

Non-Discrimination Compliance Training for Programs and Services

Updated 2019



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Training Objectives

- To learn the primary non-discrimination laws and who is protected by each law.
- To recognize violations of these laws and know your responsibilities thereunder.
- To understand the basic measures needed to achieve non-discrimination compliance.



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Overview and Introduction

- Civil Rights are enforceable rights or privileges guaranteed by the U.S. Constitution, which if interfered with by another gives rise to an action for injury.
- The Civil Rights Act of 1964 was a product of the growing demand, from civil rights leaders, for the federal government to launch a nationwide offensive against racial discrimination. It prohibited discrimination on the basis of race, color, and national origin.
- Subsequent federal laws prohibited discrimination on the basis of age, sex, religion, and disability.



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Prejudice

- “Prejudices” are preconceived opinions that are not based on reason or actual experience.
- Prejudice can be for OR against an individual, group, or object.
- Any individual or group can hold prejudice(s) toward another individual, group, or object.



Discrimination

- “Discrimination” is differential treatment that favors one individual, group, or object over another.
- Discrimination is often the result of actions based on prejudicial attitudes.
- In most cases, an institution or entity may treat individuals differently UNLESS the individual’s civil rights are denied or interfered with because of their membership in a particular group or class.
- It is unlawful to treat a person or group different (either intentionally or unintentionally) based on race, color, national origin, religion, age, sex, pregnancy, disability, citizenship, familial status, veteran status, or genetic information.



Discrimination Examples

- Denying services to an individual based on the individual's race, color, national origin, disability, etc.
- Providing a service differently (i.e. less favorably) than what is provided to others because of the individual's race, color, national origin, disability, etc.
- Failing to allow a person to participate in a program based on the individual's race, color, national origin, disability, etc.



Federal Laws and Regulations Prohibiting Discrimination

- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Americans with Disabilities Act of 1990
- Age Discrimination Act of 1975
- Title IX of the Education Amendments of 1972



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Title VI - Background

- The Civil Rights Act of 1964 has several sections, or “titles”.
- Title VI prohibits discrimination in federally assisted programs.
- In calling for its enactment, President John F. Kennedy (35th U.S. President) identified “simple justice” as the justification for Title VI.



JFK's "Simple Justice"

"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. Direct discrimination by federal, state, or local governments is prohibited by the Constitution. But indirect discrimination, through the use of federal funds is as invidious; and it should not be necessary to resort to the courts to prevent each individual violation."

John F. Kennedy
35th President of the United States
1961-1963



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Title VI - Language

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



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Title VI - Prohibited Practices

- Denying services, opportunities, or other benefits for which an individual is otherwise qualified;
- Providing any service or benefit which is different or is provided in a different manner from that which is provided to others in a program;
- Subjecting any service recipient to different treatment in any manner related to his or her receipt of service;



Title VI - Prohibited Practices (Cont'd)

- Restricting an individual from services, facilities, or any other advantage, privilege, or other benefit that is provided to others under the program;
- Adopting administration methods that limit participation or subject participants to discrimination; and
- Addressing a service recipient in a manner that denotes inferiority because of race, color, or national origin.



Title VI

Limited English Proficiency (LEP)

- All agencies that receive federal funding are required to provide services that are accessible to persons with limited English proficiency.
- “Limited English Proficiency” is defined as the inability to speak, read, write, or understand the English language at a level that permits a service recipient to interact effectively with staff in accessing public services and benefits.
- The Department must provide LEP individuals with meaningful access to programs and services.
- Not providing services that are accessible constitutes discrimination based on national origin.



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Section 504 of the Rehabilitation Act of 1973

- Section 504 prohibits organizations and employers, who receive federal financial assistance, from excluding or denying qualified individuals with disabilities an equal opportunity to receive program benefits and services.
- It defines the rights of individuals with disabilities to participate in and have access to program benefits and services.



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Section 504 “Qualified Individual with Disabilities”

Defined as persons who have:

- a physical or mental impairment that substantially limits major life activities

AND

- in terms of accessing and receiving public services and benefits, are persons who meet the normal and essential eligibility requirements.



