

Special Report

Status of Submission of Title VI Implementation Plans

September 2006

John G. Morgan
Comptroller of the Treasury



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Comptroller of the Treasury

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John G. Morgan
Comptroller

September 28, 2006

The Honorable John S. Wilder
Speaker of the Senate
The Honorable Jimmy Naifeh
Speaker of the House of Representatives
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the report on the status of submission of Title VI implementation plans. This review was conducted pursuant to the requirements of Section 4-4-123, *Tennessee Code Annotated*.

Sincerely,

John G. Morgan
Comptroller of the Treasury

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**Status of Submission of Title VI Implementation Plans
September 2006**

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
Authority	1
Objectives	1
Scope and Methodology	1
Purpose and Scope of Title VI	1
Title VI Plan Guidelines	2
OBSERVATIONS AND COMMENTS	2
Filing Title VI Complaints	3
CONCLUSIONS	18
Submission of Title VI Implementation Plans	18
Title VI Complaints Reported	18
Summary of Title VI Findings	18
APPENDICES	20
Appendix A: Submission Dates of Title VI Implementation Plans	20
Appendix B: Agencies Not Subject to Title VI Requirements	24
Appendix C: Title VI Complaints Reported	24

Status of Submission of Title VI Implementation Plans September 2006

INTRODUCTION

AUTHORITY

Section 4-21-901, *Tennessee Code Annotated*, requires state agencies subject to the requirements of Title VI of the Civil Rights Act of 1964 to develop a Title VI implementation plan. These plans were to be submitted to the Department of Audit by June 30, 1994, and are to be submitted each June 30 thereafter. The section further requires the Department of Audit to publish, at least once a year, a cumulative report of its findings and recommendations concerning compliance with the statute's requirements. This report is intended to fulfill that requirement.

OBJECTIVES

The objectives of the review were to summarize the purpose and scope of Title VI and to detail agencies' compliance with the reporting requirements in Section 4-21-901, *Tennessee Code Annotated*.

SCOPE AND METHODOLOGY

Each agency drafts its own Title VI implementation plan and submits it to the Division of State Audit. The division's review of the plans is limited to determining whether the plans are submitted and interviewing the Title VI coordinator of each agency to determine the number of Title VI complaints filed against the agency between July 1 and June 30 of the fiscal year. We do not attempt to express an opinion on the implementation of the provisions in the plans. The status of submission of the plans for recent fiscal years is in the conclusions section of this report.

PURPOSE AND SCOPE OF TITLE VI

Title VI of the Civil Rights Act of 1964, as codified in 42 U.S.C. 2000(d), 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 subject to discrimination under any program or activity receiving federal financial assistance.

Title VI is intended to prohibit discrimination on the basis of race, color, or national origin in federally assisted programs even if federal money makes up only a portion of the program's budget. The emphasis of Title VI is on services provided by a government agency to the citizens of a given area. If federal money is used to provide services, Title VI applies, and services must be delivered in a nondiscriminatory manner.

A recipient of federal assistance violates Title VI when it

- denies an individual service, aid, or benefits because of race, color, or national origin;
- provides only inferior or discriminatory service, aid, or benefits because of any individual's race, color, or national origin;
- subjects an individual to segregation or different treatment in relation to aid, services, or benefits because of race, color, or national origin;
- restricts or discourages individuals in their enjoyment of facilities because of race, color, or national origin;
- treats an individual differently because of race, color, or national origin in regard to eligibility for programs or services;
- uses criteria which would impair accomplishment of the Act's objectives or which would subject individuals to discrimination because of race, color, or national origin;
- discriminates against an individual in any program or activity that is conducted in a facility constructed even partly with federal funds; or
- subjects an individual to discriminatory employment practices under any federal program intended to provide employment.

TITLE VI PLAN GUIDELINES

The Human Rights Commission issued guidelines for the development of Title VI implementation plans to ensure agencies' plans are comprehensive and complete. The Title VI Commission, administratively attached to the Department of Personnel, assumed Title VI monitoring responsibilities in August 2002 and adopted the guidelines issued by the HRC.

OBSERVATIONS AND COMMENTS

In general, most agencies have taken the steps necessary to prepare Title VI implementation plans. See the conclusions section and the appendix for the dates of submission of plans for fiscal years 2000 through 2007.

Following previous steps to monitor the submission of Title VI implementation plans, in August 2002, Governor Sundquist issued Executive Order 34, creating the Tennessee Title VI Compliance Commission. The commission has the following duties and responsibilities.

- to review Title VI monitoring and enforcement procedures;
- to define and implement state policy to promote compliance with Title VI;
- to identify any needed changes in laws, rules, programs, services, and budgetary priorities to promote compliance with Title VI.;
- to serve as the central agency for executive branch agencies providing resources to promote compliance with Title VI, and report on Title VI compliance efforts of those agencies;
- to engage in activities to inform Tennesseans of the requirements of Title VI, and to encourage compliance;
- to investigate allegations of noncompliance with Title VI; and
- to report annually to the Governor and the General Assembly.

The commission has a director who provides training and technical assistance to state agency Title VI coordinators—those responsible for implementing the agency Title VI plans and strategies. There is also a close working relationship between the director, coordinators, and management in the executive branch. According to Memorandum No. 2, dated February 9, 2004, issued by the commission, all state agencies are to promptly notify the commission of any formal or informal Title VI complaint submitted to or involving the agency and or its subrecipients.

FILING TITLE VI COMPLAINTS

Section 4-21-905, *Tennessee Code Annotated*, specifies the procedures for filing a complaint concerning discrimination. An aggrieved person has 180 days to file a complaint with the state agency receiving federal funds. Any person claiming to be aggrieved by a discriminatory practice under this part may also file a complaint with the Title VI Compliance Commission. Any complaint is subject to review by the Title VI Compliance Commission. We did not review Title VI complaints filed by inmates against the Department of Correction, because of the great volume of those complaints. Complaints received are listed below by fiscal year received. The following is a summary of complaints filed during the last five fiscal years.

