

**Agenda Item:** II.A.

**DATE:** November 14, 2013

**SUBJECT:** Title VI Implementation Plan Update and Compliance Report

**ACTION RECOMMENDED:** Information

---

**BACKGROUND INFORMATION:** Tennessee Code Annotated §§ 4-21-203 and 4-21-901 requires each state agency that receives federal funds was required to file a Title VI implementation plan with the Tennessee Human Rights Commission. The purpose of the plan is to show how the state agency, and the entities to which its federal funds flow, is assuring compliance of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of a person's race, color, or national origin.

Staff will provide an overview of the Commission's Title VI Plan Update and Compliance report and its key provisions that was filed with the Tennessee Human Rights Commission on September 30, 2013.

**TENNESSEE  
HIGHER EDUCATION COMMISSION  
TITLE VI REPORT**

**SEPTEMBER 30, 2013**



RICHARD G. RHODA  
Executive Director

STATE OF TENNESSEE  
HIGHER EDUCATION COMMISSION  
PARKWAY TOWERS, SUITE 1900  
NASHVILLE, TENNESSEE 37243-0830  
(615) 741-3605  
FAX: (615) 741-6230

BILL HASLAM  
Governor

September 30, 2013

Ms. Tiffany Taylor, Director  
Title VI Compliance Program  
William R. Snodgrass Bldg/TN Towers  
312 Rosa Parks Avenue, 23rd Floor  
Nashville, TN 37243

Dear Ms. Taylor:

I am filing with you today the Tennessee Higher Education Commission's 2013 Title VI Compliance Report and Implementation Plan Update pursuant to the requirements of Tennessee Code Annotated §§ 4-21-203 and 4-21-901. Enclosed is a print copy of the report as well as a searchable electronic version on CD.

The plan reaffirms the commitment of the Commission and its staff to the enforcement and compliance with the provisions of Title VI, including proper compliance reporting.

Please feel free to contact me if you have any further questions regarding our plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard G. Rhoda".

Richard G. Rhoda  
Executive Director

Enclosures



# TENNESSEE HIGHER EDUCATION COMMISSION



## FISCAL YEAR 2013-2014 TITLE VI COMPLIANCE REPORT AND IMPLEMENTATION PLAN UPDATE

*“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.”*

President John F. Kennedy, in his message calling  
for the enactment of Title VI in 1963.

## TABLE OF CONTENTS

OVERVIEW OF THE AGENCY	1
FEDERAL PROGRAMS	3
ORGANIZATION OF THE CIVIL RIGHTS OFFICE/CIVIL RIGHTS COORDINATOR	7
DATA COLLECTION AND ANALYSIS	8
DEFINITIONS	10
DISCRIMINATORY PRACTICES	12
LIMITED ENGLISH PROFICIENCY (LEP)	13
COMPLAINT PROCEDURES	15
COMPLIANCE REVIEW	18
COMPLIANCE/NONCOMPLIANCE REPORTING	22
TITLE VI TRAINING PLAN	23
PUBLIC NOTICE AND OUTREACH	24
EVALUATION PROCEDURES OF TITLE VI IMPLEMENTATION	27
RESPONSIBLE OFFICIALS	29

# OVERVIEW OF THE TENNESSEE HIGHER EDUCATION COMMISSION'S TITLE VI ENFORCEMENT PROGRAM

## OVERVIEW OF THE TENNESSEE HIGHER EDUCATION COMMISSION

The Tennessee Higher Education Commission was created in 1967 for the purpose of achieving cooperation and unity in higher education. The coordination function grew out of a nationwide trend by governors and legislators to promote planned growth, equitable funding, and accountability among the state's colleges and universities.

Since that time the Commission has created funding formulae, funding initiatives based on performance, legislative benchmarks, master plans, and criteria for new academic programs. The Commission believes strongly in working in a collaborative effort with the two public governing boards and the independent sector to communicate clearly and frequently with diverse constituency groups. The Commission's duties include:

- recommending a budget for a statewide system, which is a two billion dollar enterprise;
- engaging in master planning with a central focus on increasing educational attainment, sharpening institutional missions, and expanding the use of technology; and
- answering questions regarding accountability measures on a daily basis.

The Commission is committed to the principles of equity, excellence, accessibility, and accountability, and strives to coordinate all of Tennessee higher education according to those principles. An organizational chart, as well as a more detailed listing of the Commission's duties and responsibilities, is included as an appendix to this report (*Appendix I*).

The Commission is composed of thirteen voting members and two non-voting members (*Appendix II*). Specifically, there are nine voting lay members appointed by the Governor for six-year terms, each representing a congressional district of the state. The other voting members include the three constitutional officers, (Comptroller of the Treasury, Secretary of State, and State Treasurer) and one of the two student members. The two student members, one from each of the two systems, Tennessee Board of Regents and the University of Tennessee, are appointed by the Governor and serve staggered two-year terms. The student serving in the second year of his/her term is vested with voting authority. Finally, the Executive Director of the State Board of Education serves as a non-voting, ex-officio member.

The Tennessee Higher Education Commission members and staff take seriously the responsibility of ensuring compliance with Title VI as well as other programs to prevent discrimination of any type. The Commission continuously strives to identify initiatives to help meet this responsibility.

## **Period Covered by the Title VI Implementation Plan Update and Compliance Report**

This implementation plan update for compliance with Title VI of the Civil Rights Act of 1964 covers the period July 1, 2012 – June 30, 2013. The programs and activities outlined in the report are included within the scope of the implementation plan update. The plan update was developed by the Commission's Title VI Coordinator in cooperation with resource staff and representatives from each of the Commission's program areas. This plan has been approved by the Executive Director of the Commission.

