

## **CIVIL RIGHTS AUTHORITIES**

(LEGISLATION, EXECUTIVE ORDERS, REGULATIONS, AND  
DIRECTIVES  
APPLICABLE TO THE FEDERAL HIGHWAY ADMINISTRATION AND  
FHWA FUNDED PROGRAMS, PROJECTS AND ACTIVITIES)

## CIVIL RIGHTS PROGRAM AUTHORITIES

The authorities for Civil Rights programs, including those governing the Federal Highway Administration (FHWA) and its recipients, subrecipients, and direct and federally assisted contractors are synopsized here.

Most Americans have developed some emotion-filled perceptions regarding "Civil Rights." Many of these perceptions have led to some conclusions which, in turn, have served as the bases for decisions which may have been inconsistent with Constitutional ideals. Many of the actions taken based on those decisions have caused harm to people who are perceived as different from those making the decisions. Most of those who object to civil rights are ignorant of what civil rights really are, or insensitive to the experiences of those whose civil rights have been - and are being - violated.

Civil Rights are those privileges, immunities, and protections guaranteed to persons in the United States which are based on the Constitution of the United States and amendments thereto, especially the Bill of Rights, laws, certain Executive Orders and court decisions, and treaties. Some, however, have had their Civil Rights violated to a greater extent than others. Those most negatively affected have been easily recognizable: minorities (especially Blacks and others with "swarthy" skin tones and/or accents); women; and those whose physical or mental disabilities are obvious.

Prior to the Civil War, protecting the Civil Rights of citizens had been the exclusive domain of the States, until it was realized that States had not done too much - in most cases nothing at all - to meet their responsibilities. Then the U.S. Congress intervened with a series of statutes. The majority of that early body of legislation was either found unconstitutional by the Supreme Court or rescinded by Congress. Several of these early pieces of legislation, however, remain. They begin the list and form the bedrock on which the other Civil Rights statutes, implementing regulations, and directives are based.

Congress has extended "protected class" status to such an extent that they - protected class members - now compose the largest "group" in the country. Black males, on whose behalf much of the legislation was originally based, now comprise less than 10 percent of "protected class members."

The United States has the opportunity to provide the leadership needed to carry the world through the next century. We can demonstrate the value of achieving and managing a diverse cadre of people to new levels of effectiveness and productivity, while ensuring that no one is subjected to illegal discrimination.

The material presented here is provided for users to obtain some sense of the underpinnings of FHWA's Civil Rights Programs.

As you review the material, you may be interested in exploring particular aspects of materials listed in more detail. Copies of many of the listed documents can be obtained from local libraries, through LEXIS/NEXIS, WESTLAW, or FHWA Regional Civil Rights Directors.

To the extent that we can be of assistance in your further explorations please contact the FHWA Headquarters Office of Civil Rights at (202) 366-0693.

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**NONDISCRIMINATION****NONDISCRIMINATION STATUTES**

- o **The Civil Rights Act of 1866, 42 U.S.C. 1981, provides:**

"All persons within the jurisdiction of the United States shall have the same right . . . to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of their persons and property as is enjoyed by white citizens, and shall be subject to like punishments, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."  
(EQUAL RIGHTS)

- o **The Civil Rights Act of 1870, 42 U.S.C. 1982, provides:**

"All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property." (PROPERTY RIGHTS)

- o **The Civil Rights Act of 1871, 42 U.S.C. 1982, provides:**

"Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." (DEPRIVATION OF RIGHTS: CIVIL ACTION)

- o **Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000, provides in section 601 that:**

"No person in the United States shall, on the ground 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." (PROSCRIBES DISCRIMINATION IN IMPACTS, SERVICES, AND BENEFITS OF, ACCESS TO, PARTICIPATION IN, AND TREATMENT UNDER A FEDERAL-AID RECIPIENT'S PROGRAMS OR ACTIVITIES)

- o **The Appalachian Regional Development Act of 1965**

The statute is to assist the Appalachian region in remedying its special problems (i.e. uneven past development due to its historic reliance on a few basic industries and a marginal agriculture), to promote its economic development, and to establish a framework for joint Federal and State efforts toward providing the basic facilities essential to its growth, attacking its common problems and meeting its common needs on a coordinated and connected regional basis.

- o **The Public Works and Economic Development Act of 1965**

The purpose is for the Federal Government, in cooperation with the States, to assist areas and regions with substantial and persistent unemployment or underemployment to take effective steps in planning and financing their public works and economic development. This includes Federal financial assistance, including grants for public works and development facilities to communities, industries, enterprises, and individuals in areas needing development. It enables such areas to help themselves achieve lasting improvements and enhances domestic prosperity by establishing stable and diversified local economies (provided that such assistance is preceded by and consistent with sound long-range economic planning).

- o **Title VIII of the 1968 Civil Rights Act, 42 U.S.C. 3601, provides:**

"It shall be unlawful . . . to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion or national origin." (PROHIBITS DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING)

- o **The Architectural Barriers Act of 1968, P.L. 90-480**

Statute which prescribes standards for the design, construction, and alteration of buildings to insure, whenever possible, that physically disabled persons will have ready access to, and use of, such buildings.

