



# TENNESSEE HIGHER EDUCATION COMMISSION



## Title VI Compliance Report and Implementation Plan FISCAL YEAR 2019-2020

*“Simple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination.”*

President John F. Kennedy, in his message calling for the enactment of Title VI in 1963.

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## *Period Covered by the Title VI Compliance Report and Implementation Plan*

This implementation plan update for compliance with Title VI of the Civil Rights Act of 1964 covers the period of July 1, 2019 through June 30, 2020. The programs and activities outlined in the report are included within the scope of the implementation plan update. The plan update was developed by the Commission's Title VI Coordinator in cooperation with resource staff and representatives from each of the Commission's program areas. This plan has been approved by the Executive Director of the Commission.

# Overview of the Tennessee Higher Education Commission

The Tennessee Higher Education Commission (THEC or the Commission) is relentlessly focused on increasing the number of Tennesseans with a postsecondary credential. The Commission pursues this goal by innovating for student access and success, creating a policy environment conducive to increased degree attainment, and protecting students and consumers.

The Commission was created in the fall of 1967 by the Tennessee General Assembly, to achieve coordination and foster unity in higher education in this state. The Commission is composed of nine voting members appointed from the general public, each serving six-year terms and representing the three Grand Divisions of the state equally; three constitutional officers (Comptroller of the Treasury, State Treasurer, and Secretary of State) who are ex-officio voting members; one voting student member who serves a one-year term; and the Executive Director of the State Board of Education, as an ex-officio, non-voting member.

The Commission provides leadership in public policy development for higher education in Tennessee, from ensuring fair and equitable funding of the various public institutions to managing growth in a way that ensures the efficiency of state appropriations. A number of policies first implemented by the Commission have been emulated at a statewide level across the country.

The Executive Director of the Commission is the lead agency staff member, or "Department Head." The Executive Director is appointed by the Commission. The agency is divided into five bureaus, each led by a bureau chief reporting directly to the Executive Director. The Internal Auditor also reports directly to the Executive Director, but may independently report to the Commission through the Internal Audit Committee. The designated Title VI Coordinator is currently the agency's Legal and Administrative Specialist, who reports directly to the Deputy General Counsel, who reports directly to the Chief of Staff & General Counsel, who leads the Legal and External Affairs Bureau. A simplified organizational chart of the agency is provided in *Appendix I*.

The Tennessee Higher Education Commission members and staff take seriously the responsibility of ensuring compliance with Title VI as well as other programs to prevent discrimination of any type. The Commission continuously strives to identify initiatives to help meet this responsibility.

## Responsible Officials

The responsible State official charged with ensuring that the agency complies with Title VI is Mike Krause, Executive Director.

The person designated as the Title VI Coordinator is Amber Walsh, Legal and Administrative Specialist.

The policy and procedures outlined in this implementation plan for compliance with Title VI of the Civil Rights Act of 1964 took effect on July 1, 2020 and will be in place through June 30, 2021.

  
MIKE KRAUSE (Sep 21, 2020 11:41 CDT)

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Mike Krause, Executive Director

*Amber Walsh*

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Amber Walsh  
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## Definitions

Assurance – A written statement or contractual agreement signed by the agency head in which a recipient agrees to administer federally assisted programs in compliance with civil rights laws and regulations.

Beneficiaries – Those persons to whom assistance, services, or benefits are ultimately provided. The beneficiaries assisted by the Commission include public and private postsecondary institution students and teachers.

Compliance – The fulfillment of the requirement of Title VI, other applicable laws, implementing regulations and instructions to the extent that no distinctions are made in the delivery of any service or benefit on the basis of race, color or national origin.

Complaint – A verbal or written allegation of discrimination which indicates that any federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups or persons because of race, color or national origin.

Conciliatory Agreement – A voluntary agreement between a federal agency, the state, and a subrecipient, which provides for corrective action by a recipient to eliminate discrimination in any program receiving federal assistance.

Contractor or Vendor – A person or entity that agrees to perform services at a specified price.

Civil Rights Compliance Reviews – Regular systematic inspections of agency programs conducted to determine regulatory compliance with civil rights laws and regulation. Compliance reviews determine compliance and noncompliance in the delivery of benefits and services in federally assisted programs. They identify problems such as denial of full benefits, barriers to participation, difference in treatment, lack of selection to advisory boards and planning committees, lack of information, and denial of the right to file a civil rights complaint. Compliance reviews may be conducted on-site or through desk audits.

