



## U.S. Department of Justice

### Civil Rights Division

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Assistant Attorney General  
950 Pennsylvania Ave, NW - RFK  
Washington, DC 20530

#### MEMORANDUM

**TO:** Federal Agency Civil Rights Directors and General Counsels

**FROM:** The Office of the Assistant Attorney General

**SUBJECT:** Clearance Requirements for Title VI, Title IX, Section 504, and Related  
Nondiscrimination Regulations and Policy Guidance Documents

**Executive Order 12250.** Under Executive Order 12250, the Department of Justice (DOJ) is charged with ensuring the consistent and effective implementation of federal civil rights laws “prohibiting discriminatory practices in Federal programs and programs receiving Federal financial assistance.” Exec. Order No. 12250, *Leadership and Coordination of Nondiscrimination Laws*, reprinted at 45 Fed. Reg. 72,995 (Nov. 4, 1980).<sup>1</sup> The Executive Order 12250 clearance process governs the issuance, amendment, and rescission of civil rights regulations and policy documents addressing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and other related nondiscrimination laws.

**Distinction from OMB Review.** Document clearance is a critical and longstanding component of this EO 12250 mandate and is separate and apart from the Office of Management and Budget (OMB) regulatory planning and review process, including OMB’s interagency review. Executive Order 12250 review occurs before a draft regulatory action is submitted to OMB for review. Where changes have been made during the OMB review to language previously approved by the Division, agencies must notify the Division to determine whether additional EO 12250 review is required prior to publication in the Federal Register. Agencies are strongly encouraged to contact the Civil Rights Division early in the process of developing or modifying civil rights regulations or guidance, ideally in the drafting stage, in order to receive model

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<sup>1</sup> Under Executive Order 12250, DOJ is charged with coordinating the implementation and enforcement by Executive agencies of various provisions of the following laws: (a) Title VI of the Civil Rights Act of 1964 (prohibiting race, color, and national origin discrimination, which includes the denial of meaningful language access for limited English proficient individuals, in federally funded programs and activities), 42 U.S.C. §2000d *et seq.*; (b) Title IX of the Education Amendments of 1972 (prohibiting sex discrimination in education programs and activities of recipients of federal funds), 20 U.S.C. §1681 *et seq.*; (c) Section 504 of the Rehabilitation Act of 1973 (prohibiting disability discrimination in both federally conducted and federally funded programs and activities), 29 U.S.C. §794; and (d) “any other provision of Federal statutory law which provides, in whole or in part, that no person in the United States shall on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Exec. Order 12250 at §1-201.

language and counsel from the Division. Early coordination with the Division, especially for documents requiring OMB review, generally results in a more efficient OMB process.

**Executive Order 12250 Clearance Requirements.** There are two basic levels of Executive Order 12250 clearance:

**1. The Department of Justice must review and approve regulations implementing Title VI, Title IX, and Section 504.** The Attorney General must approve Federal regulations that effectuate Title VI and Title IX. 42 U.S.C. §2000d-1; 20 U.S.C. §1682; Exec. Order 12250 at §1-1. The Assistant Attorney General for Civil Rights must approve regulations that effectuate Section 504. 28 C.F.R. §41.4(b). These requirements also apply to the portions of regulations that affect Title VI, Title IX, or Section 504 enforcement, but that primarily implement other statutes. For example, if a federal agency drafts a general rule governing administrative complaints, the Executive Order 12250 requirements apply to that rule to the extent it covers Title VI, Title IX, or Section 504 enforcement by that agency.

**2. The Department of Justice may require that some or all regulations implementing the nondiscrimination provisions of laws *other than* Title VI, Title IX, and Section 504 or policy guidance issued under *any* of the laws covered by Executive Order 12250 be “submitted for approval before taking effect.”** Exec. Order 12250 at §1-402. Documents subject to this requirement include regulations issued to effectuate statutes that “provide, in whole or in part, that no person in the United States shall, on the ground of race, color, national origin, handicap, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Exec. Order 12250 at §1-201(d), 1-402. This requirement also applies to policy guidance documents addressing any law covered by Executive Order 12250, whether or not they will be issued for public notice and comment. Exec. Order 12250 at §1-402.

