

Implementation Plan Updates for Title VI of the Federal Civil Rights Act

July 2019

CPE

KENTUCKY COUNCIL
ON POSTSECONDARY EDUCATION

An Equal Opportunity Employer

**COUNCIL ON POSTSECONDARY EDUCATION
TITLE VI
IMPLEMENTATION PLAN EXECUTIVE SUMMARY**

JULY 1, 2019

- (1) GLOSSARY/DEFINITIONNo Change**
- (2) OVERVIEW UPDATED**
- (3) SCOPE OF TITLE VI APPLICABILITY TO
PROGRAMS AND ACTIVITIESNo Change**
- (4) RESPONSIBLE OFFICIAL UPDATED**
- (5) STATEMENT OF ASSURANCES UPDATED**
- (6) IDENTIFY PROGRAMS
OR ACTIVITIES SUBJECT TO TITLE VI UPDATED**
- (7) COMPLAINT PROCEDURESNo Change**
- (8) COMPLIANCE/NONCOMPLIANCE REPORTINGNo Change**
- (9) AGENCY TRAINING PLANNo Change**
- (10) EVALUATION PROCEDURES OF TITLE VI PLANNo Change**
- (11) PUBLIC NOTICE AND OUTREACHNo Change**
- (12) RECORDKEEPING AND REPORTINGNo Change**
- (13) MINORITY REPRESENTATION ON AGENCY BOARD UPDATED**
- (14) APPENDICESNo Change**

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(1) GLOSSARY/DEFINITIONS

“Beneficiary or recipient” means the individual or organization for whom federal funds are intended.

“CPE” means the Kentucky Council on Postsecondary Education.

“Implementation plan” means the Title VI implementation plan developed and maintained by the CPE to ensure compliance with 42 U. S. C. § 2000d et. seq., 34 C.F.R. § 100, KRS 344.015, and 45 KAR 1:080.

“Limited English Proficiency (LEP)” means where a participant in a program or service offered or operated by the Council lacks the ability to participate in or benefit from that service because of an inability to read English or to understand English.

“Title VI Compliance Officer” means the CPE employee designated by the President to coordinate all Title VI activities of the CPE.

(2) OVERVIEW

This implementation plan describes how the Kentucky Council on Postsecondary Education (CPE) will comply with Title VI of the Civil Rights Act of 1964 and how it will respond to complaints of discrimination based on race, color, or national origin.

The CPE serves as the representative agency of the Commonwealth in matters of higher education. The CPE administers two direct federal grant programs (Improving Educator Quality, and Kentucky Adult Education), two pass through federal grants within Kentucky Adult Education¹ and a pass through federal grant from the Kentucky Center for Education and Workforce Statistics, and a pass through from the Workforce Education .

(3) SCOPE OF TITLE VI APPLICABILITY TO PROGRAMS AND ACTIVITIES

The CPE affords all individuals the opportunity to benefit from programs administered by the agency and that receive federal funds.

A. Title VI of the Civil Rights Act of 1964 (42 U. S. C. § 2000d) provides:

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.

B. 34 C.F.R. § 100.1, 100.2, and 100.3 implement the provisions of the federal statute.

¹ Effective December 16, 2018, Kentucky Adult Education was reorganized into the Education and Workforce Development Cabinet via Executive Order (2019-027). This reorganization was codified in the 2019 Regular Session (HB 392).

C. KRS 344.015 § 1(2) states:

Each state agency shall:

- (a) Develop a Title VI implementation plan by January 1, 1995. If required by Title VI or regulations promulgated there under, the implementation plan shall:
 - 1. Be developed with the participation of protected beneficiaries; and
 - 2. Include Title VI implementation plans of any sub-recipients of federal funds through the state agency;
 - 3. Submit a copy of the implementation plan to the Auditor of Public Accounts and the Human Rights Commission; and
- (b) Submit annual Title VI compliance reports and any implementation plan updates to the Auditor of Public Accounts and Human Rights Commission by July 1, 1995, and each July 1 thereafter.