Discrimination – To make any distinction between one person or group of persons and others, either intentionally, by neglect, or by the effect of actions or lack of actions based on race, color, or national origin.

Federal Assistance – Any funding, property, or aid provided for the purpose of assisting a beneficiary.

High-need Local Education Agency (LEA):

- (A) 1. that serves not fewer than 10,000 children from families with incomes below the poverty line; or
- 2. for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and
- (B) 1. for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or
- 2. for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

Historically Black Colleges and Universities (HBCUs) – a college or university that was originally founded to educate students of African-American descent.

Minority – A person or group of persons who differs from others in some characteristic(s) and is often subjected to differential treatment on the basis of race, color, or national origin.

Noncompliance – Failure or refusal to comply with Title VI of the Civil Rights Acts of 1964, other applicable civil rights laws, and implementing departmental regulations.

Primary Recipient – Any recipient authorized or required to extend federal financial assistance to another recipient for the purpose of carrying out a program.

Public Notification – Process of publicizing information on the availability of programs, services and benefits to minorities and statements of nondiscrimination. This is attained through use of newspapers, newsletters, periodicals, radio and television, community organizations, and grassroots and special needs directories, brochures, and pamphlets.

Racially Hostile Environment – Harassing conduct (for example, physical, verbal, graphic, or written) that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient of federal funds.

Recipient – Any state (including political subdivisions or instrumentalities of a state), public or private agency, institution, organization, other entity, or individual, to whom federal financial assistance is extended, directly or through another recipient. This definition includes any successor, assign, or transferee thereof, but does not include any ultimate beneficiary under any such program.

Request for Proposals – The document that solicits competitive grant proposals from higher education and non-profit institutions.

## **Non-Discrimination Policy**

The Tennessee Higher Education Commission is committed to the principles outlined in Title VI of the Civil Rights Act of 1964, which states:

No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance.

The Tennessee Higher Education Commission prohibits discrimination in any manner related to institutions, non-profit organizations, or program participants receiving services or benefits under federal or state programs. This information is disseminated to employees through items posted in each break room and copy room, and also through Title VI training opportunities. Additionally, the information is included in all RFP documents issued by this office. Successful project directors must attend a project directors' meeting where Title VI compliance is reinforced.

The Tennessee Higher Education Commission reaffirms its policies and commitment to afford all individuals the same opportunity to participate in federally financially assisted programs in compliance with Title VI of the Civil Rights Act of 1964.

The Tennessee Higher Education Commission, its sub-recipients, and vendors, shall make available any compliance report to be reviewed by the Tennessee Human Rights Commission upon request.

## **Organization of Civil Rights Office**

The ultimate responsibility for enforcing and complying with the provisions of Title VI and this report is vested in the Executive Director of the Tennessee Higher Education Commission. The Executive Director oversees all policy and hiring for the agency.

The individual responsible for developing, reporting, and enforcing Title VI guidelines is Amber Walsh, Legal and Administrative Specialist. Mrs. Walsh reports directly to the Deputy General Counsel, and can be contacted at (615) 532-3500 or via e-mail at [amber.walsh@tn.gov](mailto:amber.walsh@tn.gov).

As the Title VI coordinator, Mrs. Walsh is charged with developing the Commission's Title VI implementation plan and provides overall direction and leadership for the Commission's Title VI compliance activities, including professional development.

There were no Title VI complaints filed with the Commission in FY 2019-2020. If any complaints were filed, Mrs. Walsh would investigate and respond to such complaints and consult with appropriate staff.



## Discriminatory Practices

There are many forms of illegal discrimination based on race, color, or national origin that can limit the opportunity of minorities to gain equal access to services and programs. Among other things, in operating a federally assisted program, the Tennessee Higher Education Commission, and its sub-recipients and vendors, shall not, on the basis of race, color, or national origin, either directly or through contractual means:

- Deny any qualified applicant participation in a program funded with a grant;
- Provide an individual instruction or participation at a level of service or benefit in a manner different from others under the same program;
- Subject a participant to segregation in any manner related to the receipt of services or benefits under the program;
- Subject a project participant to separate treatment in any manner related to receiving services or benefits under the program;
- Restrict an individual in any way in the receipt of any advantage or privilege enjoyed by others under the program;
- Require different standards or conditions as prerequisites for accepting an individual into a program;
- Use criteria or methods of administration which (a) have the effect of subjecting individuals to discrimination or (b) operate to defeat or substantially impair the accomplishment of the objectives of the program;
- Permit discriminatory activity in a facility built in whole or in part with federal funds;
- Fail to provide service or information in a language other than English when a significant number of potential or actual beneficiaries have limited English speaking ability;
- Fail to advise the population eligible to be served or benefited by the program of the existence of the program;
- Locate a facility in any way which would limit or impede access to a federally funded service or benefit; or
- Deny a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

## Federal Programs or Activities

The Tennessee Higher Education Commission administers the following federal programs in Tennessee. A spreadsheet of all programs with amounts can be found in *Appendix II*.

