

Title VI and Limited English Proficiency

October 2010



42 U.S.C § 2000d, et seq

- “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance.”



Direct Federal Grant Recipients

- Direct recipients required to submit a Title VI program every 3 years.
- The report should address requirements specified in FTA C 4702.1A to ensure grant recipients programs, policies and activities do not discriminate on the basis of race, color, or national origin.



Title VI Applies to “Persons”

- Title VI Protections are not limited to citizens.
- Individuals may file a complaint if they are an intended beneficiary of, an applicant for, or a participant in a Federally assisted program.



Race, Color, National Origin

- **Race:** U.S. Census categories define race
 - Persons of any race are protected classes
- **Color:** Discrimination based on skin color or complexion is prohibited under Title VI
- **National Origin:** Foreign born ancestry.



Lau v Nichols, 1974

- Non-English-speaking students of Chinese origin sued San Francisco School District.
- The Supreme Court ruled that a recipient's failure to ensure meaningful opportunity to national origin minority, LEPs to participate in federally funded programs violates Title VI and Title VI regulations.
- The school was to take reasonable affirmative steps to provide meaningful opportunity to participate in the federaly funded education program.
- Applies beyond education to include all programs and activities of all recipients of federal financial assistance



Program or Activity

- Title VI applies institution-wide, not solely to the recipients operations receiving Federal funding.



Discrimination Prohibitions

- **Disparate Treatment (Intentional Discrimination)**: Actions that result in circumstances where similarly situated persons are treated different because of their race, color, or national origin.
- **Disparate Impact (Unintentional Discrimination)**: The recipient's procedure or practice while neutral on its face has the effect of disproportionately excluding or adversely affecting members of the projected class without substantial legitimate justification.

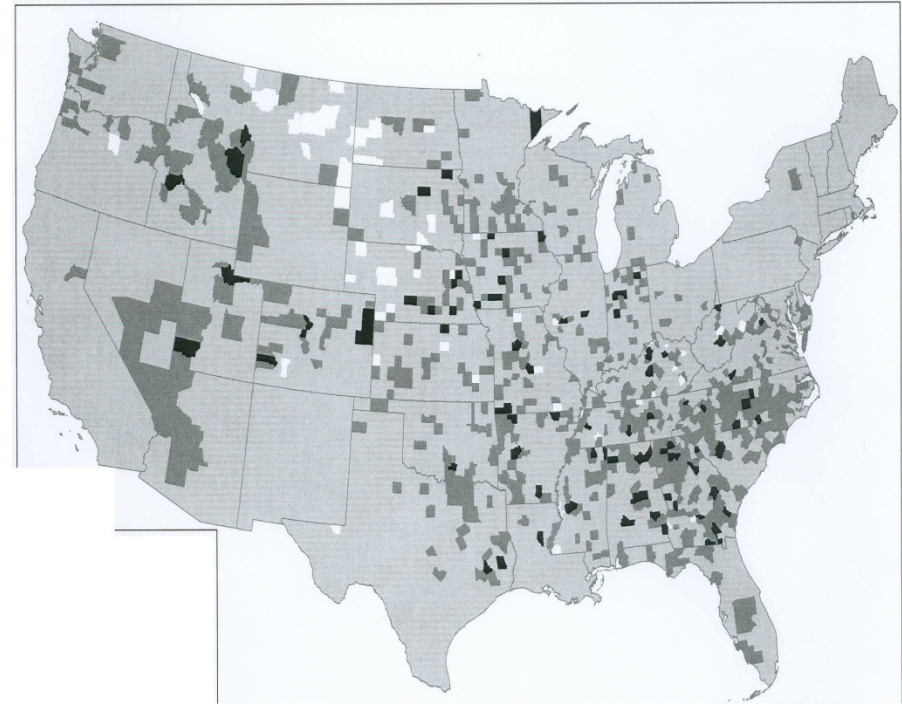
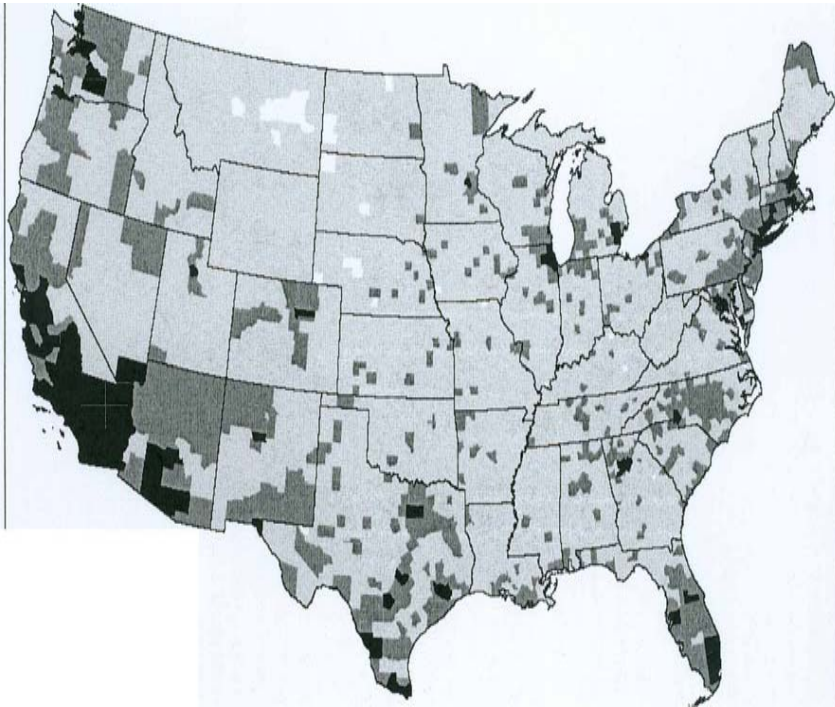


Alexander v. Sandoval

- In 2001, the Supreme Court ruled that plaintiffs can sue under the intentional discrimination provisions in Section 601 of Title VI.
- However, plaintiffs cannot bring suits under the disparate impact regulations promulgated by Federal agencies under Section 602 of Title VI.
- Persons may still file administrative complaints with Federal agencies under the Title VI regulations.