Attached is a one-page summary guide to further support agencies’ accurate and early identification of documents covered by Executive Order 12250 and timely coordination with the Division.

**Civil Rights Division Review.** The Division's Federal Coordination and Compliance Section (FCS) runs a comprehensive program of assistance and oversight to agency civil rights offices on Title VI, Title IX, and related program matters. In addition, the Disability Rights Section (DRS) coordinates the implementation and enforcement of Section 504 and other disability-related matters, and the Educational Opportunities Section (EOS) coordinates assistance on education-related matters. Recognizing that many of your documents may cover multiple statutes, these Sections work closely together to ensure that the Executive Order 12250 clearance process runs as smoothly and effectively as possible. The assigned Section and the agency engage in an iterative process wherein the proposed action is reviewed to ensure adequacy, clarity, and consistency with the existing statute(s), regulations, Executive Orders, and case law. The Sections’ review is informed by their extensive experience providing legal counsel, litigation of referrals from agencies, and its own compliance reviews, investigations, and investigative

assistance to other agencies in the administrative enforcement of the nondiscrimination laws enumerated law in Executive Order 12250 across the Federal government.

With respect to nondiscrimination on the basis of disability, DOJ is in the unique position of having to ensure not only the consistent implementation of Section 504 across the federal government but also parity between Section 504 and the Americans with Disabilities Act (ADA).<sup>2</sup> While not addressed by Executive Order 12250, the authority to issue regulations and technical assistance implementing or interpreting subtitle A of Title II of the ADA is within the exclusive domain<sup>3</sup> of DOJ unless provided otherwise under statute<sup>4</sup> or by express delegation by DOJ. Attached is a memorandum that describes the legal authority of DOJ and other agencies under Title II of the ADA and Section 504, the relationship between these two laws, and DOJ's responsibility for coordination of these statutes among federal agencies. Please ensure the distribution of the two reference documents included with this memorandum to your staff.

**Next steps.** If your agency identifies civil rights regulations or policy guidance documents for possible development, repeal, replacement, or modification, DOJ review and clearance may be required under Executive Order 12250. Please ensure early coordination with FCS, EOS, or DRS regarding these documents for assistance in identifying applicable clearance requirements. Thank you for your continuing efforts to ensure consistent and effective enforcement of Title VI, Title IX, Section 504, and related laws through our close coordination on documents covered by Executive Order 12250.

Please do not hesitate to contact the Civil Rights Division with questions about the Executive Order 12250 clearance process:

- FCS: [christine.stoneman@usdoj.gov](mailto:christine.stoneman@usdoj.gov) and [daria.neal@usdoj.gov](mailto:daria.neal@usdoj.gov);
- EOS: [shaheena.simons@usdoj.gov](mailto:shaheena.simons@usdoj.gov) and [whitney.pellegrino@usdoj.gov](mailto:whitney.pellegrino@usdoj.gov); and
- DRS: [rebecca.bond@usdoj.gov](mailto:rebecca.bond@usdoj.gov) and [christina.galindo-walsh@usdoj.gov](mailto:christina.galindo-walsh@usdoj.gov).

#### Attachments

- One-Page Summary on Executive Order 12250 Clearance
- Memorandum: Coordination of Federal Agencies' Implementation of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act

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<sup>2</sup> See 42 U.S.C. §12134(b); 42 U.S.C. §12201(a); H.R. Rep. 102-822 at 83 (Aug. 10, 1992); S. Rep. 102-357 at 12 (Aug. 3, 1992).

<sup>3</sup> While agencies may not issue such regulations and technical assistance independently, they may do so jointly with the Department.

<sup>4</sup> Section 202 of the Rehabilitation Act provides the Director of the National Institute on Disability and Rehabilitation Research with the responsibility for "coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206)." 29 U.S.C. §762.