### GEAR UP Tennessee

In spring 2012, the United States Department of Education awarded a *Gaining Early Awareness and Readiness for Undergraduate Programs* (GEAR UP) grant to the Commission in the amount of \$29,590,281. GEAR UP, a seven-year discretionary grant program, aims to increase the number of low-income, first generation students enrolling and succeeding in college.

Tennessee's GEAR UP program, operating under the name GEAR UP, provides direct services to a cohort of students. Direct services began when the students were in seventh grade and continued through the cohort's first year of postsecondary education. GEAR UP also provided services to students in the senior class of participating high schools each grant year.

The GEAR UP project is designed to:

- 1) Increase the academic performance and preparation for postsecondary education for GEAR UP students;
- 2) Increase the rates of high school graduation and enrollment in postsecondary education for GEAR UP students; and
- 3) Increase GEAR UP students' and their families' knowledge of postsecondary education options, preparation, and financing.

During the reporting period, Tennessee's 2012 GEAR UP program provided college access and success services to 2,540 students. The 2019-2020 academic year was a no-cost extension year for the project. In total, THEC's 2012 GEAR UP TN provided services to 10 communities located in the following counties with the 2012 funded grant: Anderson, Claiborne, Davidson, Grainger, Hardeman, , Henderson, McNairy, Shelby, Union and Wayne.

In September 2017, THEC received a \$24,500,000, seven-year GEAR UP grant to significantly increase the number of low income students who are prepared to enter and succeed in postsecondary education. Grant services include: providing financial aid information and application assistance, encouraging enrollment in rigorous and challenging coursework, and improving the number of students who graduate from high school and enroll in postsecondary education. THEC will serve a cohort of approximately 3,250 students from the class of 2023 beginning in the 8<sup>th</sup> grade and continuing through their first year of college. Additionally, GEAR UP TN will provide services to approximately

2,750 priority seniors at participating high schools each year of the grant. GEAR UP TN direct-service schools for the 2017 project were selected through a competitive application process that began in January 2018. To be eligible, high schools were required to meet two requirements: 1) have a college-going rate at or below the state average, based on the most recent three years of data supplied by THEC; and 2) have at least 50 percent of students eligible for free or reduced-priced lunch. Following a proposal review and interview process, THEC selected direct-service middle and high schools located in 15 school counties: Anderson, Bradley, Campbell, Davidson, Fayette, Haywood, Henry, Jackson, Johnson, Lincoln, Meigs, Overton, Polk, Robertson, and Shelby. Grant contracts with the new sites were finalized in June 2018. Student services began in August 2018. During the reporting period, Tennessee's 2017 GEAR UP TN program provided college access and success services to 7,191 students attending GEAR UP TN schools.

As a part of both GEAR UP applications, Tennessee was required to provide a letter of assurance of nondiscrimination (*Appendix III*).

#### Veterans Education Division

The Veterans Education Division of the Commission is the State Approving Agency (SAA) funded by the U.S. Department of Veterans Affairs to approve and monitor all educational institutions receiving federal funds for education of veterans based on federal guidelines. Pursuant to U.S.C. Title 38, the SAA is responsible by contract to the U.S. Department of Veterans Affairs.

Veterans Affairs regulations require that all participants (schools, business, etc.) acknowledge and adhere to the policies referred to under the Title VI enforcement form, which affirms that they will not discriminate based on race, color or national origin (*Appendix IV*). A school will not be approved for veteran education or training unless this form has been signed. An institution currently approved for veteran education or training that fails to comply with Title VI procedure will be withdrawn from the program. During the FY2019-2020, there were 260 institutions and 62 apprenticeship on-the-job training programs approved to provide veterans training in Tennessee.

Each institution approved for the training of veterans must have an EEO statement and guidelines in place at all times. Commission staff reviews these guidelines and makes sure they are in place. Staff also reviews and investigates claims of discrimination made by students.