Fiscal Year 2002

Three state agencies, other than the Department of Correction, received Title VI complaints during fiscal year 2002.

The **Tennessee Board of Regents** received three complaints that involved race. A complainant at **Southwest Tennessee Community College** alleged harassment by an adjunct instructor based on national origin and religion. The allegations were determined to be valid, and the instructor was terminated. The complaint has been resolved and is closed.

An African-American student at the **University of Memphis** complained that the process for administering comprehensive exams was unfair after the student failed a major area of the exam. Following an investigation, the complainant retook the exam and failed. After dismissal from the program, the complainant appealed to the graduate school and was allowed to remain in the program.

A student at **Austin Peay State University** filed a complaint against an instructor alleging racial discrimination related to grades. The investigation found inconclusive evidence.

The **University of Tennessee** received nine Title VI complaints, most of which involved race.

The first complaint involved an African-American student who alleged being suspended from a student worker position based on race. The complainant anticipated being terminated by the complainant's supervisor's boss, a Caucasian male. The complainant later found out that the complainant's direct supervisor, an African-American female, made up derisive comments about the complainant and said the Caucasian male boss made those comments. Upon learning the truth, the complainant dropped the complaint with the Office of Equity and Diversity.

An African-American filed a complaint alleging harassment by supervisors, based on race, concerning work performance and use of leave time. The complaint was investigated with a subsequent finding of no discrimination.

Two complainants, both African-American, filed a complaint that they were being treated differently in terms of job assignments and working conditions based on their race. An investigation revealed that policies in the department were equally applied and there was no discrimination.

A Caucasian complainant alleged the university failed to hire the complainant based on race and gender. An outside investigation concluded that the individual that was hired was qualified, and that race and gender were not factors in the hiring decision.

A Caucasian complainant alleged being treated differently in a summer program that was predominately filled with minority students. The allegations were not supported; however, the complainant's issue was turned over to the college dean's office.

An African-American complainant contested the pay and title the university had given the complainant. The complainant did not complete the complaint process with the university but instead elected to pursue the complaint through an external agency. Disposition by the external agency is still pending.

The complainant, a minority owner of a computer supply company, complained of having been instructed by the complainant's supplier that the complainant could no longer sell a particular brand of computer to the University of Tennessee. According to the complainant, who had a long history of selling these particular computers to the university, the call from the supplier came after the university procurement office at the university informed the supplier that the complainant had sold refurbished computers to the university under the guise that the computers were new. An investigatory audit, by the university, of ten laptop computers recently purchased by the university concluded that the computers were new. The complainant alleged being subjected to this degree of scrutiny because of being a minority vendor. The university contacted the vendor's supplier directly to clarify the miscommunication regarding the computers.

The owner of a supply company filed a complaint with the Office of Equity and Diversity because the university refused to pay invoices for material the complainant had supplied. According to the complainant, after repeated attempts the complainant was unable to secure money owed. An investigation indicated that there was a dispute about the invoices. After a review of the invoices, the Office of Procurement Services was able to agree on which invoices were outstanding. The invoices were paid, and the complaint has been resolved.

A complainant, the owner of a printing company, contacted the Office of Equity and Diversity regarding a contract with the Department of Anatomy and Neurobiology to print brochures. The complainant alleged not being given a fair opportunity to contract. An inquiry by this office revealed the complainant had requested either full payment or a significant partial payment in advance, contrary to university practice. Following several discussions with the university, the complainant agreed to do business in accordance with the university's practices. The department submitted the requisition to engage the services of the complainant's company, and the complaint was resolved.

The **Department of Human Services (DHS)** received ten complaints which primarily involved race.

Two complainants alleged that interpreter services were not offered to them at a county office. An investigation concluded that interpreter services had been provided.

One complainant alleged having Food Stamp benefits reduced because of an increase in the complainant's Supplementary Security Income and age. The policy and procedures that the department followed were in accordance with USDA regulations. This complaint was not based on race, color, or national origin.

One complainant alleged that a case worker was insensitive to the complainant's problems and talked down to the complainant. The case worker asked the complainant for a medical statement to determine eligibility. The complainant faxed the medical information to the case worker, and the case was approved. During the time the case was pending, Title VI and discrimination were explained to the complainant. The complainant later agreed that the complaint was not based on race, color, or national origin.

One complainant alleged racial discrimination because the complainant's case was closed when the complainant failed to keep appointments for recertification. However, since recertification appointments are a requirement to continue eligibility, the department followed proper procedures in the provision of services and the closure of this case. No evidence of discrimination was found.

A complainant alleged not receiving benefits in a timely manner in an emergency situation. When applying for Food Stamps, the complainant was told that benefits would be received within three to four workdays. However, the case worker failed to process the case timely and also incorrectly entered the complainant's address into the system, causing further delay. The error was corrected, and the complainant received the benefits. Since the complainant was not denied the opportunity to apply for services, there was no discrimination.

A complainant alleged that DHS closed her child support case because of her race. The case was closed because the complainant failed to cooperate with Child Support Services to identify the absent parent; therefore, there was no discrimination.

A complainant alleged that a DHS employee made derogatory comments while the complainant was in the office. The customer was not denied benefits or the opportunity to apply for services. A DHS investigation found there were no comments made.

A husband and wife filed a complaint alleging that they were discriminated against because of their race (white). They alleged that a case worker did not process their application for Medicaid in a timely manner. An investigation determined that the complainant's application was processed within the allotted 45-day processing time and that there was no discrimination.

A complainant alleged that because a staff member of DHS was unable to communicate with the complainant, it was necessary to go to another DHS office an hour and a half away from home to obtain interpreter services. An investigation concluded DHS failed to use Language Line Services or another available interpreter service. Therefore, the complainant's rights were denied, a violation under Title VI.

