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MEMORANDUM

To: Title VI Investigator Course Participants

Date: August 10, 2026

Re: Update to Title VI Training Materials Following the U.S. Department of Education's July 24, 2026 Regulatory Changes

Purpose: *This memorandum provides an important legal update concerning references to disparate impact in the course materials contained as part of the Title VI Investigator-Tier 1: Race and Color Discrimination Course instructed on August 10, 2026. It explains the U.S. Department of Education's recent removal of disparate-impact liability from its Title VI regulations, clarifies how the subject will be addressed during the course, and identifies continuing considerations involving intentional discrimination, disparity evidence, other federal requirements, and applicable state law.*

This update is being provided to ensure that the legal instruction in this course reflects the Department of Education's current Title VI enforcement framework even though course materials are in the process of being revised. Some existing training materials reference disparate impact because it has historically been an important component of federal Title VI administrative enforcement and remains relevant to understanding institutional barriers, reviewing outcome data, and identifying facts that may warrant further investigation. However, the Department's July 2026 regulatory action changed the circumstances under which disparate impact may support a Title VI violation. Accordingly, the course will address both the historical doctrine and the recent change so that participants can distinguish prior enforcement standards from current federal requirements, understand the continuing relevance of disparity evidence, and recognize that separate obligations may still arise under state law and other applicable civil-rights authorities.

Although disparate-impact analysis appears in these training materials, participants should understand that the federal regulatory framework governing its use under Title VI has recently changed. Effective July 24, 2026, the U.S. Department of Education issued a final rule, published at 91 Fed. Reg. 46,733, eliminating disparate-impact liability from the Department's regulations implementing Title VI of the Civil Rights Act of 1964. Most notably, the rule removed and reserved 34 C.F.R. § 100.3(b)(2), which had prohibited recipients from using criteria or methods of administration that had the effect of subjecting individuals to discrimination based on race, color, or national origin. The rule also revised the facility-site-selection provision to require a discriminatory "purpose" and removed several provisions addressing affirmative action, employment practices, and illustrative applications. *As a result, the Department has stated that it will not find a recipient in violation of its Title VI regulations solely because a facially neutral policy or practice produces an unintended disproportionate effect on a protected group.*

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This change does not repeal Title VI or diminish the prohibition against intentional discrimination based on race, color, or national origin. Recipients of Department of Education financial assistance remain prohibited from intentionally excluding individuals from participation, denying benefits, providing unequal treatment, or otherwise discriminating in federally assisted programs and activities. Importantly, the elimination of disparate-impact liability does not make statistical disparities or outcome data legally irrelevant. The Department expressly acknowledged that disparate effects and statistical evidence may help identify or prove intentional discrimination when considered with other evidence. The rule also states that it does not alter recipients' obligations to take reasonable steps to eliminate a hostile educational environment, remedy its effects, prevent recurrence, and respond appropriately to racial or national-origin harassment that limits or denies access to an educational program or activity.

Accordingly, this course will distinguish between disparate impact as a former stand-alone theory of administrative liability under the Department of Education's Title VI regulations and the continuing relevance of disparities as an institutional risk indicator, investigative consideration, and potential evidence of intentional discrimination. Coordinators should continue reviewing policies, practices, and outcome data for unexplained disparities, but they should not assume that disparity alone establishes a violation of the Department's current Title VI regulations. This federal regulatory change also does not establish the governing standard under every other civil-rights statute or under state law. The Department stated that the rule does not substantially affect state policymaking discretion; therefore, institutions must separately examine applicable state constitutions, civil-rights statutes, education codes, regulations, funding conditions, and agency directives. The legal significance of disparate effects will depend on the specific law, jurisdiction, enforcement agency, and factual circumstances involved.