The total budget for Veterans Education Division for FY 2019-2020 was federally funded in the amount of \$547,753, and a like amount is anticipated for the current fiscal year. It should be noted, however, that **while THEC's Veterans Education Division is federally funded, it does not determine student eligibility for or distribute any federal funds.**

The U.S. Department of Veterans Affairs notifies veterans of their eligibility and pays benefits directly from the federal office. The federal funding received by THEC is used solely to fund the salaries and activities of the Veterans Education Division employees in their regulatory duties as Tennessee's State Approving Agency. Therefore, there are no sub- recipients or direct beneficiaries of these federal funds.

# Data Collection and Analysis

## Data Analysis for Federally Funded Programs

All data regarding beneficiaries is reported to THEC directly by sub-recipients.

### *GEAR UP Tennessee*

As part of our implementation of GEAR UP TN, grant staff use a secure, web-based data warehouse designed for GEAR UP projects to collect, store, and report service participation data. THEC staff and sub-recipient personnel are trained on common GEAR UP service definitions established through the Career and College Readiness Evaluation Consortium (CCREC) and enter service participation data into the database. This data includes student name, type of service provided, and duration of the service. Student-level demographic, academic, and outcomes data is then linked to service participation data through a unique identifier to allow project evaluators to assess the impact of specific services, and the optimal level of participation in services, on project objectives. These reporting functions enable staff to monitor service delivery and identify gaps in service participation.

Across both programs, GEAR UP TN served 9,731 students during FY 2019-2020. Racial and ethnic composition of beneficiaries is broken down below by grant project:

2012 GEAR UP TN Project:

<b>Race</b>	<b>Number of Students Served</b>	<b>%</b>
<b>American Indian or Alaska Native</b>	<b>3</b>	<b>0.1%</b>
<b>Asian</b>	<b>33</b>	<b>1.3%</b>
<b>Black or African American</b>	<b>663</b>	<b>26.1%</b>
<b>Native Hawaiian or Pacific Islander</b>	<b>2</b>	<b>0.1%</b>
<b>Not Identified</b>	<b>14</b>	<b>0.6%</b>
<b>Two or More Races</b>	<b>32</b>	<b>1.3%</b>
<b>White</b>	<b>1793</b>	<b>70.6%</b>
<b>Grand Count</b>	<b>2540</b>	<b>100.0%</b>

<b>Ethnicity</b>	<b>Number of Students Served</b>	<b>%</b>
<b>Hispanic/Latino</b>	<b>204</b>	<b>8.0%</b>
<b>Non-Hispanic/Latino</b>	<b>2325</b>	<b>91.5%</b>
<b>Not Identified</b>	<b>11</b>	<b>0.4%</b>
<b>Grand Count</b>	<b>2540</b>	<b>100.0%</b>

2017 GEAR UP TN Project:

<b>Race</b>	<b>Number of Students Served</b>	<b>%</b>
<b>American Indian or Alaska Native</b>	<b>22</b>	<b>0.3%</b>
<b>Asian</b>	<b>1298</b>	<b>18.1%</b>
<b>Black or African American</b>	<b>31</b>	<b>0.4%</b>
<b>Native Hawaiian or Pacific Islander</b>	<b>5</b>	<b>0.1%</b>
<b>Not Identified</b>	<b>8</b>	<b>0.1%</b>
<b>Two or More Races</b>	<b>134</b>	<b>1.9%</b>
<b>White</b>	<b>5693</b>	<b>79.2%</b>
<b>Grand Count</b>	<b>7191</b>	<b>100.0%</b>

<b>Ethnicity</b>	<b>Number of Students Served</b>	<b>%</b>
<b>Hispanic/Latino</b>	<b>746</b>	<b>10.4%</b>
<b>Non-Hispanic/Latino</b>	<b>6430</b>	<b>89.4%</b>
<b>Not Identified</b>	<b>15</b>	<b>0.2%</b>
<b>Grand Count</b>	<b>7191</b>	<b>100.0%</b>

*Veterans Education Division*

There are no sub-recipients or beneficiaries of federal funds under the Veterans Education Division. The federal funding received by THEC is used solely to fund the salaries and activities of the Veterans Education Division employees in their regulatory duties as Tennessee's State Approving Agency. Therefore, there are no sub-recipients or direct beneficiaries of these federal funds.

### Commission Staff

**All THEC employees are Executive Service staff.** All employee demographic data is maintained and reported by THEC Human Resources staff.