## **Policy Statement Regarding Title VI Compliance**

As a recipient of federal education funds, the Commission affirms its intention to comply with Title VI of the Civil Rights Act of 1964. Title VI states:

*No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.*

The Tennessee Higher Education Commission prohibits discrimination in any manner related to institutions, non-profit organizations or program participants receiving services or benefits under federal or state programs. This information is disseminated to employees through items posted in each break room and copy/supply room, and also through Title VI training opportunities. Additionally, the information is included in all RFP documents issued by this office. Successful project directors must attend a project directors meeting where Title VI compliance is reinforced.

The Tennessee Higher Education Commission reaffirms its policies and commitment to afford all individuals the same opportunity to participate in federally financially assisted programs in compliance with Title VI of the Civil Rights Act of 1964.

## **FEDERAL PROGRAMS AND ACTIVITIES**

The Tennessee Higher Education Commission administers the following federal programs in Tennessee:

### **College Access Challenge Grant (CACG)**

In August 2012, the U.S. Department of Education awarded Tennessee a College Access Challenge Grant (CACG) totaling \$2,814,699. The purpose of the College Access Challenge Grant Program is to foster partnerships among federal, state, and local governments and philanthropic organizations through matching grants aimed at increasing the number of low-income students who are prepared to enter and succeed in postsecondary education.

Building on the successes of the 2010 and 2011 CACG programs, Tennessee's 2012 CACG grant was designed to expand and enhance implementation of Tennessee's college access web portal, *CollegeforTN.org*, through professional development. Secondly, it was also designed to continue implementation and expansion of the statewide College Mentor Corps program.

In the last academic year, the *CollegeforTN.org* website was visited by a total of 94,516 visitors resulting in nearly three million page views. During the same period, over 40,000 students created accounts on the portal. In total, 373,896 students and 2,494 educators have created *CollegeforTN.org* accounts.

In 2010, THEC created the "College Mentor Corps" through subgrants to six nonprofit organizations enabling the creation or expansion of comprehensive mentoring services to high school and community college students. In the last academic year, the six "College Mentor Corps" partner organizations served 5,592 students spread across 71 high-need, low-performing high schools and nine Tennessee community colleges.

### **GEAR UP Tennessee**

In spring 2012, the United States Department of Education awarded a *Gaining Early Awareness and Readiness for Undergraduate Programs* (GEAR UP) grant to the Commission in the amount of \$29,590,281. GEAR UP, a seven-year discretionary grant program, aims to increase the number of low-income, first generation students enrolling and succeeding in college.

Tennessee's GEAR UP program, operating under the name GEAR UP TN, provides direct services to a cohort of students, the Class of 2018. Direct services began when the students were in seventh grade and will continue through the cohort's first year of postsecondary education. The GEAR UP TN cohort will include an average of 7,500 students each year. GEAR UP TN also provides services to students in the senior class of participating high schools each grant year.

The GEAR UP TN is designed to:

- 1) Increase the academic performance and preparation for postsecondary education for GEAR UP TN students;

- 2) Increase the rates of high school graduation and enrollment in postsecondary education for GEAR UP TN students; and
- 3) Increase GEAR UP TN students' and their families' knowledge of postsecondary education options, preparation, and financing.

During the reporting period, Tennessee's GEAR UP program provided college access and success services to 10,816 students attending one of the 87 GEAR UP TN middle or high schools. In total, GEAR UP TN is providing services to 15 communities located in the following counties: Anderson, Bradley, Campbell, Claiborne, Davidson, Grainger, Hardeman, Haywood, Henderson, Johnson, McNairy, Robertson, Shelby, Union and Wayne.

As a part of the GEAR UP application, Tennessee was required to provide a letter of assurance of nondiscrimination. (*Appendix III*).

### **Improving Teacher Quality Grant Program**

The Improving Teacher Quality Grant Program is a federally funded program that provides grants to the state's public and private higher education institutions and non-profit organizations for the purpose of providing research-based professional development and continuing education for K-12 teachers, paraprofessionals and principals. Institutions use grant funds from the U.S. Department of Education to assemble project teams who work across disciplines and have access to the most recent research in relevant content areas, curriculum reform and pedagogical strategies. The program, beginning in FY 2011-2012, was limited to Mathematics and English projects which coincide with the Tennessee State Board of Education's emphasis on Common Core standards.

There were nine projects funded for FY 2012-2013 totaling \$730,508. It is anticipated that a like amount will be available for the current fiscal year, although that will be dependent on federal funding.

### **Race to the Top (RTTT)**

In 2010, Tennessee was one of two states selected for funding in the first round of the federal Race to the Top competition, receiving \$501 Million from the U.S. Department of Education. Tennessee's innovative education reform agenda centered around improving teachers and school leaders, making better use of data systems, increasing the rigor of state standards and assessments, turning around low-performing schools, and creating a focus on Science, Technology, Engineering, and Math (STEM) education. A strength of Tennessee's application was the close collaborative relationship between K-12 and higher education. Tennessee is one of the few states in the nation where the K-12 department of education and the higher education agency work in tandem to programmatically and fiscally administer the grant.

The Tennessee Higher Education Commission serves on the overall *First to the Top* leadership team which includes the Department of Education, legislative representatives, State Board of Education, business and industry representatives, and the Governor's office. THEC also

administers eight of the individual projects within the *First to the Top* program which includes a budget of approximately \$23 million.

The projects focus on the following key areas:

- ***Improving Teacher Training Programs*** through the integration of standards based curriculum, alignment with K-12 standards and assessments, and improving pre-service teachers' knowledge of state data systems and their use in the classroom;
- ***Increasing Tennessee's competitiveness in STEM fields*** by expanding the UTeach program and using the expertise in higher education institutions to provide high-quality professional development to K-12 educators;
- ***Providing accountability in teacher preparation with a focus on strengthening programs*** through the improvement of Tennessee's groundbreaking *Report Card on the Effectiveness of Teacher Training Programs* and the creation of the *School Leader Study*.
- ***Expanding P-20 data systems*** so that student information can be tracked through all grades, post-secondary education, and careers; the State Longitudinal Data System which will provide valuable research related to student outcomes that predict workforce success. Additionally, THEC is expanding the current College Access Network to assist students in successful application and admission to colleges and universities.