A complainant alleged discrimination on the basis of a physical disability that caused the complainant to not receive enough Food Stamps. The complainant was never denied benefits, and the complaint was not based on race, color, or national origin.

Fiscal Year 2003

Five state agencies other than the Department of Correction received Title VI complaints during fiscal year 2002-2003. We reviewed the current status of these complaints.

The **Department of Education** received three complaints that primarily involved race.

One complainant alleged racial discrimination after being dismissed from employment. The complainant reported being treated differently than those of other races. An investigation found no discrimination.

A complainant alleged racial discrimination after resigning from a position. The complainant alleged being harassed by an employee who made racial remarks. Two months after the complaint was filed, the complainant asked that the file be closed.

A complainant, who was previously dismissed from a job, alleged disability employment discrimination because the complainant was not chosen for a certain position. Following an investigation, the file was closed after investigators were unable to conclude whether there was a violation of statute.

The **Department of Labor and Workforce Development** received two complaints that involved race.

An African-American filed a complaint alleging racial discrimination. The complainant saw a sign saying "help wanted" hanging in the window of a building. The complainant was told to apply at the Department of Labor. When the complainant went to the Department of Labor, the complainant was informed that the position had been filled by a white person. The complaint was investigated and found to be invalid.

A complainant who is employed by the Department of Labor and Workforce Development alleged that based on the complainant's race (African-American), age, and sex, the complainant was required to perform job duties that were not outlined in the complainant's current job description. After an investigation, the complaint was found to be without merit.

The **Tennessee Board of Regents** received five complaints that primarily involve race.

Austin Peay State University (APSU): A minority student filed a complaint against an instructor alleging racial discrimination regarding the assignment of grades. APSU investigated the student's complaint and concluded there was insufficient evidence that race was a factor.

University of Memphis: A student athlete filed a complaint alleging that the student's race (African-American) and national origin were factors causing the amount of the athletic scholarship to be reduced for the fall semester. An investigation found the scholarship reduction was based on performance and there was no discrimination.

Two African-American students alleged racial discrimination in that the president of a student organization actively solicited non-minority students for membership to the group. An investigation found no discrimination.

An African-American student alleged racial discrimination based on the treatment received from a coach. The student questioned how players were selected for team participation after this student was not selected. The complaint was filed more than a year after the incident occurred, but a review of facts found that there was no discrimination.

Roane State Community College: A student filed two separate race-based complaints with the Office of Civil Rights (OCR). The first complaint included various allegations regarding grading, slander, and alleged assault by a faculty member. In the second complaint, the student alleged another student was given more time to take a test. In both cases, OCR found no discrimination.

The **University of Tennessee** received four complaints that primarily involved racial discrimination.

An African-American complainant, a professor at the university, alleged that because of reorganization the complainant was removed from an administrative position, returned to the faculty, and not allowed to keep administrative pay. The complaint was later resolved to the satisfaction of the complainant.

An African-American student alleged that an African-American professor showed racial bias in some of the comments the professor made. The student thought the bias would be reflected in the student's grade in the course. However, the student was satisfied with the grade received and decided not to take any further action.

An African-American employee of the university alleged being harassed by a supervisor and treated differently based on the employee's race. The allegations were not supported in the ensuing investigation.

An African-American employee of the university alleged various complaints regarding the employee's work situation and issues with co-workers. Following investigations, and at the employee's request, the employee was transferred to another location. No additional complaints have been received.

The **Department of Human Services (DHS)** received ten complaints which primarily involved race.

A complainant alleged being deprived of rights to food stamps because of case worker bias. An investigation found the food stamps were denied because the complainant's income exceeded the maximum allowed for food stamp eligibility. There was no bias or Title VI violation.

A husband and wife alleged that they had been denied food stamps based on racial discrimination by a case worker. After an investigation, it was found that the caseworker did not violate any Title VI procedures but did in fact make a data error which resulted in the denial of benefits to the complainant. The error was resolved, but no discrimination was found.

An owner of a child care center alleged that a child care specialist would not place African-American children from a nearby community in the center. An investigation found that the child care specialist did not violate Title VI procedures because the client, not the child care specialist, determines where a child will be placed. When a client applies for child care services, the client selects a provider from a list of centers in the county. There were no minorities living in the community where the complainant's center is located. There was no Title VI violation.

A complainant alleged receiving unfriendly service at DHS county offices and also being denied food stamps because of the "attitude" of the caseworker. An investigation found that there had been a series of misunderstandings between the complainant and the caseworker. Ultimately, food stamps were denied because the complainant's income was too high. To resolve any further confusion, DHS sent an apology letter to the complainant.

A complainant filed a complaint because the complainant was not allowed to see or set an appointment with the complainant's caseworker on a particular date. Although this was not a complaint based on discrimination, the department felt it was necessary to undertake a thorough investigation. The complaint was filed after the customer met with the caseworker and was informed that food stamps would no longer be received because income exceeded the maximum. Later the complainant wanted to come back and speak with the caseworker regarding more benefits, but the caseworker was unable to meet with the complainant. Case managers only see their clients by appointment or in case of a need for emergency benefits. Since this complainant had neither, the complainant was denied a same-day appointment. An investigation found no Title VI violations.

A complainant alleged age-based discrimination. The complainant was not eligible for Medicaid for one month because the complainant had no unpaid medical bills. The complainant filed an appeal but withdrew the appeal during the appeal process and filed a discrimination charge. An investigation found there had not been a Title VI violation.

A child caregiver alleged that a childcare counselor had made an insensitive racial remark. After an investigation, the department determined that the comment made was a misunderstanding on the complainant's part and there was no Title VI violation.

A complaint was filed against a case manager alleging discrimination against the complainant's husband, through the advice the case manager gave to his wife. An investigation found that no Title VI violation occurred although the case manager used poor judgment by giving advice to someone outside the realm of responsibility as a case manager.

