

# Washington State Department of Transportation (WSDOT)

Office of Equal Opportunity

EXTERNAL CIVIL RIGHTS  
PROGRAM

# **Washington State Department of Transportation (WSDOT)**

Office of Equal Opportunity

**Gregory Bell**  
External Civil Rights  
Program Manager

**Paula Hammond**  
Secretary of Transportation

**Brenda Nnambi**  
Director  
Office of Equal Opportunity

# Washington State Department of Transportation (WSDOT)

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Title VI Program

**George Laué**

Title VI Coordinator  
Eastern Washington

# The Civil Rights Act of 1964

- Major features of the Act:
  - Title I: Voting Rights
  - Title II: Public Accommodations
  - Title III: Desegregation of Public Facilities
  - Title IV: Desegregation of Public Education
  - Title V: Civil Rights Commission
  - Title VI: Nondiscrimination in Federally Assisted Programs
  - Title VII: Equal Employment Opportunity
  - Title VIII: Registration and Voting Statistics
  - Title IX: Intervention and Removal of Cases
  - Title X: Community Relations
  - Title XI: Miscellaneous

# The Indian Civil Rights Act of 1968

- Federal law passed by Congress to guarantee residents of Indian reservations the same civil rights and liberties in relation to tribal authorities that the Constitution guarantees to all persons in relation to federal and state authorities.
- Covers all federally-recognized tribes and Alaska Natives.
- Protects any person under the authority of a tribe.
- Guarantees equal protection and fair treatment under the law, and freedom from discrimination.

## § 1301. *Definitions*

1. “Indian tribe” means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government;
2. “powers of self-government” means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and means the inherent power of Indian tribes, hereby recognized and affirmed to exercise criminal jurisdiction over all Indians.
3. “Indian court” means any Indian tribal court or court of Indian offense.

## § **1302. Constitutional rights**

- No Indian tribe in exercising powers of self-government shall:
  1. make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
  2. violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

3. subject any person for the same offense to be twice put in jeopardy;
4. compel any person in any criminal case to be a witness against himself;
5. take any private property for a public use without just compensation;
6. deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witness against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

7. to require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year and a fine of \$5,000, or both;
8. deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
9. pass any bill of attainder or ex post facto law; or
10. deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

## § **1303. Habeas corpus**

The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

# **The Civil Rights Act of 1964**

## **Title VI**

**“Nondiscrimination in Federally Assisted Programs”**

# What is Title VI of the Civil Rights Act of 1964?

- Federal law that prohibits discrimination on the basis of race, color, & national origin in federally assisted programs & activities.

# TITLE VI NONDISCRIMINATION REMARKS



***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 -



***Title VI is sound; it is morally right; it is legally right; it is constitutionally right. ... What will it accomplish? It will guarantee that the money collected by colorblind tax collectors will be distributed by Federal and State administrators who are equally colorblind. ... The title has a simple purpose – to eliminate discrimination in Federally financed programs.”***

- U.S. Senator John O. Pastore -

# Title VI Specifically States

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

42 **U.S.C** § 2000d, et seq

# Program or Activity

Title VI applies *institution-wide*; it is *not* limited to the program that receives federal funding (e.g., planning, capital, operations)

# Title VI applies to both Recipients & Sub-recipients

- **Recipient:**

- State DOT
- Transit Agency
- Any public or private agency, institution, department, or other organizational unit receiving funding directly from a federal agency.



- **Sub-recipient:**

- Any entity that receives financial assistance as a pass-through from another entity

# Federal Financial Assistance

Federal financial assistance is literally an all-inclusive term; no extension of federal assistance (whether that assistance is monetary, educational, administrative or otherwise) escapes being defined as this.

## ***Examples:***

- *Student aid*
- *Training of employees*
- *Grants and Loans, tax-exempt bonds*
- *Property*
- *Loan of Personnel*
- *Tax incentives and tax-exempt status*
- *Technical assistance, etc.*

# What is the **Purpose** of Title VI ?

- To ensure that public funds are not spent in a way that encourages, subsidizes, or results in discrimination.

# What is the **Intent** of Title VI?

- To eliminate barriers and conditions that prevent minority, low income, Limited English Proficient (LEP), and other disadvantaged groups and persons from receiving access, participation, and benefits from federally-assisted programs, services and activities.

# U.S. DOT ORDER 5301.1

## of November 16, 1999

- Subject: Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes.
- Purpose: To ensure that programs, policies and procedures administered by the DOT are responsive to the needs and concerns of American Indians, Alaska Natives, and tribes.

# U.S. DOT ORDER 5301.1

- Policy: All components within DOT must, to the extent practicable and permitted by law:
  - Consult with Indian tribes before any actions that may significantly or uniquely affect them.
  - Work with federally recognized tribes and their designated representatives on a government-to-government basis respecting their rights to represent their respective interests.

# U.S. DOT ORDER 5301.1

- Recognize American Indian and Alaska Native statutory preferences in employment. Federal financial assistance arrangements and contracting, subject to eligibility.
- Assess the environmental impact of ROT activities on tribal trust resources and ensure that tribal interests are considered before DOT activities are undertaken.

- Respond effectively to the transportation concerns of American Indians and Alaska Natives related to environmental justice, children’s safety and environmental health risks, occupational health and safety, and other environmental matters.
- Streamline DOT procedures for working directly with tribes on activities that affect trust resources or tribal self-governance of the tribes.

- Seek tribal representation in relevant DOT sponsored meetings, negotiated rulemaking efforts, forums, advisory committees, listening sessions, focus groups, public surveys, research protocols, and data collection activities.