### **Veterans Education Division**

The Veterans Education Division of the Commission is the State Approving Agency (SAA) funded by the U.S. Department of Veterans Affairs to approve and monitor all educational institutions receiving federal funds for education of veterans based on federal guidelines.

Pursuant to U.S.C. Title 38, the SAA is a separate agency responsible by contract to the U.S. Department of Veterans Affairs.

Veterans Affairs regulations require that all participants (schools, business, etc.) acknowledge and adhere to the policies referred to under the Title VI enforcement form, which affirms that they will not discriminate based on race, color or national origin (*Appendix IV*). A school will not be approved for veterans training unless this form has been signed. An institution currently approved for veterans training that fails to comply with Title VI procedure will be dropped from the veterans program. During the FY 2012-2013, 297 institutions and 42 apprenticeship on-the-job training programs were approved to provide veterans training in Tennessee.

Each institution approved for the training of veterans must have an EEO statement and guidelines in place at all times. Commission staff reviews these guidelines and makes sure they are in place. Staff also reviews and investigates claims of discrimination made by students.

The total budget for Veterans Affairs for FY 2012-2013 was \$345,054 and a like amount is anticipated for the current fiscal year.

It should be noted, however, that the Commission is not involved in the distribution of GI Bill funds. The U.S. Department of Veterans Affairs notifies veterans of their eligibility and pays benefits directly from the federal office.

***Total Funding FY 2012-2013: \$5,001,262 (Actual)***  
***Total Funding FY 2013-2014: \$7,222,700 (Anticipated)***

## **ORGANIZATION OF CIVIL RIGHTS OFFICE/CIVIL RIGHTS COORDINATOR**

The ultimate responsibility for enforcing and complying with the provisions of Title VI and this report is vested in the Executive Director of the Tennessee Higher Education Commission. The Executive Director oversees all policy and hiring for the agency.

The individual responsible for developing, reporting and enforcing Title VI guidelines is Scott Sloan, Associate Executive Director for Legal and Regulatory Affairs. Mr. Sloan reports directly to the Executive Director, and can be contacted at (615) 741-7571 or via e-mail at [scott.sloan@tn.gov](mailto:scott.sloan@tn.gov).

As the Title VI coordinator, Mr. Sloan is charged with developing the Commission's Title VI implementation plan and provides overall direction and leadership for the Commission's Title VI compliance activities, including professional development.

There have been no Title VI complaints filed with the Commission in FY 2012-2013. If any complaints were filed, Mr. Sloan would investigate and respond to such complaints and consult with appropriate staff.

## **DATA COLLECTION AND ANALYSIS**

### **Commission Staff**

Staff members are responsible for the day-to-day activities of the Commission. The staff is made up of a diverse racial mix. Specifically, of the 67 employees, 17 are African-American, 46 are white, three are Asian and there is one who would be classified as “other”. There are 3 vacant positions. This can be further broken down by EEO category:

- EEO 1: 3 African-Americans; 16 Caucasians; 1 Asian; 1 Other; 1 Vacancy.
  - EEO 2: 13 African-Americans; 29 Caucasians; 2 Asians; 2 Unknown; 2 Vacancies.
  - EEO 6: 1 African-American; 1 Caucasian.
- (Appendix V)*

The 67 filled positions are broken down as follows:

- 17 African-Americans (25 percent);
- 46 Caucasians (69 percent);
- 3 Asian (4 percent);
- 1 Other (1 percent).

An organizational chart of the Commission staff is also included as part of *Appendix I*. The Commission addresses Title VI compliance as an agenda item at each of its Fall meetings. To supplement that activity, the Commission has implemented a policy that compliments and is consistent with its commitment in this area.

### **Data Analysis for Federally Funded Programs:**

#### **College Access Challenge Grant (CACG)**

CACG served 5,592 high school and community college students in FY 2012-2013. An analysis of racial diversity in the CACG program is included in *Appendix VI*.

#### **GEAR UP Tennessee**

GEAR UP TN served 10,818 students during FY 2012-2013. An analysis of racial diversity in the GEAR UP program is included in *Appendix VI*.

#### **Improving Teacher Quality Grants**

Annually, the Commission issues a Request for Proposals (RFP) to Tennessee public and private higher education institutions and not-for-profit entities that have an approved teacher preparation program, inviting them to compete for these federal funds. The FY 2012-2013 RFP was mailed

to the presidents and chancellors, other college and university administrators, previously funded project directors, and others who requested a copy. This includes faculty and administrators at historically Black colleges and universities who were contacted about the program and encouraged to submit proposals. The RFP includes a requirement that each successful project must include a plan to recruit minorities for the project. An analysis of racial diversity in the ITQ Grant Program is included in *Appendix VI*. The total of all participants was 218, of which 38, or 17 percent, were minority participants.

A predetermined rubric is used to evaluate the various RFPs (*Attachment VII*).

Each successful ITQ project director must report information regarding their respective projects. Included in the RFP is a list of data that must be compiled to show evidence of Title VI compliance (*Appendix VII*). This data is compiled and utilized to identify trends of potential discriminatory practices and in evaluating project proposals in subsequent years.

### **Race to the Top (RTTT)**

For data concerning the extent to which members of minority groups are represented in Tennessee's Race to the Top programming, see *Appendix VI*.

## DEFINITIONS

Assurance - A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs with civil rights laws and regulations.

Beneficiaries - Those persons to whom assistance, services, or benefits are ultimately provided. The beneficiaries assisted by the Commission include public and private postsecondary institution students and teachers.

Compliance - The fulfillment of the requirement of Title VI, other applicable laws, implementing regulations, and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color or national origin

Complaint - A verbal or written allegation of discrimination which indicates that any federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups or persons because of race, color or national origin.

Conciliatory Agreement - A voluntary agreement between a federal agency, the state, and a subrecipient, which provides for corrective action by a recipient to eliminate discrimination in any program receiving federal assistance.