A complainant alleged race-based discrimination because the amount of food stamps received was not comparable to the amount received by another couple of a different nationality.

An investigation found that no discrimination had taken place. The different amounts were because of different income levels.

A complainant alleged being denied benefits because of marriage and family structure. An investigation determined that the complainant was not eligible for assistance and there were no Title VI violations.

Fiscal Year 2004

During fiscal year 2004, eight state agencies other than DOC received Title VI complaints.

The **Commission on Children and Youth** received one complaint alleging racial discrimination. The complainant (African-American) alleged not being given use of funding support because of the complainant's race. The status of the complaint has not been determined.

The **Department of Children's Services (DCS)** received one complaint that involved a management and personnel issue. The complaint was found to be unsubstantiated.

The **Department of Education** received one complaint alleging gender discrimination in a departmental promotion decision. An investigation found no Title VI violation.

The **Department of Health** received three complaints which primarily involved race. An African-American employee of one of the department's subrecipients alleged being wrongfully terminated based on the employee's race. The complaint was found to be invalid. A second complainant, an African-American, alleged that a healthcare worker made a derogatory comment about the complainant's race. The healthcare worker resigned when the complaint was filed and brought to the worker's attention. A third complainant alleged that an employee of a local public health department was rude to the complainant's relatives because of their race (Middle Eastern), although the complainant was not present at the time of the incident. An investigation by the Department of Health found the complaint invalid because of miscommunication.

The **Department of Labor and Workforce Development** received one complaint. An African-American alleged being discriminated against and intimidated on a regular basis at work because of race. The complainant does not work directly for the Department of Labor and Workforce Development so the complaint was forwarded to the Human Rights Commission and has not yet been resolved.

The **Department of Mental Health and Development Disabilities** received three complaints that primarily involved race. A complainant alleged that based on the complainant's race, the behavioral health organization was discriminatory in its review of supervised residential contracts. The complaint was investigated and found to be invalid. A second complainant alleged that a contracted service provider discriminated in its employment practices based on race. The complaint was forwarded to the Human Rights Commission and is still pending. A

third complainant alleged that a Mental Health facility refused to relocate the complainant to another facility because of race. An investigation found the complaint to be unsubstantiated.

The **Tennessee Board of Regents (TBR)** received eight complaints that primarily involved race.

The **University of Memphis** received two complaints. One student alleged that a professor made a racial comment during class. The professor denied the allegation and a student-witness corroborated the professor's explanation. The university found the complaint was unsubstantiated. A prospective student alleged that a faculty member made a racial comment during a conversation when the faculty member informed the complainant of not being accepted into the graduate program. The student claimed that the admissions committee did not review the student's portfolio. The investigation revealed that the committee evaluated the portfolio, but the student did not meet the program requirements and there was no evidence of discrimination.

Jackson State Community College (JSCC) received two complaints. A Caucasian employee alleged racial discrimination and perceived that an African-American coworker received preferential treatment. The employee filed the complaint with the Equal Employment Opportunity Commission (EEOC). The EEOC dismissed the complaint, and the complainant subsequently filed a civil lawsuit against Jackson State Community College. The lawsuit is still pending. A second JSCC employee alleged racial discrimination in violation of Title VI following termination of employment. The employee filed the complaint with the Human Rights Commission. The commission dismissed the complaint because it found no violation.

Dyersburg State Community College (DSCC) received one complaint. A current African-American student alleged racial discrimination in a theater class and filed a complaint against the instructor. The student auditioned for a part in a play and alleged not being cast for the part because of race. The complainant stated that the instructor said that it would be hard to cast the complainant in the play because the play was about a Caucasian family. DSCC investigated and resolved the student's complaint through an informal resolution pursuant to Tennessee Board of Regents Guideline P-080, "Sexual and Racial Harassment."

Austin Peay State University received one complaint from a person not hired for a position. The complainant did not allege discrimination based on a protected class but focused primarily on perceived program irregularities and promises from administrators who managed the summer program in prior years. The investigation of the complaint is still pending.

Tennessee Technology Center at Ripley received one complaint. An African-American student alleged being discriminated against on the basis of skin color and race because of the unfair grading of a test. The grade led to a reduction in the amount of the student's scholarship award. The center investigated the student's complaint and found that the scholarship reduction was based solely on academic performance, not discrimination.

Tennessee Technology Center at Whiteville received one complaint. A student complained of being subjected to racial harassment after being accused of cheating on a test and

given a grade of zero. There was no finding of any discriminatory action, and the investigation was closed. During the investigation, a grievance committee heard the complaint and recommended that the original grade be reinstated. However, the complainant's allegation of racial harassment was not substantiated.

The **Department of Human Services (DHS)** received ten complaints that primarily involved race.

A complainant alleged being discriminated against by the Adult Protective Services (APS) unit because APS was in the process of investigating a complaint regarding the complainant. It was explained to the complainant that APS had to conduct an investigation whenever there was suspected neglect or abuse reported. This complaint did not constitute a Title VI violation.

A complainant alleged that DHS's contracted child support collection agency had discriminated against the complainant based on race. During an investigation, a mistake was found and corrected, but there was no Title VI violation.

Two complainants contacted an appeals unit and alleged that their civil rights had been violated. After several attempts to contact the complainants, there was no response. Finally a letter was sent stating that their case had no merit.

One complainant withdrew a complaint due to incarceration during the investigation.

One complainant withdrew a complaint during the investigation after receiving some temporary services from a local food pantry while waiting for an EBT card.

A complainant who was receiving aid filed a Title VI complaint, alleging racial discrimination by a local DHS office. After a thorough investigation of the complaint, it was found that the case had been closed due to non-compliance with policies. No Title VI violations were found.