# Environmental Justice (EJ)

## Presidential Executive Order 12898

- Federal action to address Environmental Justice in minority populations and low-income populations
- Requires identification of high and adverse human health or environmental effects of programs, policies, and activities on minority and low-income populations
- U.S.DOT Order 5680.1, April 15, 1997 establishes policies to promote the principles of EJ by incorporating them in all DOT programs
- WSDOT implementation guidance: LAG Manual Chapter 24 & Environmental Procedures Manual, Chapter 458

# Environmental Justice – Three Basic Principles

- Avoid, minimize, or mitigate disproportionately high and adverse effects on minority and low-income populations
- Ensure the full and fair participation of minority and low-income populations
- Prevent the denial of benefits to minority and low-income populations

# Avoid Discrimination and Adverse Effects/Impacts by:

- Identifying and evaluating aspects of programs that are likely to result in adverse effects/impacts
- Proposing mitigation measures or offsetting benefits and opportunities
- Considering alternative options
- Providing public input opportunities to assist in the above
- Document, document, document

# WSDOT Title VI activities to benefit tribes thru its transportation projects

- **Planning Process:**

- Ensure compliance with nondiscrimination provisions.
- Ensure participation of all communities and sharing of information with all who are impacted by the planning process.
- Verify equal participation by all on MPO/RTPO committees.
- Report on compliance with Title VI.

- **Project Design Process:**

- Review projects for Tribal TERO requirements.
- Ensure that TERO and nondiscrimination information is included in project bid documents.
- Review project location process to ensure nondiscrimination in the selection.
- Conduct public participation and input activities to ensure all affected communities have the opportunity to participate, ensure outreach to disenfranchised populations.

- **Project Design Process:**

- Notify communities using various means to reach the most people (including those individuals who are hearing impaired, or whose primary language is not English, etc.).
- Update operational procedures and manuals to ensure up-to-date information on Title VI and nondiscrimination requirements.
- Report on compliance with Title VI.

- **Environmental Program:**

- Review and ensure Environmental Justice and Title VI compliance during the NEPA process.
- Develop and implement ways to identify populations affected by a project and ensure public participation and input at all public meetings to review project impacts to communities.
- Ensure that information is available to the community in languages other than English.

- **Environmental Program:**

- Ensure a process is in place for the public to exercise their right to call or write to view project plans and discuss environmental issues.
- Report on Title VI compliance.

- **Construction Process:**

- Review all projects for Disadvantage Business Enterprise (DBE) compliance and include any special provisions related to DBE in federal-aid projects.
- Include Title VI language and nondiscriminatory language in contract advertisements and award letters.
- Actively encourage the use of DBE firms in construction projects.

- **Construction Process:**

- Ensure that DBE firms actually perform work on construction projects as agreed to during award.
- Develop and implement a quality program to survey DBE firms to gather information on participation by DBE firms in construction projects.
- Invite tribal TERO representatives and meet with contractors to review all Tribal TERO and DBE requirements during a pre-construction meeting.
- Report on Title VI compliance.

# Limited English Proficiency (LEP)

## Presidential Executive Order 13166

- Directive to federal agencies to ensure people who are LEP have meaningful access to services
- Non-discrimination authority based on Title VI - National Origin Discrimination
- Federal aid recipients **must** take reasonable steps to ensure LEP persons have **meaningful access** to programs, services, and information those recipients provide
- May require providing written/oral communications in a language other than English

# Definition of LEP

- **Limited English Proficient (LEP) persons** are individuals for whom English is *not their primary language* and who have a *limited ability to speak, understand, read, or write English*.
- It includes BOTH people who reported to the U.S. Census that they *do not speak English well* AND people who reported that they *do not speak English at all*.

# Complaint Procedures

- If an individual believes that she/he has been discriminated against because of race, color, national origin, sex, age, disability, or socioeconomic status, that person can file a complaint.
- The complaint must be filed within 180 days of the alleged occurrence or when the alleged discrimination became known to the complainant;

# Complaint Procedures

- The complaint should be in writing and signed;
- Complaints filed against a WSDOT sub-recipient should be forwarded to WSDOT for investigation;
- The complaint will be reviewed by OEO to determine jurisdiction.

# Complaint Procedures

- If the complaint falls within the criteria of Title VI, it will be investigated by OEO.
- The investigative process will be completed within 60 days;
- The investigative report will be forwarded to the appropriate federal agency for final determination/concurrence.

# Examples of Discrimination

- Denial to an individual of any service, financial aid, or benefit provided under the program to which he or she may be otherwise entitled;
- Different standards or requirements for participation;
- Segregation or separate treatment in any part of the program;

# Examples of Discrimination

- Distinctions in quality, quantity, or manner in which the benefit is provided;
- Discrimination in any activities conducted in a facility built in whole or part with federal funds.

# FOR TITLE VI ASSISTANCE, CONTACT

## EASTERN WASHINGTON

**George M. Laué**

Title VI Coordinator

(509) 324-6018

[LaueG@wsdot.wa.gov](mailto:LaueG@wsdot.wa.gov)

## WESTERN WASHINGTON

**Jonté M. Sulton**

Title VI Coordinator

(360) 705-7082

[SultonJ@wsdot.wa.gov](mailto:SultonJ@wsdot.wa.gov)

## WSDOT OEO TITLE VI WEBSITE ADDRESS

<http://www.wsdot.wa.gov/EqualOpportunity/titlevi.htm>

# Open Floor

- Questions?
- Comments?
- Suggestions?