Contractor - A person or entity that agrees to perform services at a specified price.

Civil Rights Compliance Reviews - Regular systematic inspections of agency programs conducted to determine regulatory compliance with civil rights laws and regulation. Compliance reviews determine compliance and noncompliance in the delivery of benefits and services in federally assisted programs. They identify problems such as denial of full benefits, barriers to participation, difference in treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint. Compliance reviews may be conducted on-site or through desk audits.

Discrimination - To make any distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, or national origin.

Federal Assistance - Any funding, property, or aid provided for the purpose of assisting a beneficiary.

High-need LEA - an LEA:

- (A) (i) that serves not fewer than 10,000 children from families with incomes below the poverty line; or
- (ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and
- (B) (i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or

(ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

Minority - A person or group of persons who differs from others in some characteristic(s) and is often subjected to differential treatment on the basis of race, color, or national origin.

Noncompliance - Failure or refusal to comply with Title VI of the Civil Rights Acts of 1964, other applicable civil rights laws, and implementing departmental regulations.

Primary Recipient - Any recipient authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

Public Notification - Process of publicizing information on the availability of programs, services and benefits to minorities and statements of nondiscrimination. This is attained through use of newspapers, newsletters, periodicals, radio and television, community organizations, and grassroots and special needs directories, brochures, and pamphlets.

Racially Hostile Environment - Harassing conduct (for example, physical, verbal, graphic, or written) that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient of federal funds.

Recipient - Any state (including political subdivisions or instrumentalities of a state), public or private agency, institution, organization, other entity, or individual, to whom federal financial assistance is extended, directly or through another recipient. This definition includes any successor, assign, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Request for Proposals – The document that solicits competitive grant proposals from higher education and non-profit institutions.

## **DISCRIMINATORY PRACTICES**

There are many forms of illegal discrimination based on race, color, or national origin that can limit the opportunity of minorities to gain equal access to services and programs. Among other things, in operating a federally assisted program, a sub-recipient cannot, on the basis of race, color, or national origin, either directly or through contractual means:

- Be refused an award for a grant administered by the Commission;
- Deny any qualified applicant participation in a program funded with a grant;
- Provide an individual instruction or participation at a level of service or benefit in a manner different from others under the same program;
- Subject a participant to segregation in any manner related to the receipt of services or benefits under the program;
- Subject a project participant to separate treatment in any manner related to receiving services or benefits under the program;
- Restrict an individual in any way in the receipt of any advantage or privilege enjoyed by others under the program;
- Require different standards or conditions as prerequisites for accepting an individual into a program;
- Use criteria or methods of administration which (a) have the effect of subjecting individuals to discrimination or (b) operate to defeat or substantially impair the accomplishment of the objectives of the program;
- Permit discriminatory activity in a facility built in whole or in part with federal funds;
- Fail to provide service or information in a language other than English when a significant number of potential or actual beneficiaries have limited English speaking ability;
- Fail to advise the population eligible to be served or benefited by the program of the existence of the program;
- Locate a facility in any way which would limit or impede access to a federally funded service or benefit; or
- Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

## **LIMITED ENGLISH PROFICIENCY (LEP)**

Notwithstanding the limited likelihood that participants in programs administered by the Commission will be in need of LEP services, the Commission is committed to ensure that all eligible participants have complete access to the programs it administers. Therefore, the following procedures have been put in place should the need arise.

During FY 2012-2013 there were no requests, nor was there any observed need, to provide LEP services.

### **GEAR UP Tennessee**

The GEAR UP TN program provides direct services to students through subgrants to local education agencies (LEA). Services provided to students are tailored to students' individual needs. Should a GEAR UP TN student require specific services to address his or her LEP needs, the Commission works with the LEA to ensure such needs are met.

### **College Access Challenge Grants (CACG)**

As is the case with the GEAR UP program, CACG provides direct services that are individualized to students' needs. In the event, therefore, a CACG student requires services to address his or her LEP needs, the Commission works with the subgrantee and the LEA in which the student is enrolled to ensure such needs are met.

### **Improving Teacher Quality Grants**

Improving Teacher Quality Grants are awarded to higher education or non-profit entities that provide teacher training to the state's K-12 teachers, who must be proficient in English to be in their position.

Regardless, it is recognized that there could be some limited instances where the individuals that would benefit from the ultimate flow of funds may include those in need of LEP accommodations. Therefore, THEC will work with contractors/subrecipients/vendors to ensure meaningful access and an equal opportunity for those with limited English proficiency. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served.

Language assistance will be provided through an arrangement with the Tennessee Foreign Language Institute. Appropriate staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter. The Commission will conduct a regular review of the language access needs of our service population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

## PROCEDURES

### 1. *Identifying LEP Persons and Their Language*

The Commission will promptly identify the language and communication needs of the LEP person. If necessary, staff will use language identification cards (or “I speak cards”) or posters to determine the language. In addition, when records are kept of past interactions with individuals or their family members, the language used to communicate with the LEP person will be included as part of the record.

### 2. *Obtaining a Qualified Interpreter*

The Tennessee Foreign Language Institute has agreed to provide qualified interpreter services. The TFLI is a state agency that provides interpretation services in over 200 languages, either in person or over a 24/7 telephonic language service (877-346-1674). Additionally, the TFLI can provide written translation for forms, websites and other business documents.

Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual. Furthermore, the LEP person must first understand that an offer of an interpreter at no charge to the person has been made by the department or agency. Such an offer and the response will be documented in the person’s file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person. Children will **not** be used to interpret, in order to ensure confidentiality of information and accurate communication.

### 3. *Providing Written Translations*

As indicated above, when translation of vital documents is needed, the Commission shall submit the documents to the TFLI for translation. Original documents being submitted for translation will be in final, approved form.