One complainant sent a letter to the Governor's office alleging discrimination based on the complainant's ethnicity, Native American. The complainant also alleged not receiving the amount of benefits the complainant was entitled to. An investigation determined that the complainant received the maximum benefits. There was no Title VI violation.

One complainant felt pressured to repeatedly present verification of citizenship on several occasions. After an investigation, the department found that this caseworker violated Title VI by continuously requesting information that was not equally required from people of other races. The department reprimanded the caseworker and provided further Title VI training.

A complainant alleged racial discrimination against the Department of Health, believing that aid should have been increased because the complainant's income was recorded incorrectly.

A review of the case found that the complainant was receiving all the aid entitled to and there was no Title VI violation.

Fiscal Year 2005

The **Bureau of TennCare** received two complaints that involved race.

An African-American TennCare enrollee alleged racial discrimination by a pharmacy provider that refused the complainant service. The complaint was resolved by the Bureau of TennCare, and services for the complainant were reinstated.

An African-American TennCare enrollee alleged racial discrimination by three physicians. The investigation conducted by the enrollee's managed care organization and the Bureau of TennCare found that the enrollee was primarily covered by Medicare for the services related to the complaint, so the complaint did not fall under the jurisdiction of TennCare.

The **Department of Health** received six complaints that involved race.

Someone questioned whether a county health department discriminates against Limited English Proficient (LEP) individuals on the basis of national origin by failing to provide them with meaningful access to services. The Atlanta Regional Office of the U.S. Department of Health and Human Services, Office of Civil Rights (OCR), investigated the case. OCR concluded that the steps taken by the county entity were reasonable and ensured meaningful access to its programs for LEP persons. The covered entity was in compliance with Title VI of the Civil Rights Act of 1964, and OCR closed the case.

A Muslim complainant believed a Community Center WIC Program discriminated against her because of her religion and that she did not receive the same level of service as the Hispanic Clients. The complaint was reported to the local public health department and was jointly investigated by the county's Title VI Office and the State Department of Health Title VI Office. The complaint was also filed with the WIC Office in the U.S. Department of Agriculture. Investigative findings indicated miscommunication and client frustration by the large number of clients who receive services and the length of time the complainant had to wait on that particular date. The State Department of Health scheduled an Analysis of Clinic Flow to improve the level of service; administrative/clerical staff were trained to help gather patient data; staff received Title VI/LEP training and customer service training; and better signage was posted in various languages regarding information required for certification. Apologies were extended, and management is closely monitoring the activities of the center. The case is deemed closed.

Two different patients presented an issue to a contracted service provider. Both patients claimed staff discriminated against them and treated them differently than the white female patients because of their race. Shortly after filing the complaint, the complainants stated that they wanted to drop the complaint, and that they were comfortable with the provider. The Title VI Office of the Department of Health investigated, concluded that the provider was in compliance with Title VI, and closed the case.

A complainant alleged that their mother did not receive proper quality of care at a county-operated hospital and subsequently died. The complainant felt this was negligence and a “wrongful death” case. The Title VI Office determined that Title VI discrimination based on race, color, or national origin, did not apply in this case and deemed the case closed.

A complainant alleged contracting a bacterial infection from mold and mildew in their apartment because management of the apartment complex did not perform proper maintenance. The complaint was referred to the Tennessee Human Rights Commission.

Husband and wife complainants claimed they were discriminated against regarding TennCare or Medicare/Medicaid benefits to which they believe they were entitled. This complaint was referred to the Bureau of TennCare.

The **Department of Children’s Services (DCS)** received six complaints that primarily involved race.

A complainant alleged racial discrimination due to a transfer to Wilder Youth Development Center without receiving psychiatric treatment. The evidence did not support a denial of service or placement under a Title VI program. The complaint was closed.

A complainant alleged racial discrimination because the complainant’s placement/classification should be transitional independent living, not a Youth Development Center. The evidence did not support a denial of service or placement under a Title VI program. The complaint was closed.

A complainant alleged racial discrimination in that the complainant was denied a benefit. The complainant had a permanency goal to keep a job, but had stress due to lack of transportation and needed help obtaining a driver’s license. The complainant withdrew the complaint because the complainant was living with a family member who had transportation. The complaint was closed.

A complainant alleged racial discrimination against a Youth Development Center, saying the complainant did not receive medication for depression. The evidence did not support a denial of service under a Title VI program, and the complaint was closed.

A female complainant alleged that based on her sex, race, and disability, the Cookeville DCS office was denying her services and information that would assist in the removal of her daughter from state custody. The complainant further alleged that the department did not cooperate or inform her of meetings to try and place her daughter with relatives. The evidence did not support a denial of benefits, service, or placement under a Title VI program.

A complainant alleged racial discrimination, saying she was denied the opportunity to operate a family boarding home for children. The complainant was issued a license by DCS to operate a boarding home but did not apply for a state contract even after she was instructed on

the procedure. Later, the complainant applied for a different program DCS had no control over. The evidence does not support the denial of an opportunity under a Title VI program, but the complainant is awaiting determination from the U.S. Department of Health and Human Services.

The **Board of Probation and Parole** received one complaint where an offender made allegations against a probation/parole officer and the parole revocation hearing process. An investigation determined the allegations were unfounded, and the complaint was closed.

The **Department of Environment and Conservation** received two complaints.

A complainant alleged discrimination regarding the use of a community center in Montgomery County. An investigation determined that The Department of Environment and Conservation had no funds in this facility so there were no Title VI violations and the complaint was closed.

A complainant alleged that neither the city nor the county that the community center is located in have Title VI plans or policies. It was determined that this complaint did not fall under Title VI.

The **Tennessee Board of Regents** received five complaints that primarily involved race.

