscal year was 77 days.
COMPLAINTS: SUBMITTED TO OTHER DEPARTMENTS

All state agencies are required to report any Title VI complaints received to the Tennessee 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 8 out of 41, or 20%, of the departments receiving federal funds. The chart below summarizes the complaints received directly by the departments during this reporting period. Two state agencies have reported a Title VI investigation resulting in a finding of non-compliance in the past fiscal year.

**DISTRIBUTION OF COMPLAINTS RECEIVED BY DEPARTMENTS**

- Department of Correction, 802
- Dept. of Intellectual & Developmental Disabilities, 2
- Safety & Homeland Security, 2
- Environment and Conservation, 1
- Mental Health & Substance Abuse Services, 3
- Transportation, 1
- Education, 1
- Board of Regents, 9
One of the responsibilities of the Tennessee Human Rights Commission is to verify that all state governmental entities comply with Title VI of the Civil Rights Act of 1964. 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.

To fulfill this responsibility, the Commission conducts Compliance Reviews, involving extensive reviews of documentation as well as interviews with the subject agency’s staff. This review also serves as a mechanism for the Commission to provide technical assistance and make recommendations regarding corrective action, where appropriate. Since the inception of the program, the division has completed 17 compliance reviews, including six in FY 2016-2017.

The review consists of an examination of a variety of the agency’s activities, including:

01 COMPLAINT INVESTIGATIONS
Review staff will confirm that any alleged violations of Title VI have been thoroughly investigated.

02 SUBRECIPIENT MONITORING
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.

03 RECORD KEEPING
All agencies are required to conduct periodic reviews of documentation as well as interviews with the subject agency’s staff. This review also serves as a mechanism for the Commission to provide technical assistance and make recommendations regarding corrective action, where appropriate. Since the inception of the program, the division has completed 17 compliance reviews, including six in FY 2016-2017.

04 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 ensure that any subrecipients receive Title VI training every year.

05 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.

06 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, Cont.

FY 2016-2017 Compliance Reviews

The Tennessee Human Rights Commission reviewed six state agencies during FY 2016-2017:

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<th>COMPLETED</th>
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<td>TN Commission on Aging and Disability</td>
<td>December 2016</td>
<td>None</td>
</tr>
<tr>
<td>Tennessee Arts Commission</td>
<td>December 2016</td>
<td>One (see below)</td>
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<tr>
<td>Dept of Human Resources</td>
<td>February 2017</td>
<td>None</td>
</tr>
<tr>
<td>TN Regulatory Authority</td>
<td>March 2017</td>
<td>None</td>
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<tr>
<td>Dept of General Services</td>
<td>May 2017</td>
<td>None</td>
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<tr>
<td>Economic &amp; Community Development</td>
<td>May 2017</td>
<td>None</td>
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FY 2016-2017 Tennessee Arts Commission Compliance Review

The Tennessee Arts Commission was reviewed from July-December 2016. The Compliance Division identified one finding, in the area of Title VI Training. Per a corrective action plan issued by the Tennessee Human Rights Commission, the Commission made adjustments to its training program to correct the deficiencies.

The Title VI Compliance Program determined that TAC is now in full compliance. More detailed findings and outcomes from the review can be made available upon request.
TRAINING AND TECHNICAL ASSISTANCE

The Title VI Program 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 26, 2016. Information presented during this session included an overview of the fundamentals of Title VI compliance for new coordinators, an explanation of the Implementation Plan guidelines for FY2016-2017, and guidance on best practices for complying with agencies’ responsibilities with respect to subrecipient monitoring. At a briefing prior to the training the Executive Director gave a short presentation to other agency heads, discussing the overall Title VI compliance status across Tennessee State agencies.

On May 15, 2017, the Title VI Compliance Director presented an introductory session on Title VI to the Chattanooga-Hamilton NAACP. This presentation included an overview of the law, as well as a discussion of the function and responsibilities of the Commission. The Executive Director was also present, and responded to questions from the attendees.

The Title VI staff responded to 79 requests for technical assistance from state departments and agencies on Title VI compliance. Topics of concern included complaint investigation, complaint and compliance reporting, Limited English Proficiency, and training requirements, both for agency staff and subrecipients. Typically these requests are resolved within twenty-four hours.
AGENCIES SUBJECT TO COMMISSION OVERSIGHT

Administrative Office of the Courts  
Alcoholic Beverage Commission  
Arts Commission  
Board of Parole  
Commission on Aging & Disability  
Commission on Children & Youth  
Department of Agriculture  
Department of Children’s Services  
Department of Commerce & Insurance  
Department of Correction  
Department of Economic & Community Development  
Department of Education  
Department of Environment & Conservation  
Department of Finance & Administration  
Department of General Services  
Department of Health  
Department of Human Resources  
Department of Human Services  
Department of Intellectual and Developmental Disabilities  
Department of Labor & Workforce Development  
Department of Mental Health  
Department of Revenue  
Department of Safety and Homeland Security  
Department of State  
Department of Transportation  
Department of Veteran’s Services  
District Public Defenders Conference  
Division of Health Care, Finance, and Administration  
Military Department  
Tennessee Board of Regents  
Tennessee Bureau of Investigation  
Tennessee Community Services Agency  
Tennessee Higher Education Commission  
Tennessee Housing Development Agency  
Tennessee Human Rights Commission  
Tennessee Public Utility Commission  
Tennessee State Museum  
Tennessee State Veteran’s Homes Board  
Tennessee Student Assistance Corporation  
Tennessee Wildlife Resources Agency  
Tennessee State University  
Tennessee Student Assistance Corporation
TITLE VI PROGRAM STAFF

Jennell Riddle  Matthew Stephenson*  Lauren Speer

*indicates former staff member who served THRC during fiscal year 2016-2017

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For more information, including how to file a complaint, visit our website at
www.TN.gov/HumanRights

Connect with THRC
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