The federal statute codified as 42 U. S. C. § 2000d, and the state statute KRS 344.015(2) provide the authority for the development of this plan and describe the extent of the authority.

D. 45 KAR 1:080 sets out the standards for Title VI reporting.

E. The Council's Title VI plan complies with the provisions of Executive Order 13166, August 11, 2000, Improving Access to Services for Persons with Limited English Proficiency.

Title VI applies to federal programs administered by the Council. These are as follows:

Improving Educator Quality; Kentucky Adult Education (primary and pass through), GEARUP Kentucky, Kentucky Center for Education and Workforce Statistics (pass through)

Title VI applies to discriminatory acts based on race, color or national origin and specifically prohibits the exclusion of individuals or groups from participation in, or enjoying the benefits of, federal programs. Title VI does not provide relief for discrimination based on age, sex, disability, geographic location, or wealth.

The Committee on Equal Opportunities (CEO) was created to advise the Council on Postsecondary Education on Title VI issues, including planning and evaluation related to the public postsecondary education institutions. The Council will provide the CEO with a copy of this plan, audit findings relative to the Council's performance under this plan. The review by CEO will be part of the annual plan evaluation.

(4) RESPONSIBLE OFFICIAL

The President of the Council on Postsecondary Education has overall responsibility for compliance with the provisions of Title VI. Day-to-day responsibility is assigned to the General Counsel and Vice President. Inquiries related to compliance activities should be directed to:

Travis Powell, Vice President and General Counsel
Kentucky Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort, Kentucky 40601
Phone: 502/892-3054

The amount of staff time and the budgetary resources committed by the Council to ensure compliance with Title VI are restricted due to the limited nature of federal programs operated by the agency.

(5) STATEMENT OF ASSURANCES

The CPE complies with the provisions of Title VI of the Civil Rights Act of 1964, 42 U. S. C. 2000d, the requirements of KRS 344.015 in regard to federal programs, and Executive Order 13166, August 11, 2000, Improving Access to Services for Persons With Limited English Proficiency.

Sub-recipients of the Improving Educator Quality grants are institutions of higher education who already are required to have Title VI implementation plans in place.

Sub-recipients of the Kentucky Adult Education program either must stipulate in writing, as a condition of acceptance of the federal grant, that they adopt the Title VI Plan of the CPE, or certify compliance with their own Title VI Plan. In many instances sub-recipients of Kentucky Adult Education are local school districts or higher education institutions who already are required to have Title VI implementation plans in place.

If the sub-recipient of a federal program sponsored by the Council on Postsecondary Education follows a locally developed plan, the sub-recipient is made aware that their Title VI plan must be available for review, and that the name of the responsible agency official is identified.

The Improving Educator Quality (closed fall 2018) programs are located on university campuses or affiliated with local education agencies (LEA's) which have access to interpretation facilities. The Adult Education program has a bilingual staff person in their Frankfort office and a list of interpreters in multiple languages across the state furnished by the Department of Community-based Services.

The CPE is a pass through recipient of the Commonwealth of Kentucky Center for Education and Workforce Statistics, Commonwealth of Kentucky Department of Community Based Services, and

Commonwealth of Kentucky Department of Education's Office of Career and Technical Education pass through federal grants and thus complies with the Title VI provisions as the receiving agency. The Council does not have sub-recipients under these federal pass through funds.

(6) PROGRAMS SUBJECT TO TITLE VI

Federal programs administered by CPE which fall under Title VI are as follows:

Improving Educator Quality; Kentucky Adult Education (primary and pass through), Commonwealth of Kentucky Center for Education and Workforce Statistics, Commonwealth of Kentucky Department of Community Based Services, and Commonwealth of Kentucky Department of Education's Office of Career and Technical pass through grants.