The **University of Memphis (UOM)** received three complaints. A current African-American UOM student alleged racial discrimination in that the College of Education did not renew his teacher licensure certificate. The student alleged that similarly situated non-minority students received preferential treatment and results from the college. A university investigation revealed that the students cited as receiving preferential treatment had completed either the appropriate coursework or examinations to receive an additional year of certification. The complainant had been placed on academic probation for the non-satisfactory completion of a course. The complainant also failed to take a required examination, which he had been aware of for more than one year. The investigation revealed no discrimination, and the case was closed.

An African-American UOM student alleged racial discrimination when she was removed from her first student teaching placement, resulting in a delay in her graduation. An investigation revealed that the student teacher had several problems in her student teaching assignment. She failed to accept directives from her cooperative teacher, her supervising teacher, and her principal, all of whom are African-American. The principal informed the investigator that the complainant acted inappropriately towards several teachers and students, and thus the principal requested that university remove the student teacher immediately. The university removed the student from student teaching during the fifth week of an eight-week assignment; by then, it was too late to place the student in another assignment in which she could earn a satisfactory grade. The student was given her next eight-week assignment and was required to repeat her first student teaching placement in fall 2005. The student also alleged that a non-minority student's placement had been previously changed. An investigation determined that the principal, at a different school, made the change earlier in the student teaching process and the change was not

related to problems with the student. The investigation revealed no discrimination, and the case was closed.

A Hispanic UOM female graduate student alleged national origin discrimination when she received a “D” grade in a graduate course. The student appealed the grade, and the grade was reviewed by the departmental chair, the Dean, and the University Grade Appeals Committee. The committee denied the appeal, and the complainant alleged that the committee did not investigate her discrimination claim. The student then alleged that the accused faculty member treated women and minorities differently; therefore, she received a lower grade and was not given the same opportunities as non-minority students because she is Hispanic. The discrimination allegations investigation is pending; however, the student’s “D” grade is warranted as determined by the Appeals Committee.

Tennessee State University (TSU) received one complaint. A Caucasian male student alleged gender and race discrimination in that an African-American male dean and professor refused to accept a project from him and two other students. The complainant and the two other students scheduled appointments with the Dean but allege that the Dean met only with the African-American female student, not with him or the Asian male student. The EEO/AA Office investigated, found the complaint lacked sufficient evidence, and closed the case.

Tennessee Technological University (TTU) received one complaint. An African-American male employee filed a complaint against TTU and with the U.S. Equal Employment Opportunity Commission alleging discrimination on the basis of race and gender. The complainant alleged that he was subjected to adverse and discriminatory employment practices while employed by TTU. The U.S. Equal Employment Opportunity Commission’s investigation findings are pending.

The University of Tennessee received four complaints.

A Caucasian complainant alleged that as the only white female in her department, she was subjected to discipline, harassment, and discharge because of her race and age in retaliation for complaining about race and age. EEOC investigated and issued dismissal of the complaint.

An African-American department head alleged that he was asked to resign after he disputed with a Caucasian subordinate and was replaced by a Caucasian. The court dismissed the case after the university compensated the complainant and allowed him to remain as faculty.

An African-American female alleged harassment, retaliation, intimidation, and a hostile work environment, because of her race, age, and gender. EEOC was unable to investigate and conciliate the charges within 180 days of assuming jurisdiction. At the complainant’s request, EEOC issued a Notice of Right to See.

An African-American female charged racial discrimination in a reduction in force that resulted in the loss of her job. The Human Rights Commission found no reasonable cause to support racial discrimination.

The **Department of Human Services (DHS)** received 10 complaints.

Two complainants stated by telephone that their civil rights had been violated. After several telephone attempts to gather further information from the complainants, followed up by letters, the complainants have not responded.

One complainant alleged that he had been discriminated against because of his national origin. This client, an American, felt that it was unfair for the United States to provide benefits to individuals who are not U.S. citizens and to deny his TennCare/Medicaid. He was not eligible for TennCare/Medicaid because he had access to insurance through his wife's provider. There was no evidence of a Title VI violation.

One African-American complainant alleged racial discrimination while visiting a county office. After a DHS investigation, no Title VI violation was found.

One complainant alleged discrimination by his case worker and his case worker's supervisor, based on age and national origin. This complaint was not investigated by the DHS Title VI Coordinator because this case had been investigated by the local Title VI Coordinator and the DHS commissioner sent a letter to the Tennessee Attorney General's Office stating that a Title VI violation was not found.

One complainant alleged discrimination by a county office after being denied for TennCare/Medicaid. The department investigated and determined that the complainant did not qualify for TennCare/Medicaid. No Title VI violation was found.

One complainant alleged discrimination by a local resource office. After several unsuccessful attempts to contact him, the DHS Title VI Coordinator sent a letter stating that his case would not be investigated unless he contacted the department. The complainant contacted the office on June 28, 2005, and his case is currently under investigation.

One complainant alleged racial discrimination by his case worker because he was denied TennCare/Medicaid. The department investigated and found that at the time of application the client was eligible for COBRA from his previous employer. No Title VI violation was found.

One investigation regarding racial discrimination found that the complaint was not a Title VI violation because the complaint was against a non-state agency. The DHS Title VI Coordinator encouraged the client to get in contact with the Title VI Coordinator of the non-state agency.

One complainant alleged racial discrimination because her food stamp allotment was incorrect and that she was treated unfairly by the local DHS office. She also complained that someone stole cash off her EBT card and that the DHS office denied assistance to her. A DHS investigation found that she had received all benefits to which she was entitled and that the process was handled according to policy. The department also found that she had been issued

several EBT cards and that all alleged actions required knowledge of her EBT PIN number, which only she could provide. The final letter of determination explained to her that she is responsible for the safekeeping of both her card and her PIN.

Fiscal Year 2006 (See table in Appendix.)

CONCLUSIONS

SUBMISSION OF TITLE VI IMPLEMENTATION PLANS

Most state agencies that are required to submit a Title VI Implementation Plan for each fiscal year had done so. Appendix A presents the submission dates of the plans submitted for the most recent eight fiscal years.