Of the seventy-three (73) individuals employed at THEC during FY 2019-2020:

- 16 African-American (22%)
- 54 Caucasian (74%)
- 2 Asian/Pacific Islander (3%)
- 1 Hispanic/Latino (1%)

As of June 30, 2020, there were four (4) vacant positions and seventy-two (72) filled positions. The filled positions are broken down as follows:

- 16 African-Americans (22%)
- 54 Caucasians (74%)
- 2 Asian/Pacific Islander (3%)
- 1 Hispanic/Latino (1%)

This can be further broken down by EEO category (See *Appendix V*):

EEO 1: 24 positions (33%)

- 4 African-American (4%)
- 24 Caucasian (23%)

EEO 2: 48 positions (67%)

- 11 African-American (15%)
- 30 Caucasian (42%) – 1 position is overlapped with two full-time employees
- 2 Asian/Pacific Islander (3%)
- 1 Hispanic/Latino (1%)
- 4 Vacant (6%).

## Limited English Proficiency (LEP)

Notwithstanding the limited likelihood that participants in federally-funded programs administered by the Commission will be in need of LEP services, the Commission is committed to ensure that all eligible participants have complete access to the programs it administers. Therefore, the following procedures have been put in place should the need arise.

### GEAR UP Tennessee

The GEAR UP TN program provides direct services to students through subgrants to LEAs. Services provided to students are tailored to students' individual needs. The Commission relies on direct service site personnel at the LEAs to identify any unfilled LEP needs among the students being served by GEAR UP TN, which shall immediately be reported to Commission staff. Should a GEAR UP TN student require specific services to address his or her LEP needs not already provided by established processes and procedures of the LEA the Commission will work with the LEA to ensure such needs are met. Language assistance may be provided through an arrangement with the Tennessee Language Center (TLC), an agency of the University of Tennessee's Institute for Public Service.

Language assistance will be provided through an arrangement with the TLC. Appropriate staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter. The Commission will conduct a regular review of the language access needs of our service population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

### THEC Limited English Proficiency Procedures

#### 1. Identifying LEP Persons and Their Language

The Commission will promptly identify the language and communication needs of the LEP person. If necessary, staff will use language identification cards (or "I speak cards") or posters to determine the language. In addition, when records are kept of past interactions with individuals or their family members, the language used to communicate with the LEP person will be included as part of the record.

#### 2. Obtaining a Qualified Interpreter

TLC has agreed to provide qualified interpreter services. The TLC is a state agency that provides interpretation services in over 200 languages, either in person or over a 24/7 telephonic language service (877-346-1674). Additionally, the TLC can provide written translation for forms, websites and other business documents.



Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual. Furthermore, the LEP person must first understand that an offer of an interpreter at no charge to the person has been made by the department or agency. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, competent interpreter services will be provided to the LEP person. Children will **not** be used to interpret, in order to ensure confidentiality of information and accurate communication.

### 3. Providing Written Translations

The Commission does not currently maintain any documents available in a language other than English. As indicated above, when translation of vital documents is needed, the Commission shall submit the documents to the TLC for translation. Original documents being submitted for translation will be in final, approved form.

### 4. Monitoring Language Needs and Implementation

On an ongoing basis, the Commission will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, the Commission will regularly assess the efficacy of these procedures, including but not limited to:

- mechanisms for securing interpreter services,
- equipment used for the delivery of language assistance,
- complaints filed by LEP persons, and
- feedback from the public and community organizations.

The assessment will be flexible and fact-dependent, balancing the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
- The frequency with which LEP individuals come in contact with the program;
- The nature and importance of the program to people's lives; and
- The resources available to the Commission and costs.

As stated in the LEP procedures above, the Commission does not currently maintain any documents available in a language other than English.

During FY 2019-2020 there were no requests, nor was there any observed need, to

provide LEP services; therefore there were no particular languages encountered other than English, and there is no log of LEP activities.

THEC is in the process of developing an informational document to remind staff of translation services available to all staff and thresholds on when to utilize the translation services. This document would be distributed by email annually in conjunction with the submission of the Title VI report. Additionally, this information would also be discussed and distributed during the onboarding process for all public-facing employees. THEC hopes to have this document developed and distributed prior to the submission of the next Title VI report.

# Complaint Procedures

The Tennessee Higher Education Commission has adopted complaint procedures which employ standardized notices, complaint and consent forms, and template letters to be used to communicate the status of a complaint investigation (*Appendix VI*). In addition, the Commission utilizes standard forms developed by the Tennessee Human Rights Commission related to the investigation itself (e.g. *Investigation Commencement Form, Title VI Investigative Plan, and Case Summary Report*).