Improving Educator Quality

The Council on Postsecondary Education managed and administered the Improving Educator Quality grant, authorized by the No Child Left Behind Act of 2001, since 2002. The program awarded competitive grants to partnerships that deliver research-based professional development programs to K-12 teachers. To be eligible, a partnership had to include a postsecondary institution's school of arts and sciences and its teacher preparation program, as well as a high-needs local school district (as defined by the U.S. Census Bureau's poverty statistics). The program enabled states to fund training for teachers and administrators in any core academic subject.

The Improving Educator Quality Program aimed at increasing the academic achievement of all students by helping schools and districts ensure their teachers and administrators were highly qualified. The Improving Educator Quality grants ended and were closed out in the fall of 2018.

GEAR UP KENTUCKY

Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) is a federally-funded college and career readiness program for students in eligible schools as determined by rates of free/reduced price lunch. In September 2018, the U.S. Department of Education awarded the CPE a fourth GEAR UP state grant for \$24,500,000 over seven years to support 23 middle and high schools in 12 Kentucky counties.

Working in collaboration with postsecondary institutions, school districts, business and community organizations, and other partners, GEAR UP Kentucky will serve more than 10,000 students and their families. Following a hybrid approach, the program serves students entering seventh grade in the fall of 2019 and 2020, and will continue services such as academic advising, summer enrichment, career exploration, college campus tours, etc., through 2025. In addition, GEAR UP Kentucky will provide services every year to twelfth graders in participating high schools continuing through their first year of college.

Kentucky Adult Education

Kentucky Adult Education is a unit of the Kentucky Council on Postsecondary Education. The Council receives federal funding from Title II Adult Education and Family Literacy Act, U.S. Department of Education, pass through U.S. Department of Agriculture federal funds from the Kentucky Department of Community Based Services (DCBS), and pass through U.S. Department of Education federal funds from the Kentucky Department of Education, Office of Career and Technical Education.

1. Kentucky Adult Education contracts with a diverse provider network, including local school boards, Community and Technical Colleges, community based organizations, postsecondary institutions, in all 120 counties using a competitive grant application process. The overall initiative of Kentucky Adult Education is to develop strategies to increase adequate levels of literacy in the state, develop a twenty-year plan for improving adult education, serve as the single state agency for planning for adult education, and coordinate with the various state agencies and the community groups that provide services to adults.
2. DCBS is partnering with KYAE to implement the Paths 2 Promise programs detailed in the Supplemental Nutrition Assistance Program (SNAP) Employment and Training (E&T) pilot project grant. Paths 2 Promise is a regional SNAP E&T pilot initiative that will increase employment and earnings and reduce dependency on public assistance for SNAP work registrants in the rural Promise Zone region of Eastern Kentucky. Funds will be distributed using a needs-based formula primarily to eight of the KYAE local programs.
3. Kentucky Department of Education, Office of Career and Technical Education is partnering with KYAE to be a sub-recipient of funds which are used to support the local adult education instructors in integrating employability skills by contextualizing academic instruction to better equip adult students for transition to work or to improve performance at work. These funds will build diversity of services and credentials offered in adult education programs.

The direct beneficiaries of adult education funds are the providers in each of the 120 counties who administer the programs on behalf of an adult population that seeks literacy training, GED services, and workforce training. Indirectly, the participants in those activities are the beneficiaries.

Kentucky Center for Education and Workforce Statistics pass through grants

Kentucky for Education and Workforce Statistics (KCEWS) receives U.S. Department of Education federal funds and serves as the key partner and fiscal agent for the grant, with the majority of funding supporting KCEWS, formerly called the P-20 Data Collaborative. KCEWS is a distinct entity housed within the Kentucky Education and Workforce Development Cabinet tasked with the development, maintenance, and utilization of the Kentucky Longitudinal Data System (KLDS). The CPE is partner agency receiving pass through funds to primarily pay for salary, fringe, and/or contractor expenses towards the development, design, and policy research under the following grants.