TITLE VI COMPLAINTS REPORTED

In preparing this report, we found that most state agencies are not reporting their Title VI complaints to the Title VI Compliance Commission. We conducted interviews with the Title VI coordinator of each department, and it appears there is some confusion between the commission's instructions concerning how to handle Title VI complaints and the fact that there is no policy or procedure in place for the coordinators to follow. See Appendix C for the number of Title VI complaints filed with state agencies during fiscal years 2002 through 2006.

SUMMARY OF TITLE VI FINDINGS

The true measure of compliance is not so much whether plans have been prepared and submitted but rather whether the provisions contained in the plans are carried out. In addition to the commission's investigation of complaints, the Division of State Audit's financial and compliance audit reports of agencies subject to the requirements of Title VI include violations of Title VI requirements noted during the audit.

Reports issued during fiscal year **2002** contain the following findings.

- The Department of Finance and Administration, for the year ended June 30, 2002, did not submit a Title VI Implementation Plan in a timely manner. A follow-up was conducted, and the department submitted its plan on August 21, 2002.
- The Department of Human Services, for the year ended June 30, 2002, did not include the department's subrecipients in its Title VI Implementation Plan updates. Results of

follow-up testwork indicate that the department is now obtaining information on subrecipients' Title VI compliance and is using that information in the preparation of the department's plan.

Reports issued during fiscal year **2003** contain no findings addressing violations of Title VI.

Reports issued during fiscal year **2004** contain the following finding.

- The Department of Children's Services performance audit dated November 2003, noted that the department did not have a policy to delineate Title VI complaint handling. In the follow-up, department management said they had created an office of EEO/Title VI, selected a director, and interviewed potential staff. The department also said that the director wrote a draft Title VI complaint process policy to submit to the departmental policy coordinator for approval and implementation. Staff of the office will track complaints and diversity of agency employees and use the information for necessary corrective action.

Reports issued during fiscal year **2005** contain no findings addressing violations of Title VI.

Reports issued during fiscal year **2006** contain the following findings.

- The February 2006 financial and compliance audit of the Tennessee Regulatory Authority contained a finding that the June 30, 2003, Title VI compliance report and implementation plan was not submitted as required, and the June 30, 2004, report was submitted 58 days after the due date.
- The April 2006 performance audit of the Department of General Services includes the finding that the department is not sufficiently monitoring its own activities and federal surplus property donees for compliance with Title VI.
- The financial and compliance audit report of the Tennessee State Veterans' Homes Board, released May 2006, includes the finding that the board failed to submit a Title VI plan in a timely manner.

Appendix A

Submission Dates of Title VI Implementation Plans

<u>State Entity</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>	<u>FY 02 Plan Submitted</u>	<u>FY 03 Plan Submitted</u>	<u>FY 04 Plan Submitted</u>	<u>FY 05 Plan Submitted</u>	<u>FY 06 Plan Submitted</u>	<u>FY 07 Plan Submitted</u>
Administrative Office of the Courts	06/29/99	06/30/00	07/02/01	07/15/02	06/20/03	06/21/04	06/28/05	06/22/06
Alcoholic Beverage Commission	07/08/99	06/30/00	10/01/04	10/01/04	04/11/05	09/29/04	No Plan	05/31/06
Arts Commission	06/30/99	06/30/00	06/29/01	06/27/02	06/30/03	06/30/04	06/30/05	06/29/06
Board of Probation and Parole	NA	06/30/00 Rev. 08/18/00	06/29/01 Phase 1	06/27/02	06/30/03	06/30/04	06/30/05	06/29/06
Commission on Aging and Disability	06/30/99	07/03/00	07/13/01	07/08/02	No Plan	07/28/04	09/21/05	06/30/06
Commission on Children and Youth	06/29/99	07/18/00	06/27/01	06/27/02	06/27/03	06/30/04	06/29/05	06/15/06
Council of Juvenile and Family Court Judges ¹	06/29/99	07/18/00	06/27/01	06/26/02	06/27/03	06/30/04	06/29/05	06/15/06
Department of Agriculture	06/30/99	07/03/00	07/01/01	08/25/03	08/25/03	09/15/04	09/15/05	08/02/06
Department of Commerce and Insurance	06/24/99	06/29/00	07/05/01 letter stating plan is same as '98 plan	06/21/02	06/25/03	06/28/04	06/23/05	07/3/06
Department of Children's Services	06/30/99	06/29/00	06/29/01	06/26/02	06/30/03	06/30/04	06/30/05	06/30/06 Rev. 08/11/06

¹ Covered by Commission on Children and Youth plan.

Submission Dates of Title VI Implementation Plans (cont.)

<u>State Entity</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>	<u>FY 02 Plan Submitted</u>	<u>FY 03 Plan Submitted</u>	<u>FY 04 Plan Submitted</u>	<u>FY 05 Plan Submitted</u>	<u>FY 06 Plan Submitted</u>	<u>FY 07 Plan Submitted</u>
Department of Correction	06/30/99	06/29/00	06/29/01	07/15/02	06/30/03	06/30/04	07/01/05	06/30/06
Department of Econ. and Community Development	06/30/99	06/29/00	06/29/01	06/28/02	07/01/03	06/30/04	06/29/05	06/30/06
Department of Education	06/29/99	06/30/00	06/29/01 Rev. 07/03/01	07/26/02	06/27/03	06/30/04	07/06/05	06/30/06
Department of Employment Security	06/30/99	Merged with Department of Labor						
Department of Environment and Conservation	06/30/99	06/30/00	6/29/01	06/28/02	06/30/03	06/30/04	06/30/05	06/30/06
Department of Finance and Administration	06/30/99	06/30/00	06/29/01	08/21/02	No Plan Submitted	06/30/04	07/07/05	06/30/06
Department of General Services	06/29/99	06/30/00	06/29/01	06/28/02	06/30/03	07/02/04	06/30/05	06/29/06
Department of Health	06/30/99	06/29/00	06/28/01	06/28/02	07/01/03	06/30/04	06/29/05	06/27/06
Department of Human Services	06/30/99	06/28/00	06/28/01	06/28/02	06/30/03	06/30/04	06/30/05	08/15/06
Department of Mental Health and Developmental Disabilities	06/30/98	06/30/99	07/02/01	06/28/02	No Plan Received	06/30/04	06/30/05	06/30/06
Department of Labor and Workforce Development	06/30/99	06/20/00	06/26/01	06/27/02	06/24/03	06/04/04	09/30/05	06/30/06

Submission Dates of Title VI Implementation Plans (cont.)

