

TITLE VI PROGRAM COMPLAINTS INVESTIGATION Case Practicums

**Florida Department of Transportation
(FDOT)**

March 25, 2015



EXERCISE OUTCOMES

- * **Identify authorities, theories, elements and steps for conducting investigation of discrimination complaints.**
- * **Apply theories and Title VI Program authorities to sample cases and complaints.**



INVESTIGATING COMPLAINTS OF DISCRIMINATION

- **Authorities**
 - **Theories**
- **Elements of prima facie case**
- **Steps for conducting Investigations**



Statutory Authorities

- * **Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12111)**
 - * **Disability**
- * **Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 790)**
 - * **Disability**
- * **Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d)**
 - * **Race, Color, National Origin**
- * **Federal-aid Highway Act of 1973 (23 U.S.C. § 324)**
 - * **Sex**
- * **Age Discrimination Act of 1975 (42 U.S.C. § 6101)**
 - * **Age**

DISCRIMINATION

- * That **act** (action or inaction), whether intentional or unintentional, through which a person in the United States solely because of their race, color, national origin, sex, age, disability, etc. is subjected to **disparate [unequal] treatment** or **impact**, in any program or activity receiving Federal financial assistance from FHWA under 23 USC.



Theories of Discrimination

- * **Two primary theories:**
 - * **Disparate/Intentional Treatment**
 - * **Disparate Impact/Effects**



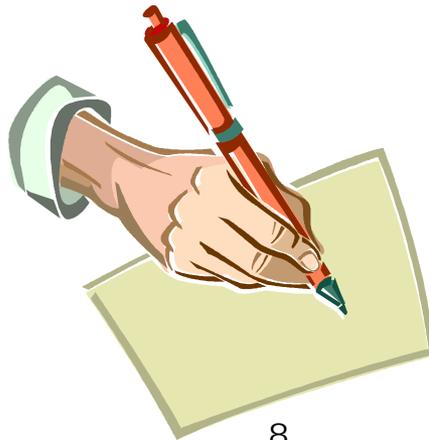
Disparate/Intentional Treatment Theory

- * Similarly situated persons treated differently
- * Decision maker aware of protected group status (*i.e., race, color, etc.*)
- * Action taken because of protected group status



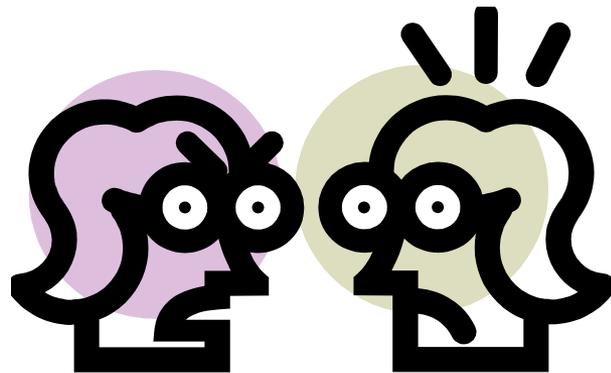
Disparate Impact/Effects Theory

- * **Neutral policy or practice with disparate impact/effect of protected individuals**
- * **Such practice lacks substantial legitimate justification**



Retaliation

- * Complainant may raise claim under Title VI
- * Intimidation and retaliatory acts prohibited



Elements of Proof – Disparate/Intentional Treatment

- * **Prima facie case needs to be established**
 - * **Protected group**
 - * **Applied and was eligible**
 - * **Rejected despite eligibility**
 - * **Others selected**



Elements of Proof –Disparate Impact/Effects

- * Neutral policy or practice
- * Legitimate justification
- * Necessary to objective
- * Less discriminatory alternative



Elements of Proof - Retaliation

- * **Prima facie case needs to be established**
 - * **Protected activity**
 - * **Recipient knew**
 - * **Adverse action taken**
 - * **Causal connection**



Complaints of Discrimination

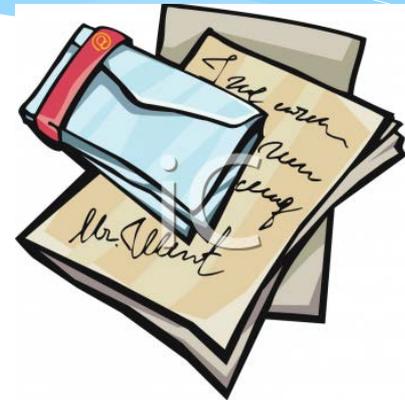
* What is a Complaint?

- * An allegation of wrongdoing for which attention, resolution, redress or any other corrective action may be sought;
- * Formal or informal, written or unwritten
- * Usually a violation of certain law, provision, statute, regulation, policy, Executive Order, etc.



What is a Complaint?

- * **Should be in writing**
 - * **Explanation of what happened**
 - * **Contact information**
 - * **Basis of the complaint**
 - * **Identification of the respondent**
 - * **Sufficient information regarding the allegation(s)**
 - * **Date(s) of the alleged act(s)**
 - * **Signed by the complainant or representative**



Filing Complaints



- * **Timeframe**

- * **180 days of the last date of the alleged discrimination**

- * **Methods of filing**

- * **In person, mail, fax, e-mail, other alternatives**

- * **Filing date of the complaint**

- * **Postmark of the complaint; or**
- * **Date complaint is RECEIVED by any authorized office**

Receipt and Acceptance

- * **Review the complaint to determine**

- * **Jurisdiction**
- * **Additional information needed**
 - * **15-calendar days**

- * **Acceptance is determined by**

- * **Timeliness**
- * **Allegations involve –**
 - * **A covered basis**
 - * **A program or activity of a Federal-aid recipient, sub-recipient, or contractor**



What is an Investigation?

- * **Official inquiry**
- * **Determination whether laws violated**
- * **Appropriate relief, if violation**
- * **Objective gathering of evidence**
- * **Analysis of evidence**



**INVESTIGATE THE
SCOPE OF THE
PROBLEM.**

Timeframes for Investigations

* FHWA

* Title VI

- * BENCHMARK of 180 days

* ADA/Section 504

- * 90 days

* STA

* Title VI

- * 60 days

* ADA/Section 504

- * 90 days

Please note: FHWA is currently updating its external complaint manual.

GROUP EXERCISE-CASE STUDIES