### 4. *Monitoring Language Needs and Implementation*

On an ongoing basis, the Commission will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, the Commission will regularly assess the efficacy of these procedures, including but not limited to:

- mechanisms for securing interpreter services,
- equipment used for the delivery of language assistance,
- complaints filed by LEP persons, and
- feedback from the public and community organizations.

## **COMPLAINT PROCEDURES**

### **Title VI Complaints**

There were no Title VI-related complaints or lawsuits filed against THEC during FY 2012-2013.

The Tennessee Higher Education Commission has adopted complaint procedures which require that all form letters used to communicate the status of a complaint investigation be included in *Appendix VIII*. In addition, the Commission utilizes standard forms developed by the Tennessee Human Rights Commission related to the investigation itself (e.g. *Investigation Commencement Form*, *Title VI Investigative Plan*, *Case Summary Report*.)

### **Timeline for Filing**

Any person alleging discrimination based on race, color, or national origin has a right to file a complaint within 180 days of the alleged discrimination.

### **Receipt of Complaints**

To request a preliminary review by the Commission, which determines whether it will investigate an allegation of noncompliance with Title VI, the complainant must complete the *Discrimination Complaint Form* contained in *Appendix VIII* (or provide the information requested on the *Complaint Form*). Additionally, he or she must complete the *Consent Form for Use of Personal Information*. The complainant must sign all forms.

### **Essential Elements of a Complaint**

The complainant must provide the following information:

- Name, address, and telephone number of the person making the complaint;
- The location and name of the entity delivering the service;
- The nature of the incident that led the complainant to feel discrimination was a factor;
- Whether the discrimination was based on race, color, or national origin;
- Names, addresses, and phone numbers of people who may have witnessed the event or may have knowledge of the event; and
- The date(s) of the alleged discriminatory acts.

### **Complaint Receipt and Reporting Process**

The procedures listed below will be followed in processing Civil Rights complaints.

- Within fifteen days of receiving the complaint, Commission will send a letter to the complainant acknowledging receipt of the complaint. The Commission will advise the complainant that the Commission will conduct a preliminary review of the complaint and that he/she will be advised of the results of the preliminary review.
- The Commission's Title VI Coordinator will conduct a preliminary review of the complaint, and will determine whether a potential violation of Title VI has occurred. The Title VI Coordinator will also determine whether the Commission has jurisdiction to

investigate the complaint, and whether the Commission is the best entity to conduct the investigation. In the course of the investigation, the Title VI coordinator will work with the program administrator for the particular program involved in the complaint. If it is determined that the Commission is not the best entity to conduct the investigation, the Commission may refer the complaint to the U.S. Department of Education Office for Civil Rights, the Tennessee Department of Labor and Workforce Development or U.S. Department of Veterans Affairs, or another appropriate entity.

- While the Commission does not have statutory responsibility for the operation of the two governing boards, the Executive Director will refer any complaint involving an institution of the University of Tennessee System or the Tennessee Board of Regents to the respective governing boards for review and resolution. In either case, the complainant will be apprised of the action taken.
- Within thirty days of the Commission's receipt of the complaint, the Commission will notify the complainant as to the results of the preliminary review of the complaint and whether or not the Commission will conduct an investigation.
- If the decision of the Commission is to conduct a complaint investigation, the Commission will send a letter of notice to the entity to be investigated.
- If the Commission accepts a complaint for investigation, the Commission will strive to complete the investigation within 180 days of the receipt of the complaint. The investigation will include interviews with persons who may have direct knowledge of the alleged discriminatory act(s), a review of pertinent documents and records, and any other legal investigative techniques deemed necessary to allow the Commission to reach a conclusion as to whether discrimination occurred.
- If appropriate, the Commission will coordinate with other agencies on interdepartmental matters.
- If the investigation substantiates the allegations of the complainant or if other instances of noncompliance with Title VI of the Civil Rights Act of 1964 are found, the Commission will send a draft copy of the investigative report to the entity that has been the subject of the investigation. The Commission will request the entity to submit a written response to any findings or recommendations in the draft report.
- If the entity that is the subject of the complaint submits a written response which states that action will be taken to resolve the complaint, the Commission will issue a final investigative report that will include the response of the entity. The Commission investigator will schedule a follow-up review for an appropriate time period to determine whether the complaint has been resolved.
- If the entity does not agree to resolve a substantiated complaint, the investigator will issue a final report with an opinion statement that the entity has not committed to resolving the complaint. The Commission's Title VI coordinator, in consultation with the

Executive Director of the Commission, will make a determination as what further action the Commission will take to resolve the complaint.

- If the alleged discriminatory act(s) directly affected the complainant, a letter, containing a description of the allegations investigated, the scope of the investigation, the facts learned, and a closing statement summarizing the basis on which the determination was made, will be sent to the complainant. The complainant will be advised of his/her right to file a complaint with other applicable governmental entities, including the Tennessee Human Rights Commission, if dissatisfied with the resolution of the complaint by the Commission.

## COMPLIANCE REVIEW

### A. Subrecipients, Contractors, Vendors

- The Commission and any subrecipients/contractors shall make available any Title VI compliance report to be reviewed by the Tennessee Human Rights Commission upon request.
- A list of the Commission's subrecipients, contractors and/or vendors is found in *Appendix IX*.
- The Commission had a total of four contractors for federally funded programs and activities in FY 2012-2013. These contracts totaled \$11,181,826.<sup>1</sup> Two of the four Contractors are MWBE for a fifty percent (50%) ratio of the total contracts and thirty-three percent (33%) of the total dollar amount.
- For entities that enter into grants and contracts with the Commission, the grant contract document includes the following provision prohibiting discrimination (Paragraph D.8. of *Appendix X*):

Nondiscrimination. The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, **race, color,** religion, sex, **national origin,** or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. (Emphasis added.)

Signing of a grant contract with the above language is a precondition to receiving funds. If the entity does not sign, funds will not be released.