1. Expanding Access to and Alignment of Education and Workforce Data to Inform Policy and Practice.”

(KCEWS) receives U.S. Department of Education, Institute of Education Sciences federal funds for the project “Expanding Access to and Alignment of Education and Workforce Data

to Inform Policy and Practice.” This project builds upon our effective use and delivery of education and workforce data to assist policy makers and practitioners in carrying out research to inform state education and policy and practice and ultimately, improve education and workforce outcomes. This project has two primary goals: 1) use the KLDS to assess students’ college and career readiness and track educational and workforce outcomes over time and across states, and 2) improve the ability of the EWDC, Council on Postsecondary Education (The Council), Education Professional Standards Board (EPSB), Department of Workforce Investment (DWI), and other state and local partners to conduct high-quality research and program evaluations.

(7) COMPLAINT PROCEDURES

A. Filing of Complaints

Complaints alleging discrimination under Title VI of the Civil Rights Act of 1964 may be filed with the Assistant Vice President for Agency Operations as the Title VI compliance officer using the forms attached in the Appendix (Section 14). Upon receipt of a written complaint, the compliance officer shall review the complaint and shall file, within seven (7) days, a concise statement to the President of the nature of the complaint and the steps to be taken by the agency to investigate or resolve the complaint.

If an individual refuses to submit a written complaint, the compliance officer shall record the information orally from the individual and shall provide a copy to the individual with a request that the complainant confirms the information.

B. Who May File

A complaint may be filed by anyone who believes that the CPE has discriminated against a participant, beneficiary, or a class of beneficiaries on the basis of race, color, or national origin.

The CPE will act on a complaint by any individual, provided that no final action will be taken by the CPE unless the ultimate beneficiary or participant acknowledges the substance of the complaint in writing. If the agency’s Title VI compliance officer determines independently that a violation of Title VI has occurred then final action may be taken by the CPE without verification by the ultimate beneficiary or participant.

C. Time Period for Filing

Complaints must be filed within one hundred eighty (180) days of the activity that prompts filing of the complaint.

D. Required Action by the CPE

Upon receipt of the complaint by an individual or at the time the compliance officer becomes independently aware of actions that may constitute a violation of Title VI, the compliance officer shall investigate and recommend specific actions to resolve the complaint within forty-five (45) days. The compliance officer shall file a report to the President within that period.

The complainant shall be notified in writing of the results of the investigation and any actions taken.

The CPE shall attempt to maintain the confidentiality of the complaint and the name of the complainant.

The President shall implement corrective actions within forty-five (45) days of receipt and acceptance of a final report by the compliance officer.

E. Withdrawal of a complaint.

The complainant may withdraw his/her complaint at any time during the process by notifying in writing the office where the complaint was first filed or the Title VI Compliance Officer.

F. Appeals.

(a) An individual may appeal a decision of a decision made at the local level regarding a complaint by filing the appeal with the agency's General Counsel at the CPE office in Frankfort. This appeal opportunity constitutes the second, and last, level in the agency's internal complaint system.

(b) When an appeal is filed, the Title VI Compliance Officer will inform the CPE President/or designee of the appeal. The president, within seven (7) days following notification shall designate a person to review the case and make a finding. Procedures can include, but are not limited to, discussing the complaint with the complainant, the alleged offender, and the initial reviewer, to determine the facts. The appeals investigation shall be conducted within forty-five (45) days. A written report shall be filed by the General Counsel with the president, and a copy of the findings will be sent to the Local Coordinator where the complaint originated. The complainant will then be informed of the findings, and of any action to be taken.

(8) COMPLIANCE/NONCOMPLIANCE REPORTING

A. Regulate, Monitor, Review, and Report

Annually, the Title VI Compliance Officer will accumulate all Title VI complaints filed during the year for each federal program and will report those to the president of the Council, to each program coordinator who manages one of the federal programs, and the Committee on Equal Opportunities (CEO). The report shall include a summary of the complaint, a

description of the process used to evaluate the complaint, the findings, and of actions implemented to correct deficiencies.