## Timeline for Filing

Any person alleging discrimination based on race, color, or national origin has a right to file a complaint within 90 days of the alleged discrimination. The complainant may file a complaint with THEC, the Tennessee Human Rights Commission, or the federal granting agency that provides the funding.

## Receipt of Complaints

To request a preliminary review by the Commission, which determines whether it will investigate an allegation of noncompliance with Title VI, the complainant must complete the *Discrimination Complaint Form* contained in *Appendix VI* (or provide the information requested on the *Complaint Form*). Additionally, he or she must complete the *Consent Form for Use of Personal Information*. The complainant must sign all forms.

## Essential Elements of a Complaint

The complainant must provide the following information:

- Name, address, and telephone number of the person making the complaint;
- The location and name of the entity delivering the service;
- The nature of the incident that led the complainant to feel discrimination was a factor;
- Whether the discrimination was based on race, color, or national origin;
- Names, addresses, and phone numbers of people who may have witnessed the event or may have knowledge of the event; and
- The date(s) of the alleged discriminatory acts.

## Complaint Receipt and Reporting Process

The procedures listed below will be followed in processing Civil Rights complaints:

- Within fifteen days of receiving the complaint, Commission will send a letter to the complainant acknowledging receipt of the complaint. The Commission will advise the complainant that the Commission will conduct a preliminary review of the complaint and that he or she will be advised of the results of the preliminary review.

- The Commission's Title VI Coordinator will conduct a preliminary review of the complaint, and will determine whether a potential violation of Title VI has occurred. The Title VI Coordinator will also determine whether the Commission has jurisdiction to investigate the complaint, and whether the Commission is the best entity to conduct the investigation. In the course of the investigation, the Title VI coordinator will work with the program administrator for the particular program involved in the complaint. If it is determined that the Commission is not the best entity to conduct the investigation, the Commission may refer the complaint to the U.S. Department of Education Office for Civil Rights, the Tennessee Department of Labor and Workforce Development or U.S. Department of Veterans Affairs, or any other appropriate entity.
- While the Commission does not have statutory responsibility for the operation of the governing boards, the Executive Director will refer any complaint involving an institution of the University of Tennessee System, the Tennessee Board of Regents, or the six locally governed state universities to the respective governing boards for review and resolution. In either case, the complainant will be apprised of the action taken.
- Within thirty days of the Commission's receipt of the complaint, the Commission will notify the complainant as to the results of the preliminary review of the complaint and whether the Commission will conduct an investigation.
- If the decision of the Commission is to conduct a complaint investigation, the Commission will send a letter of notice to the entity to be investigated.
- If the Commission accepts a complaint for investigation, the Commission will strive to complete the investigation within 180 days of the receipt of the complaint. The investigation will include interviews with persons who may have direct knowledge of the alleged discriminatory act(s), a review of pertinent documents and records, and any other legal investigative techniques deemed necessary to allow the Commission to reach a conclusion as to whether discrimination occurred.
- If appropriate, the Commission will coordinate with other agencies on interdepartmental matters.
- If the investigation substantiates the allegations of the complainant or if other instances of noncompliance with Title VI of the Civil Rights Act of 1964 are found, the Commission will send a draft copy of the investigative report to the entity that has been the subject of the investigation. The Commission will request the entity to submit a written response to any findings or recommendations in the draft report.
- If the entity that is the subject of the complaint submits a written response which

states that action will be taken to resolve the complaint, the Commission will issue a final investigative report that will include the response of the entity. The Commission investigator will schedule a follow-up review for an appropriate time period to determine whether the complaint has been resolved.

- If the entity does not agree to resolve a substantiated complaint, the Commission will issue a final report with an opinion statement that the entity has not committed to resolving the complaint. The Commission's Title VI coordinator, in consultation with the Executive Director of the Commission, will make a determination as to what further action the Commission will take to resolve the complaint.
- If the alleged discriminatory act(s) directly affected the complainant, a letter, containing a description of the allegations investigated, the scope of the investigation, the facts learned, and a closing statement summarizing the basis on which the determination was made, will be sent to the complainant. The complainant will be advised of his or her right to file a complaint with other applicable governmental entities, including the Tennessee Human Rights Commission, if dissatisfied with the resolution of the complaint by the Commission.
- If the Tennessee Human Rights Commission refers a complaint to THEC for investigation and resolution, THEC shall:
  1. Report the commencement of an investigation to the Tennessee Human Rights Commission within ten (10) days, and
  2. Submit a summary of its investigation to the Tennessee Human Rights Commission prior to notifying the complainant.