Recipients of the Improving Teacher Quality Grants and the institutions approved to offer veterans' benefits to their student must sign a statement of assurance regarding compliance with Title VI. The Commission relies on the contractual nondiscrimination language outlined above for compliance by all other contractors/subrecipients.

- There are currently no pending applications for financial assistance from any federal or state department or agency.

### B. Pre-Award and Post-Award Procedures

---

<sup>1</sup> Maximum contract liability for the multi-year contract total.

## **College Access Challenge Grant**

The Commission staff performs a site visit on each project that receives a grant under the College Access Challenge Grant.

## **GEAR UP Tennessee**

The Commission staff makes numerous site visits each year to all the GEAR UP recipients.

## **Improving Teacher Quality Grant Program**

### *Pre-Award Review*

The Director for Academic Affairs includes mandatory Title VI requirements in the RFP. Also, the staff instituted an updated evaluation feature that will provide information on whether previously funded institutions were found to have successfully satisfied Title VI compliance reviews or have pending Title VI complaints. Projects that have been found in non-compliance will not be considered for funding.

The Commission assembles a selection committee to recommend which proposals should be funded. Awards are based on the merit of the proposals, which are evaluated using prior established criteria identified to enhance K-12 teachers' instructional abilities and principals' leadership skills. The selection committee includes representatives from the state's public and private higher education institutions, Board of Education and Department of Education. The FY 2012-2013 committee included three African-Americans out of a total of 12 reviewers. (*Appendix VII*).

### *Post Award Title VI Compliance*

Procedures for conducting compliance reviews of funded grant projects under the Improving Teacher Quality Grant program include the following steps:

- Site visits to all grant programs;
- Site visits to second year grant programs, if (a) specifically requested by the Project Director or Principal Investigator or sponsoring agency and/or (b) a Title VI complaint was filed against the grant program during year one;
- Site visit will be made to all grant programs in their third year to the extent that they can be scheduled around visits to first year programs;
- Other site visits on an as needed basis with specific interest in any ITQ project in an odd year funding;
- Mandatory project directors meeting to include Title VI presentation;
- Completion of Title VI Compliance Checklist;
- Survey of Project Director(s), which among other things identifies the number of minorities the project served and the number of external consultants that were employed by the project (*Appendix V*).
- Review whether the grantee implemented the project's plan for recruiting minority participants;
- Technical assistance with any Title VI complaints or issues; and
- Mandatory final report submitted to program director 45 days after the grant ends.

Site visits were made to ALL ITQ projects for FY 2012-2013.

Project Directors will submit in the final report on any Title VI complaint received during the funded grant period. In addition, the grant Project Director will submit in the final report an explanation of the results of the proposed minority recruitment plan. Unsatisfactory compliance review findings, failure to submit final reports, and pending discriminatory complaints can result in the withholding of the projects' final disbursement of grant funds.

Two examples of how discrimination might occur:

- Failure to notify all eligible institutions of the availability of funds; and
- Applicants receiving awards notify only certain teachers or schools in the targeted geographical areas of the fact that professional development activities will be conducted, knowing or having reason to believe that no minorities are among of that group.

### **Veterans Education**

Supervisory visits were conducted by the SAA during FY 2012-2013 at each of the institutions participating in the Veterans Education program. These visits include records audits and facilities monitoring. Title VI compliance reviews are also completed by the U.S. Department of Veterans Affairs. The Assistant Executive Director of Veterans Education for the Tennessee Higher Education Commission is responsible for investigating complaints of discrimination filed by veterans and acts as a liaison between the institution and the U.S. Department of Veterans Affairs.

### **C. Public Notice and Outreach**

The Commission monitors all subrecipients and/or contractors concerning the dissemination of information about the following to the public:

- Nondiscrimination policy;
- Programs and services;
- Complaint procedures; and
- Minority participation on planning boards and advisory bodies.

### **D. Procedures for Noncompliance**

The Commission has adopted the following policies and procedures which will be followed when, through complaint investigations or compliance reviews, it is determined that a Title VI violation has occurred. Efforts will be made to the fullest extent practicable to obtain voluntary compliance before a case is referred to the U.S. Department of Education Office for Civil Rights for possible refusal, suspension, or termination of federal financial assistance.

## **Procedures for Achieving Voluntary Compliance**

- In cases where a complaint investigation or compliance review results in a finding of noncompliance, the Commission will notify the subrecipient of federal/state funds of the apparent noncompliance.
- The notice will clearly identify the conditions of noncompliance and offer a reasonable time to willingly comply.
- The Commission will record the date the recipient received notice, and will note and record the last day afforded the recipient for voluntary compliance before initiating an administrative process to terminate assistance.
- A subrecipient of federal funds may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will be involved in the discussion process.
- The Executive Director of the Commission, or designee, will approve the recipient's voluntary compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with the Act. The plan will be put in writing. Failure of voluntary efforts will result in the implementation of an administrative process, which could result in termination or suspension of assistance.

## **Termination or Suspension of Assistance**

If the Commission cannot obtain compliance through voluntary means, the Commission will notify the U.S. Department of Education Office for Civil Rights (USDE/OCR) and will request the assistance of the USDE/OCR to obtain compliance, which may involve termination or suspension of assistance.

If termination of assistance is considered due to noncompliance with Title VI, the alleged problems are delineated to the award recipient. Opportunity is provided for informal resolution. If these efforts fail, formal sanctions up to and including termination can be pursued.

## **COMPLIANCE/NONCOMPLIANCE REPORTING**

Currently, the Commission submits its Title VI report only to the Tennessee Human Rights Commission (THRC). Compliance reports will be maintained by the Commission and forwarded to the other state and federal agencies as may be requested or directed. Additionally, the Commission is not aware of any CFR regulations requiring any reporting obligations.

The Commission will maintain the following records:

- Administrative records such as copies of assurances, public notification plans, press releases, and training materials;
- Data collection and participation records, documentation of analytical review procedures, and results of follow-up;
- Monitoring records, including working papers, reports, and corrective action plans; and
- All Title VI correspondence and reports received from and submitted to the federal government.