B. Identify Actions Taken

The CPE, upon notification of a complaint by any party including the grant sub-recipient, or upon becoming aware of any violation through compliance efforts, shall attempt to secure voluntary compliance with Title VI. For every complaint filed with the Council on Postsecondary Education, the Title VI Compliance Officer shall compile a summary of the agency's actions, including information related to processing, reporting, resolution, enforcement of corrective actions, and monitoring of future actions to ensure compliance.

In the event that the agency does not secure voluntary compliance within a reasonable period of time, the CPE Title VI Compliance Officer will notify the President in writing, of the recommended corrective actions to be taken.

C. Implementation of Corrective Actions

The President/or designee will act within thirty (30) days after receipt of a recommendation by the Title VI Compliance Officer to implement a corrective action.

The complainant shall be notified in writing by the President or the Title VI Compliance Officer of the resolution of a complaint. A statement of corrective action shall include specific statements of actions to be taken or prohibited actions and shall include a timetable for implementation.

Employees or grant sub-recipients who refuse to voluntarily comply with Title VI or to take corrective actions required by CPE may face disciplinary action, or in the case of grant sub-recipients, may face termination or suspension of the grant.

(9) TRAINING

The Title VI implementation plan has been disseminated to all the CPE employees involved in federal programs along with complaint procedures. All new employees are made aware of the Title VI plan and the complaint procedures.

Sub-recipients of grants administered by the CPE are notified of the Title VI implementation plan and complaint procedures at the time of the grant award.

The Title VI Compliance Officer annually meets with federal grant program coordinators to ensure awareness of the terms of the agency's Title VI plan, and notification to sub-recipients.

(10) EVALUATION PROCEDURES

A. Goals

The Council is an equal opportunity employer, seeking to encourage broad representation of minorities and women in the workplace. Employment goals are established as part of the state affirmative action plan. The Council monitors the number of minorities who are employed by the Council and maintains statistical information by EEOC category. Annually, the Title VI Compliance Officer provides to the president of the Council, and to the Committee on Equal Opportunities (CEO) statistical data on employment at the agency. A summary of this information is also provided to the Auditor of Public Accounts and the Kentucky Human Rights Commission as part of the Implementation Plan. The report includes the total number of employees in each EEOC category, the number of women, and the number of minorities.

B. Plan Deficiencies, Updates and Corrective Procedures.

The CPE will annually review the Title VI Plan and provide updates, corrections or changes to the Auditor of Public Accounts and the Kentucky Human Rights Commission by July 1 of each year.

The Council will summarize and report annually on all complaints received under Title VI and will provide that information to the president of the CPE.

The Council may request and review data from sub recipients on beneficiaries participation in federal programs to ensure they are open to individuals regardless of race, color, or national origin.

The Council annually will provide the Committee on Equal Opportunities with a copy of the Title VI Implementation Plan Update.

(11) PUBLIC NOTICE AND OUTREACH

Two groups of people receive notification: 1) agency employees involved in federal programs receive a copy of the implementation plan and the complaint procedures; and, 2) sub-recipients of grants administered by the CPE are notified of Title VI requirements at the time of the grant award, including the nondiscrimination policy, and of programs and services.

The agency contact person and the procedures for filing complaints are provided to each sub-recipient; the Title VI Compliance Officer is identified in Section 4 of this plan.

The Council will make sub-recipients aware of the provisions of Executive Order 13166, August 11, 2000, and of the need to make programs and services available to individual participants with Limited English Proficiency (LEP).

The Council maintains data on participants in the GEAR UP Kentucky grant programs and is able to identify geographic areas where LEP services may be needed. GEAR UP Kentucky will provide written materials to sub-grantees requesting assistance for LEP individuals and work with individual partners where other services such as interpreters are required.