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What are “Disabilities”?

Physical and Mental Disabilities — including but not limited to:

- visual, speech, and hearing impairments;
- intellectual disability;
- mental or emotional illness;
- cerebral palsy;
- Epilepsy;
- muscular dystrophy;
- multiple sclerosis;
- orthopedic conditions;
- cancer, heart disease, or diabetes;
- contagious and non-contagious diseases such as tuberculosis and HIV diseases (symptomatic or not).



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Section 504 - Requirements

- Entities receiving federal assistance must take reasonable steps to make sure a person with a disability can access programs, services, benefits, or has opportunities to participate.
- This includes the opportunity to participate regardless of physical barriers.



Americans with Disabilities Act of 1990

- The ADA of 1990 is based on Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973.
- It provides comprehensive civil rights protections to individuals with disabilities in the areas of:
 - employment,
 - state and local government services, and
 - public accommodations, transportation, and telecommunications
- Unlike Section 504, ADA of 1990 compliance is mandated for state and local governments AND businesses that service the public even if they do not receive federal funds.



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ADA - Requirements

- ADA prohibits discrimination against qualified individuals with disabilities based on their disability in all programs, activities, or public entities.
- Public entities include state and local governments and their departments and agencies. Title II of the ADA applies to all activities and services programs of a public entity.
- Public entities must consider the ability to access services and benefits as well as “reasonable accommodations” such as:
 - Interpreters;
 - Television captioning;
 - Telecommunications devices;
 - Accessible sidewalks, doors, and water fountains;
 - Braille materials;
 - Larger print; and
 - Auxiliary aids.



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ADA “Qualified Individual with a Disability”

- Defined as a person who:
 - has a physical or mental impairment that substantially limits major life activities;
 - has a record of such an impairment; or
 - is regarded as having such an impairment.
- Decisions about whether or not a particular condition constitutes a disability within the meaning of the ADA of 1990 should be made based on case-by-case determination.



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ADA

“Major Life Activities”

Defined as functions such as:

- Caring for one’s self;
- Performing manual tasks;
- Walking or seeing;
- Eating or sleeping;
- Interacting with others;
- Hearing, speaking, or breathing;
- Learning;
- Concentrating;
- Thinking; or
- Working



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Age Discrimination Act of 1975

- Prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- The Age Discrimination Act applies to persons of all ages.
- It does not cover employment discrimination. Employment is covered under the separate Age Discrimination in Employment Act of 1967.



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Age Discrimination (Cont'd)

- The Age Discrimination Act does allow for certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.
- Example: Federal and local government can enact statutes which provide benefits for target groups in age-related terms such as the PeachCare for Kids Program.



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Title IX of the Education Amendments of 1972

- Applies to education programs and activities
- Prohibits discrimination based on an individual's gender
- Section 1681 of Title IX states:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...”



Compliance



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Key to Effective Non-Discrimination Compliance

- Ensure that program and service recipients receive:
 - Equal treatment,
 - Equal access,
 - Equal rights, and
 - Equal opportunities
- Without regard to their:
 - Race,
 - Color,
 - National origin (including English proficiency),
 - Age,
 - Gender, or
 - Disability



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How GDA Will Ensure Compliance

- Non-Discrimination Coordinator
- Employee training (initial and annual)
- Policies and Procedures
- Displaying informational materials



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Non-Discrimination Coordinator

Michelle Denson

Non-Discrimination Coordinator

19 Martin Luther King, Jr. Drive, S.W., Room 227

Atlanta, Georgia 30334

Phone Number: (404) 656-2110

E-mail Address: titlevi@agr.georgia.gov



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Employee Training

- New Employee Orientation
- Webinar Training (Initial and Annual)
- Video: “Understanding and Abiding by Title VI of the Civil Rights Act of 1964”
 - <https://www.justice.gov/crt/video/title-vi-civil-rights-act-1964>



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Policies and Procedures

Everything you need is in the “Access for All” handbook and on the Department’s Title VI website:

- Language Access Plan
- Access by Persons with Disabilities Plan
- Procedure for Non-Employee Discrimination Complaints
- Complaint Form
- “I-Speak” Cards
- Free Language Assistance Cards



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Language Access Plan (LAP)

Plan to ensure LEP individuals receive meaningful access to GDA programs, services, and activities by identifying:

- Languages where assistance may be needed
- Methods for providing assistance
- Methods for notifying LEP individuals of the availability of assistance

All employees must read and become familiar with the Department's LAP



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Notice of Language Assistance

- Notices that language assistance is available will be posted at reception desks, in other public spaces, and on the Department's website in Spanish, Korean, Vietnamese, and Chinese.
- Department outreach staff will also have distributable materials that advertise the availability of language assistance services (for example, the Title VI Program brochure).



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Language Assistance Services

- A non-comprehensive list of available services include:
 - Qualified interpreters
 - Qualified translators
 - Staff members competent/fluent in other languages
 - Electronic global language translation devices
 - Local and community services
 - A toll-free direct response telephone number for Spanish-speaking callers: (866) 243-3193



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If you encounter a need for language assistance services...

- Use the “I-Speak” card to identify language needs.
- Immediately contact the Non-Discrimination Coordinator, who will coordinate the provision of services.
- Document the encounter utilizing Appendix #2 of the LAP.
- If language assistance services are declined, complete the LEP Release Acknowledgment Form in Appendix #4 and submit it to the Non-Discrimination Coordinator.



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Access by Persons with Disabilities Plan

Qualified individuals with disabilities have a right to request accommodations and will receive accommodations appropriate to their needs in order to fully participate in or benefit from the Department's services and activities in a non-discriminatory, integrated setting.



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Notice of Disability Services

- A notice detailing the availability of disability assistance will be posted in Department reception areas, in other public places, and on the Department's website.
- Department outreach staff will have distributable documents that advertise the availability of services for persons with disabilities.



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Disability Services

- Appropriate auxiliary aids and services including, for example, qualified interpreters and translators to assist individuals who are deaf or hard of hearing
- Staff members proficient in American Sign Language
- Local and community programs that offer services for persons with disabilities



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If you encounter a need for disability services...

Immediately contact the Non-Discrimination Coordinator, who will coordinate the provision of services



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Complaints

Any person who feels that he/she has been discriminated against with respect to a GDA program, service, or activity can file a discrimination complaint with:

Michelle Denson
Non-Discrimination Coordinator
19 Martin Luther King, Jr. Drive, S.W., Room 227
Atlanta, Georgia 30334
Phone Number: (404) 656-2110
Email Address: titlevi@agr.georgia.gov



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Intimidation and Retaliation

Any individual who:

- Files a complaint;
- Testifies, assists, or participates in a non-discrimination investigation, proceeding, or hearing; or
- Opposes discrimination

will **not** be intimidated or retaliated against by the Department for the purpose of interfering with any right or privilege guaranteed by any of the federal civil rights or other non-discrimination laws.



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Filing a Complaint

- Complaints must be filed within 180 calendar days of the last alleged incident.
- Complaints must be delivered to the Non-Discrimination Coordinator.
- Complaints may be submitted online or in writing and must contain certain information.
- If requested by complainant, GDA will provide an interpreter, translator, or other assistance.
- Complainants also have the right to complain directly to the appropriate federal agency.



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Complaint Process

- Complaint filed
- Acknowledgment letter sent within five business days
- Jurisdictional review
 - “Acceptance” letter or “No Jurisdiction” letter sent within five business days of determination
- GDA has up to 180 days to investigate the complaint.



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After the Investigation

- One of two letters will be issued to the complainant:
 - A closure letter, or
 - A letter of finding (LOF)
- If the complainant wishes to appeal the decision, he/she has 10 days after the date of the closure letter or the LOF to do so.



In Conclusion

Everyone has a right to fair and equal delivery of GDA programs, services, and activities regardless of:

- Race
- Color
- Disability
- Age
- Sex
- National Origin



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Questions?



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