The Commission has not received any Title VI or discrimination-related audits or findings from federal or state monitoring agencies.

## **TITLE VI TRAINING PLAN**

Mr. Sloan is designated the Title VI coordinator and will execute all of the duties and responsibilities of the position, including participation in meetings of the Tennessee Title VI Compliance Commission and Governor's Office of Diversity Business Opportunities.

Mr. Sloan and Marcie Mills, who serves as paralegal for both the Commission and the Tennessee Student Assistance Corporation, attended Title VI compliance meetings on July 23 and 24, 2013, respectively.

Title VI training for the Commission staff was accomplished through an on-line tutorial module through Edison. The module provided an overview of Title VI to include its history, key elements and principles regarding application of the law to the work of the Commission. The training included a post-test in which the staff responded to questions related to the on-line tutorial. An employee roster showing completion of the training can be found in *Appendix XI*.

Commission staff members were advised that access to the mandatory training module was available on July 1, 2013, for each staff member to take as time permitted, but no later than July 12, 2013. Through Edison, it was verified that 100 percent of the Commission staff completed the module. The training incorporated a history of civil rights in the United States, and outlined the purpose and applicability of Title VI (*Appendix XI*). It is anticipated that the FY 2013-2014 training will take place next spring or summer.

In addition to the training received by Title VI coordinator, the Commission provides a mandatory workshop for grant project directors, which was attended by all Improving Teacher Quality Grant project directors on February 6, 2013. Training for FY 2013-2014 recipients will take place in February 2014.

Additionally, the Commission's Title VI Implementation Plan is an agenda item each year at the November meeting of the Commission. At that time, information similar to what was covered in the on-line tutorial for staff is reviewed with the Commission, as well as highlights of the most recent Title VI plan. Specifically, this review was included at the November 15, 2012, meeting of the Commission and will be included at the November 14, 2013, meeting.

## PUBLIC NOTICE AND OUTREACH

As mentioned above, the Commission monitors all subrecipients and/or contractors concerning the dissemination of information on multiple topics:

- Nondiscrimination policy;
- Programs and services;
- Complaint procedures; and
- Minority participation on planning boards and advisory bodies.

Specifically, the Commission uses the following measures with respect to the Improving Teacher Quality Grant Program, the GEAR UP Program, and the College Access Challenge Grant(CACG) Program:

- *Nondiscrimination policy*: Throughout the 2012-2013 project period, monitoring was conducted by THEC staff to ensure compliance with all aspects of the contractual terms. Per Section D.8. of the contract, grantees were required to furnish to applicants and employees notices of non-discrimination.
- *Programs and services*: Information regarding programs and services was disseminated primarily in the form of communications with prospective workshop participants. Per the terms of the Request for Proposals, the ITQ grantees were required to develop a recruiting plan for minority participants. However, no such plan is required of GEAR UP as these services are provided to all students enrolled in specific grades in the respective county school systems serving as GEAR UP counties.
- *Complaint procedures*: The public is informed via the Request for Proposal and/or other communications that Title VI requires federally assisted programs to be free of discrimination. These documents also provide contact information for the THEC Title VI Coordinator in the event that a citizen claims to have been subjected to discrimination. In addition, grantees are contractually required, under Section D.10., to annotate on all public notices that the grant was funded under an agreement with the Tennessee Higher Education Commission.
- *Minority participation on planning boards and advisory committees*: THEC maintains records of minority participation on the ITQ Advisory Committee, the Teacher Diversity Grant Advisory Committee, and the Committee on Postsecondary Educational Institutions, all of which are available for public review.

The Tennessee Higher Education Commission holds public meetings at various times and locations throughout the year. The work of the Commission, its staff and committees are public record. All meetings are open to the public and publicized in accordance with the Tennessee Open Meetings Act. These public hearings concern such issues as funding of higher education, capital outlay and maintenance, and academic planning.

As previously noted, the Commission provides its Title VI Implementation Plan upon request to any agency, department or individual that may request it. Additionally, the plan is found on the Commission's website <<http://www.tn.gov/thec/Divisions/LRA/TitleVI/TitleVI.html>>.

The Title VI guidelines are reinforced by mandatory attendance at the annual project directors' workshop which is designed to educate grant recipients regarding federal and state guidelines including the proper procedures for reporting Title VI complaints. In FY 2012-2013, all Improving Teacher Quality Grant project directors attended this workshop.

Posters/flyers are displayed in high traffic areas of the Commission offices which articulate the Commission's commitment to compliance of Title VI and contact information for filing a complaint.

As a general rule, staff vacancies are filled after the positions are advertised in publications that will ensure a representative pool of applicants. In addition, efforts are made to network with African-American professionals and educators to assist in identifying potential applicants for the various positions.

### **Minority Media Utilization**

The Commission engaged only in very limited media pitching during FY 2012-2013. However, when a public outreach campaign is necessary, a minority-owned marketing firm is used to facilitate those efforts. In future media relations and public outreach campaigns, the Commission will specifically request that the firm reach out to minority media outlets as a part of the communications process.

### **Minority Representation on Planning Boards or Advisory Bodies**

The Governor appoints all members of the Tennessee Higher Education Commission except the four ex-officio members (*Appendix II*). Pursuant to T.C.A. § 49-7-204(a)(6), "*at least one (1) of the appointive members shall be a member of the principal racial minority in the state.*" Three of the 15 Commission members (20 percent) are African-American: Mr. Cato Johnson; Mr. A C Wharton, Mayor of Shelby County; and Mr. Robert Fisher. Mr. Johnson serves as chairman of the Commission.

The General Assembly created the Committee on Postsecondary Educational Institutions to assist the Commission staff with the oversight of the proprietary and many not-for-profit postsecondary institutions in the state. Pursuant to T.C.A. §49-7-207, the committee is composed of the Executive Director of the Tennessee Higher Education Commission, the Executive Director of the Tennessee Student Assistance Corporation and eleven persons appointed by the Commission. Dr. Rhoda currently serves as the Executive Director of both the Tennessee Higher Education Commission and the Tennessee Student Assistance Corporation, but for voting purposes is considered as one vote. Of the 12 persons serving as committee members, four are from a racial or ethnic minority group.