The Council will monitor the number of requests it receives to ensure that it is aware of and addresses the needs of participants.

The Kentucky Adult Education and Improving Educator Quality offices have interpreters available as needed. Sub-grantee higher education institutions also provide these services.

(12) RECORDKEEPING AND REPORTING

A. Complaints

- (a) The compliance officer will maintain a log of all complaints filed with the CPE.
- (b) Grant personnel will certify annually that all sub-recipients have been notified of the Title VI implementation plan and complaint procedures.
- (c) The compliance officer will maintain copies of complaint forms and will ensure that they are available for use.

B. Reporting

- (a) Changes in the Title VI implementation plan will be provided to appropriate employees and sub-recipients as changes are made.
- (b) Changes in the Title VI implementation plan will be forwarded to the State Auditor as changes are made.
- (d) CPE will maintain records of all sub recipients. Upon request, sub recipients shall provide data showing the extent to which members of protected parties are participating in the Title VI programs and activities.

(13) MINORITY REPRESENTATION ON AGENCY BOARD AND STAFF

Pursuant to KRS 164.011, a board appointed by the Governor of the Commonwealth, governs CPE. The Council consists of 15 members appointed by the Governor, with a sixteenth member, the chief state school officer as an ex officio non-voting member.

The President is appointed by the Council and serves as the chief operating officer. The staff of the CPE serves at the pleasure of the President. There is one advisory board, the Committee on Equal

Opportunities, originally created by executive order and charged with monitoring and evaluating the universities' and the KCTCS' equal opportunity and diversity efforts.

A. Representation on Board

Of the current Council board (zero (0) positions are vacant) the appointed membership 2.0 are African-American, 1.0 is Asian, 1.0 is Hispanic, and 11.0 are Caucasian. Of the current membership 8.0 are men and 7.0 are women. The statute regulating the appointment of members calls for equal representation by gender, and states that membership by race shall be proportional to the general population. The Governor's Office and the Postsecondary Education Nominating Committee are aware of the statutory requirements and maintain a matrix of the requirements compared to the existing appointments.

The Committee on Equal Opportunities assists the Council on Postsecondary Education, while directly interfacing with the postsecondary education institutions on issues related to Title VI and diversity.

B. Deficiencies

The Governor's Office controls appointments to the board and is aware of the current composition, the statutory requirements for appointments, and the current characteristics of board members.

C. Agency Staff

The Council currently employs 59 people. Of these, 10 are African-American, and 49 are Caucasian. There are 40 women and 19 men employed.

APPENDICES

Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort, Kentucky 40601-8204
Telephone: (502) 573-1555
Fax: (502) 573-1535

**Complaint under Title VI
The Civil Rights Act of 1964**

To Title VI Coordinator:

I, _____, hereby file an official complaint
against

located at

Name of Persons or Agency

Date of alleged discrimination:

Complainant's name:

Complainant's address:

Complainant's telephone number: _____

Basis of complaint (use back of sheet for complaint explanation):

Signed: _____

Date: _____

Council on Postsecondary Education
1024 Capital Center Drive, Suite 320
Frankfort, Kentucky 40601-8204
Telephone: (502) 573-1555
Fax: (502) 573-1535

Report of Investigation

I, _____, representing the Council on Postsecondary Education,
Title VI Coordinator

have investigated the complaint filed on _____ by

_____ Date Name of Complainant

alleging that discrimination occurred which was in violation of the provisions of Title VI of the Federal Civil Rights Act.

The results of the investigation were as follows:

- ___ A. The agency or person was found to be in violation of Title VI.
- ___ B. The agency or person was not found to be in violation of Title VI.
- ___ C. The complainant withdrew the complaint.

A copy of the investigative report is attached.

Withdrawal of Complaint (if applicable) _____

If the agency or person was found to be in violation of Title VI, a brief description of the remedial action taken to assure future compliance follows:

Signed: _____

Date: _____