#### Intimidation or Retaliatory Acts Prohibited

- Neither THEC, nor any subrecipient or other related entity or person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of Title VI of the Civil Rights Act of 1964, T.C.A. § 4-21-904 or this regulation, or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this regulation.
- The identity of a complainant shall be kept confidential except to the extent necessary to carry out the purpose of this regulation, including the conduct of any investigation arising thereunder.

There were no Title VI complaints filed with THEC, and therefore no substantiated complaints, in FY 2019-2020. No lawsuits or other forms of litigation were filed against THEC during FY 2019-2020 on the basis of race, color, or national origin.

## **Title VI Training Plan**

Mrs. Walsh is designated the Title VI coordinator and will ensure the execution of all the duties and responsibilities of the position, including participation in meetings of the Tennessee Title VI Compliance Commission and Governor's Office of Diversity Business Opportunities.

Shauna Jennings, Deputy General Counsel, and Amber Walsh, Administrative and Legal Specialist for the Commission, attended the virtual Title VI compliance meeting hosted by the Tennessee Human Rights Commission on August 20, 2020.

Title VI training for the Commission staff is accomplished through an on-line tutorial module through Edison. The module provides an overview of Title VI to include its history, key elements, and principles regarding application of the law to the work of the Commission. The training incorporates a history of civil rights in the United States, LEP requirements and policy, and outlines the purpose and applicability of Title VI. The training includes a post-test in which the staff responds to questions related to the on-line tutorial (*Appendix VII*).

Commission staff members were advised that access to the mandatory training module was available in May 2020. Through Edison, it was verified that 73 THEC staff members completed the training for a 100 percent completion rate for full-time Commission staff. An employee roster showing completion of the training can be found in Appendix VIII. For FY 2020-2021, training will be offered in the same manner during the spring and summer of 2020.

In addition to the training completed by THEC staff, the Title VI training is given to all new and existing sub-recipients and vendors annually using a combination of an instructional video and online assessment mirroring the training delivered to THEC staff. Beginning in the spring of 2020, all GEAR UP Tennessee sub-recipients, and all vendors, were given this training for a 100 percent completion rate. For FY 2020-2021, training will likely be offered in the same manner during the spring and summer of 2021. However, THEC is exploring options to develop an updated and more comprehensive training module for use with agency staff as well as its sub-recipient and vendor populations. Currently, THEC uses a video link with Title VI training and Title VI training acknowledgment form as an attachment to all contracts (*Appendix XII*).

Additionally, the Commission's Title VI Implementation Plan is addressed each year at the November meeting of the Commission. At that time, information similar to what was presented in the on-line tutorial for staff is reviewed with the Commission, as well as highlights of the most recent Title VI plan.

## Sub-Recipient Monitoring

### Description of Policy and Procedures Related to Compliance

Sub-recipients and vendors are evaluated and monitored for Title VI compliance by THEC throughout the pre-award process and contract period.

### Pre-Award Procedures

Title VI-related data of grant applicants in the areas of board, programs, services, and projected populations to be served are a necessary component of a grant proposal seeking federal funds from THEC, including a description of how underserved populations will participate in their programs. As most grant recipients are governmental entities, educational institutions, or both, they are cognizant of their responsibilities in regard to Title VI and nondiscrimination; therefore their policies, procedures, and reported data are made public.

The Commission's staff is always culturally and ethnically sensitive to the needs of the state and its constituents when selecting suppliers. THEC program staff members communicate with colleagues, stakeholders, and constituents, attend conferences, training workshops and programmatic events, and check references to assist in soliciting bids and selecting potential vendors. THEC program officers and Title VI staff use all of this information to evaluate the ability of a potential sub-recipient or vendor to comply with Title VI.

For entities that enter into grant contracts with the Commission, the grant contract document includes the following provision prohibiting discrimination (Paragraph D.10. of *Appendix IX*):

Nondiscrimination. The Grantee agrees that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, **race, color**, religion, sex, **national origin**, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Grantee shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. (Emphasis added.)

For entities that enter into fee-for-service contracts with the Commission, the contract document includes the following provision prohibiting discrimination (Paragraph D.9. of *Appendix X*):

Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, **race**, creed, **color**, religion, sex, **national origin**, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination. (Emphasis added.)

A pro forma contract template including this language is a part of any Request for Proposal issued by THEC; whether for a grant competition or an agency term contract. Signing of a contract with the above language is a precondition to receiving funds. If the entity does not sign, funds will not be released.