- o **The Uniform Relocation Assistance and Real Property Acquisition**

**Policies Act of 1970, 42 U.S.C. 4601, provides:**

"For the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal Financial assistance."  
(PROVIDES FOR FAIR TREATMENT OF PERSONS DISPLACED BY FEDERAL AND FEDERAL-AID PROGRAMS AND PROJECTS)

o **Title IX of the Education Amendments of 1972**

This legislation makes available financial assistance to institutions of higher education in order to: (1) strengthen, improve and, where necessary, expand the quality of graduate and professional programs leading to an advanced degree; (2) establish, strengthen, and improve programs designed to prepare graduate and professional students for public service; and (3) assist in strengthening undergraduate programs of instruction in certain instances.

o **Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 790, provides:**

"No qualified handicapped person shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance." (PROHIBITS DISCRIMINATION BASED ON PHYSICAL OR MENTAL HANDICAP)

o **23 U.S.C. 324, provides:**

"No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal assistance under this title or carried on under this title." (PROHIBITS DISCRIMINATION ON THE BASIS OF SEX)

o **The Age Discrimination Act of 1975, 42 U.S.C. 6101, provides:**

"No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance."  
(PROHIBITS DISCRIMINATION BASED ON AGE)

o **The Equal Access to Justice Act of 1976, 42 U.S.C. 1988, provides that:**

"The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and the

Title "CIVIL RIGHTS," and of the Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, ... and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. ... (T)he court, in its discretion, may allow the prevailing party ... a reasonable attorney's fee as part of the costs."

- o **The Civil Rights Remedies Equalization Act of 1986**, P.L. 99-506, provides at (a) that:

"(1) A State shall not be immune ... from suit in Federal court for a violation of Section 794 of Title 29, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975..., title VI of the Civil Rights Act of 1964 ..., or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal Financial assistance.

(2) In a suit against a State for a violation of a statute referred to in paragraph (1), remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such violation in a suit against a private entity other than a State."

- o **The Civil Rights Restoration Act of 1987**, P.L. 100-209, provides:

Clarification of the original intent of Congress in Title VI of the 1964 Civil Rights Act, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973. (RESTORES THE BROAD, INSTITUTION-WIDE SCOPE AND COVERAGE OF THE NON-DISCRIMINATION STATUTES TO INCLUDE **ALL** PROGRAMS AND ACTIVITIES OF FEDERAL-AID RECIPIENTS, SUBRECIPIENTS AND CONTRACTORS, WHETHER SUCH PROGRAMS AND ACTIVITIES ARE FEDERALLY ASSISTED OR NOT.)

- o **The Uniform Relocation Act Amendments of 1987**, P.L. 101-246, provides:

"For fair, uniform, and equitable treatment of all affected persons; ... (and) minimizing the adverse impact of displacement ... (to maintain)... the economic and social well-being of communities; and ... to establish a lead agency and allow for State certification and implementation."

(UPDATED THE 1970 ACT AND CLARIFIED THE INTENT OF CONGRESS IN PROGRAMS AND PROJECTS WHICH CAUSE DISPLACEMENT)

- o **The Americans with Disabilities Act**, P.L. 101-336, provides:

"No qualified individual with a disability shall, by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination by a department, agency, special purpose district, or other instrumentality of a State or a local government."

(PROVIDES ENFORCEABLE STANDARDS TO ADDRESS DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES)

- o **The Civil Rights Act of 1991**, in part, amended Section 1981 of 42 U.S.C. by adding two new sections which provided:

"(b) For the purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) The rights protected by this section are protected against impairment by non-governmental discrimination and impairment under color of State law."

#### **NONDISCRIMINATION EXECUTIVE ORDERS**

- o **E.O. 12250** DOJ Leadership and Coordination of Non-discrimination Laws
- o **E.O. 12259** HUD Leadership and Coordination of Fair Housing in Federal Programs

#### **NONDISCRIMINATION REGULATIONS**

- o **28 CFR 35** The Department of Justice's regulations governing Nondiscrimination on the basis of Disability in State and Local Government Services.
- o **28 CFR 36** DOJ regulations governing nondiscrimination on the basis of disability by public accommodations and commercial facilities.
- o **28 CFR 41** Implementation of Executive Order 12250, Nondiscrimination on the basis of handicap in Federally assisted programs.



- o 28 CFR 42, **Subpart C** Nondiscrimination in Federally Assisted Programs -- Implementation of Title VI of the Civil Rights Act of 1964.
- o 28 CFR 44 Outlines the DOJ procedure to address unfair immigration related employment practices and establishes an Office of Special Counsel.
- o 49 CFR 21 DOT's regulation implementing Title VI of the 1964 Civil Rights Act.
- o 49 CFR 24 DOT's regulation implementing the Uniform Relocation and Real Property Acquisition Act for Federal and Federally-assisted programs requiring compliance with Nondiscrimination Statutes and Executive Orders.
- o 49 CFR 27 DOT's regulation implementing Section 504 of the Rehabilitation Act of 1973.
- o 23 CFR 200 FHWA's regulation implementing Title VI of the 1964 Civil Rights Act.

#### **NONDISCRIMINATION DIRECTIVES**

- o DOT ORDER 1000.12 Implementation of the DOT Title VI Program
- o DOT ORDER 1050.2 Standard Title VI Assurances
- o FHWA ORDER 4720.1A Civil Rights Responsibilities of Motor Safety Assistance Program (MCSAP). July 16, 1993.