Growth of foreign-born population

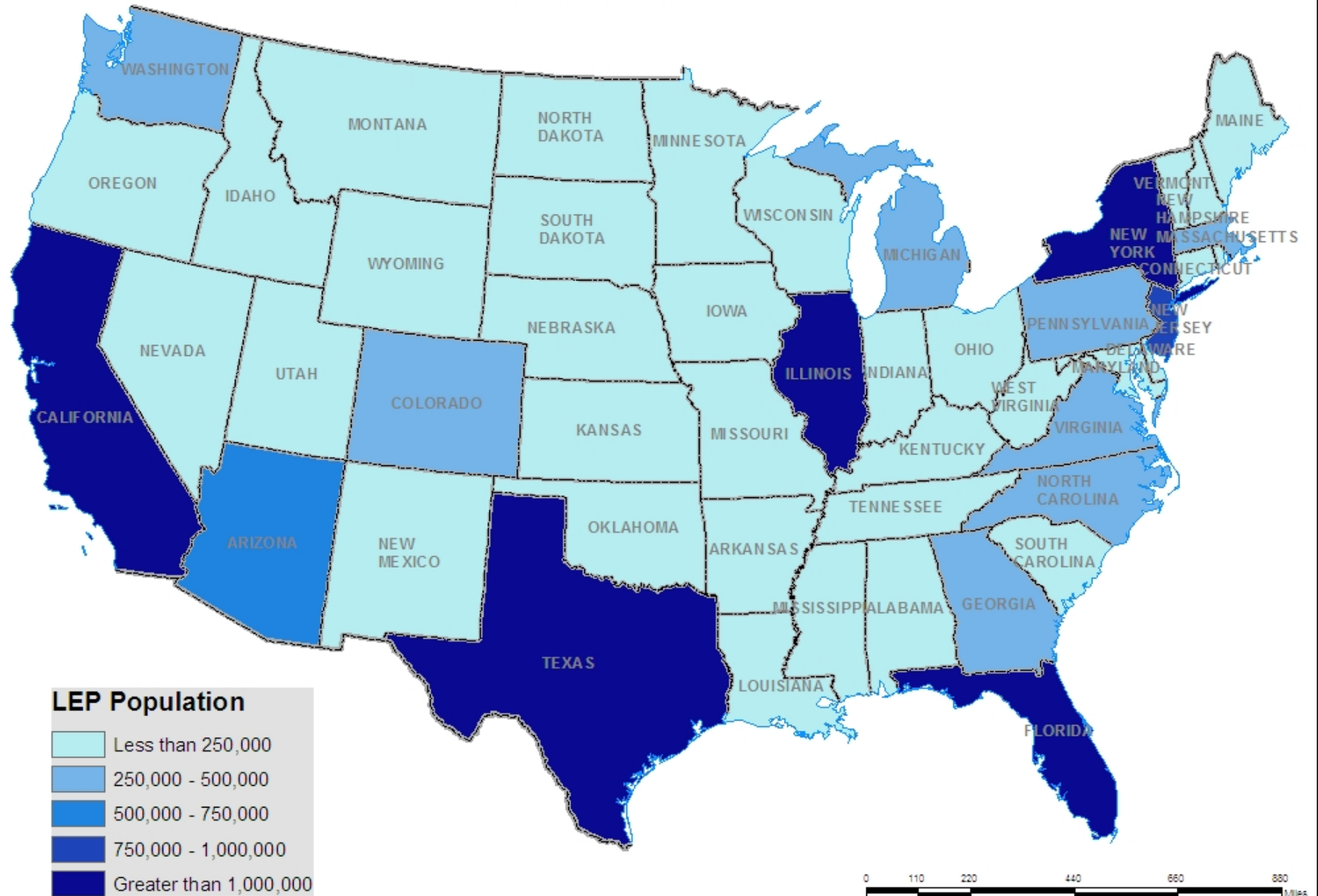


LEP Executive Order 13166

- Signed by Clinton August, 2000
- Assess language needs
- Determine steps to ensure meaningful access for LEPs
- Develop a language access plan or alternative framework
- Failing to ensure LEPs effectively participate in or benefit from federally assisted programs may constitute national origin discrimination



LEP Population By State



Trends in Title VI

- Growth of foreign-born populations.
- Increase in national origin discrimination
- Increase in noncompliance with limited English proficiency requirements.
- Increase in noncompliance with service and fare equity analysis.



Trends in Title VI

- FTA staff developing webinar series on LEP;
- FTA staff providing more technical assistance and oversight around ARRA;
- FTA staff working more closely with New Starts Teams to improve the environmental justice analysis as part of NEPA analysis;
- New oversight program to review & provide technical assistance to 100 Title VI programs nationwide.



New Approach

- Obama Administration taking a stronger position on civil rights
- FTA staff actively monitoring Title VI and EJ
- Developing a working group to create additional guidance
- FTA will be providing more webinars in addition to workshops on Title VI
- New curriculum on Title VI training being developed.