There is not a set number of Improving Teacher Quality Grant Program Selection Committee members; however, five of the members are determined by position. These positions include:

- Math Consultant for the State Department of Education;

- Science Consultant for the State Department of Education;
- Improving Teacher Quality Grant Coordinator for the State Department of Education;
- Coordinator of Special Projects for the State Department of Education; and
- Director for Academic Affairs (THEC).

The selection committee responsible for the current grant awards included three African-Americans out of a total of 12 committee members (*Appendix XII*).

The Teacher Diversity Grant Advisory Committee determines which entities will receive the grants under this program. The committee that reviewed and recommended awards for FY 2012-2013 included three African-Americans out of a total of seven committee members (*Appendix XII*).

Below is an analysis of minority participation on advisory bodies for which the Commission has the authority and/or responsibility for appointing or recommending members. One of the Commission’s goals and objectives is to ensure that minorities are adequately represented on advisory bodies.

<b>Advisory Body</b>	<b>Total Members</b>	<b>No. of Minority Members</b>	<b>Percent of Total</b>
<b>Committee on Postsecondary Educational Institutions</b>	12	4	33%
<b>Improving Teacher Quality Grant Program Selection Committee</b>	12	3	25%
<b>Teacher Diversity Grant Advisory Committee</b>	7	3	43%
<b>Total</b>	<b>31</b>	<b>10</b>	<b>32%</b>

**Minority Input**

As mentioned above, the Commission uses an MWBE firm for coordination of its marketing activities. As a part of the firm’s market research responsibilities, it solicits input from populations representing a cross-section of Tennesseans. Those populations necessarily include minority representation.

**Process for Obtaining Grants/Bidding on Contracts**

As mentioned above, the Request for Proposals (RFP) is the method of informing potential grant recipients of available federal and state funding. They are disseminated to public and private higher education institutions as well as non-profit organizations, if applicable. The Commission makes special efforts to provide notice to African-Americans and other racial and ethnic minorities of all program activities. This information is also provided to institutions whose primary focus is to reach racial and ethnic minorities.

## **EVALUATION PROCEDURES OF TITLE VI IMPLEMENTATION**

### **Goals and Objectives – Implementation Plan Deficiencies**

THEC's primary goal in Title VI enforcement is to ensure that information on all THEC programs is disseminated to all Tennesseans regardless of race, color or national origin.

THEC's secondary goal is the appropriate recipient representation regardless of race, color, or national origin.

THEC's Title VI Coordinator is responsible for recommending policy changes in Title VI enforcement to the Executive Director. For the purpose of monitoring compliance activities, THEC's Program Administrators, Title VI Coordinator, and the Executive Director will meet at least once a year to review the prior year's activities. This yearly meeting will focus primarily on complaints filed during the year. Any significant problems of general compliance will also be addressed. If Title VI deficiencies are noted, prompt and corrective action will be taken.

Further mechanisms to ensure compliance will be considered also. Notices to inform THEC employees, clients and prospective clients of their obligations and rights under Title VI and of the availability of services will be posted at the agency and shown on documents that clients receive.

THEC's Title VI Coordinator is responsible for displaying the Title VI information in the agency.

THEC's Title VI Coordinator shall attend training offered by the THRC.

THEC employees shall receive information regarding the obligations and rights involved in the Title VI program. The information will apprise staff of their responsibility to render a high quality of service to all clients regardless of their race, color or national origin.

THEC will review its publications, literature, website, and other media to address Limited English Proficiency as it relates to discrimination and implement procedures to address deficiencies.

THEC will require a statement of compliance with Title VI of the Civil Rights Act of 1964 from every contracting agency before entering into a contract or other agreement which involves the purpose of services or other benefits on behalf of persons served by the programs of THEC.

Any state or contracting agency believed by THEC to be in violation of the provisions of Title VI shall be given a written notice. Failure to eliminate further discrimination within 30 days of receipt of the notice will be considered as a violation of the terms of the contract and a basis for contract suspension, termination or rejection. The enforcement procedure by THEC for termination of the contracting agency from participation as a recipient of federal financial assistance will be in accordance with the enforcement procedure contained in 45 C.F.R. 80.9, 80.10 and 80.11.

The Title VI Coordinator monitors and recommends to the Executive Director appropriate changes in applicant selection criteria that may be discriminatory to racial groups. As appropriate, the Executive Director will forward recommendations to the Commission members.

The Title VI Coordinator will investigate all complaints in a timely manner and submit recommendations to the Executive Director. The Executive Director will be responsible for appropriate rectification of all complaints.

### **Timeline**

THEC's Title VI Coordinator shall set a date in October for its annual meeting with the Program Administrators and the Executive Director to discuss implementation goals and deficiencies.

THEC's Title VI Coordinator shall contact the THRC in October to discuss training objectives.

THEC's Title VI Coordinator shall immediately review Statements of Assurance and Statements of Compliance deficiencies observed in this report and will ensure that any deficiencies are corrected.

**RESPONSIBLE OFFICIALS**

The responsible State official charged with ensuring that the agency complies with Title VI is Dr. Richard G. Rhoda, Executive Director.

The person designated as the Title VI Coordinator is M. Scott Sloan, Associate Executive Director of Legal and Regulatory Affairs.

The policy and procedures outlined in this implementation plan for compliance with Title VI of the Civil Rights Act of 1964 took effect on July 1, 2013 and will be in place through June 30, 2014.

  
Richard G. Rhoda, Executive Director

  
M. Scott Sloan, Title VI Coordinator

**Tennessee Higher Education Commission**  
404 James Robertson Parkway, Suite 1900  
Nashville, TN 37243