<u>State Entity</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>	<u>FY 02 Plan Submitted</u>	<u>FY 03 Plan Submitted</u>	<u>FY 04 Plan Submitted</u>	<u>FY 05 Plan Submitted</u>	<u>FY 06 Plan Submitted</u>	<u>FY 07 Plan Submitted</u>
Department of Revenue	06/30/99	06/30/00	06/29/01	06/26/02	07/23/03	07/01/04	06/28/05	06/28/06
Department of Safety	06/28/99	06/29/00	07/02/01	07/22/02	10/22/03	06/29/04	07/07/05	06/30/06
Department of State	06/30/99	06/30/00	06/28/01	06/26/02	06/27/03	06/30/04	06/30/05	06/29/06
District Attorneys General Conference	02/23/00	06/30/00	07/02/01	06/27/02	06/27/03	06/29/04	06/30/05	06/29/06
District Public Defenders Conference	07/02/99	06/29/00	06/28/01	06/27/02	No Plan	06/30/04	06/30/05	06/28/06
Military Department	06/30/99	06/30/00	06/29/01	10/21/02	07/02/03	08/04/04	07/01/05	06/29/06
Tennessee Board of Regents	06/30/99	06/30/00	07/02/01	07/31/02	06/30/03	07/02/04	06/28/05	08/30/06
Tennessee Bureau of Investigation	06/24/99	06/08/00	06/20/01	06/28/02	06/30/03	06/29/04	06/29/05	06/30/06
Tennessee Higher Education Commission	07/01/99	06/30/00	07/02/01	06/27/02	06/30/03	06/30/04	06/30/05	06/30/06
Tennessee Housing Development Agency	07/01/99	06/29/00	06/29/01	06/27/02	06/27/03	06/29/04	06/29/05	06/29/06
Tennessee Human Rights Commission	06/30/99	06/29/00	06/28/01	06/28/02	06/27/03	06/30/04	07/26/05	06/30/06
Tennessee Regulatory Authority	06/30/99	06/30/00	06/29/01	07/15/02	No Plan Received	08/28/04	06/30/05	06/30/06
Tennessee Student Assistance Corpor.	07/01/99	06/30/00	06/29/01	06/28/02	06/30/03	06/30/04	06/30/05	06/28/06

Submission Dates of Title VI Implementation Plans (cont.)

<u>State Entity</u>	<u>FY 00 Plan Submitted</u>	<u>FY 01 Plan Submitted</u>	<u>FY 02 Plan Submitted</u>	<u>FY 03 Plan Submitted</u>	<u>FY 04 Plan Submitted</u>	<u>FY 05 Plan Submitted</u>	<u>FY 06 Plan Submitted</u>	<u>FY 07 Plan Submitted</u>
Tennessee Wildlife Resources Agency	06/30/99	06/29/00	06/29/01	06/27/02	06/30/03	06/28/04	06/21/05	06/23/06
Department of Transportation	06/30/99	06/30/00 Rev. 07/10/00	06/29/01	06/28/02	06/30/03	06/30/04	06/30/05	06/30/06
Department of the Treasury	07/01/99	06/30/00 Rev. 08/29/00	09/20/01	06/28/02	09/09/03	06/30/04	06/30/05	07/28/06
University of Tennessee	06/14/99	06/14/00 Revised 7/24/00	10/26/01 Revised 9/28/01	07/12/02	07/15/03	07/06/04	07/20/05	08/01/06
Department of Veterans' Affairs	06/22/99	06/29/00	06/27/01	06/25/02	06/27/03	06/22/04	06/30/05	07/13/06
Tennessee State Veterans' Homes' Board	No Plan Submitted	06/29/05	06/30/06					

Appendix B
Agencies Not Subject to Title VI Requirements

The following agencies reported they have no federal funds and are not subject to Title VI requirements:

- Fiscal Review Committee
- Office of the Attorney General and Reporter
- Office of the Comptroller of the Treasury
- Tennessee Corrections Institute
- Department of Personnel
- Department of Financial Institutions
- Office of Legislative Administration
- Department of Tourist Development
- Executive Department
- Health Services and Development Agency
- Tennessee Advisory Commission on Intergovernmental Relations

Appendix C
Title VI Complaints Reported for Fiscal Years 2002-2006
(Agencies Not Listed Did Not Report Any Complaints)

<u>State Entity</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>	<u>FY 05</u>	<u>FY 06</u>
Administrative Office of the Courts	0	0	0	0	1
Arts Commission	0	0	0	0	1
Board of Probation and Parole	0	0	0	1	0
Commission on Children and Youth	0	0	1	0	0
Department of Children's Services	0	0	1	6	0
Department of Education	0	3	1	0	11
Department of Environment and Conservation	0	0	0	2	0
Department of Fin. and Admin. (TennCare)	0	0	0	2	2
Department of Health	0	0	3	6	5
Department of Human Services	12	10	11	10	4
Department of Labor and Workforce Develop.	0	2	1	0	0
Dept. of Mental Health and Develop. Disab.	0	0	3	0	0
Tennessee Board of Regents	3	5	8	5	5
University of Tennessee	9	4	0	4	0