Fee-for-Service contracts awarded through a competitive procurement solicitation must sign a statement of assurances including a provision the vendor will comply with the Title VI of the federal Civil Rights Act of 1964 (Item 5(b) of *Appendix XI*).

THEC has developed Title VI training for vendors, discussed in detail in the Sub-recipient Title VI Training section below, and incorporates notice of this training and a training requirement acknowledgement in federally-funded contracts. The contract terms reads as follows:

Title VI Compliance. As this Contract is federally-funded, Grantee must be able to demonstrate Title VI compliance by fulfilling the requirements outlined in Attachment X.

The attachment notifies sub-recipients and suppliers where the provided Title VI training can be found and outlines training requirements (*Appendix XII*).

#### Post-Award Procedures

Once grantees or vendors are selected by the evaluation team and amounts are approved, grant or contract awards are announced in email letters and a project directors' workshop is scheduled where Title VI training is conducted. Project directors communicate with THEC's Legal Division to finalize program specific language, then sign and return the contract which includes the standard Title VI compliance language.

Throughout the year, the applicable THEC program staff and Title VI Coordinator are responsible for assessing grantee and vendor compliance with Title VI. Also during the year, the THEC Legal Division is responsible for sub-recipient monitoring and implementation of the agency plan pursuant to Department of General Services Policy 2013-007. Program staff members provide ongoing compliance monitoring through a



combination of site visits, desk audits, phone conversations, and e-mails. Title VI compliance is a portion of this monitoring procedure.

### *GEAR UP Tennessee*

The Commission staff makes numerous site visits each year to all GEAR UP recipients, which include compliance reviews on all program objectives and requirements, including any Title VI compliance issues. A data management company is employed to maintain accurate, federally-compliant reporting of program participation. Any potential issues of non-compliance are addressed immediately by consulting the THEC Legal Division for advice and by formal communication with the contracting entity regarding the procedures for non-compliance as stated below. Upon program completion, a final evaluation is made of the reported data, noting any issues that should affect future funding.

For FY 2019-2020, the following post-award procedures for compliance reviews of funded grant projects under the GEAR UP TN program were conducted:

- Site visits to all grant programs;
- Desk audits of participant data;
- On-site program staff participation at various GEAR UP events;
- Various phone calls and emails with status updates and discussion of any issues, including any potential discrimination complaints; and
- Technical assistance with any Title VI complaints or issues.

Project Directors will submit in the final report on any Title VI complaint received during the funded grant period. In addition, the grant Project Director will submit in the final report an explanation of the results of the proposed minority recruitment plan. Unsatisfactory compliance review findings, failure to submit final reports, and pending discriminatory complaints can result in the withholding of the projects' final disbursement of grant funds.

Two examples of how discrimination might occur:

- Failure to notify all eligible institutions of the availability of funds; and
- Applicants receiving awards notify only certain teachers or schools in the targeted geographical areas of the fact that professional development activities will be conducted, knowing or having reason to believe that no minorities are among that group.

### *Veterans Education*

While THEC's Veterans Education Division is federally funded, it does not determine

student eligibility for or distribute any federal funds. The U.S. Department of Veterans Affairs notifies veterans of their eligibility and pays benefits directly from the federal office. The federal funding received by THEC is used solely to fund the salaries and activities of the Veterans Education Division employees in their regulatory duties as Tennessee's State Approving Agency. Therefore, **there are no sub-recipients or direct beneficiaries of the federal funds THEC receives for the Veterans Education Division.**

Compliance Audits, as well as Inspection and Technical Assistance visits, were conducted by the THEC's Veterans Education Division as the State Approving Agency (SAA) during FY 2019-2020 at each of the institutions participating in the Veterans Education program as required by our contract with USDVA and 38 U.S.C. §3673 and §3675. These visits include records audits, interviewing students, and facilities monitoring related to a school's eligibility to provide education to a student using VA funds. **Title VI compliance reviews of approved schools are completed by the U.S. Department of Veterans Affairs, not THEC.** The Assistant Executive Director of Veterans Education for the Tennessee Higher Education Commission is responsible for investigating complaints of discrimination filed by veterans and acts as a liaison between the institution and the U.S. Department of Veterans Affairs. As part of the Principles of Excellence, Executive Order 13607, the U.S. Department of Veterans Affairs has an online complaint system. Veteran complaints through this system are adjudicated in Washington, DC and forwarded to the appropriate State Approving Agency as necessary. As the SAA, THEC would only have the authority to withdraw a school from the program.

#### Sub-recipient Title VI Training

The project director for each contracting entity is provided Title VI training resources for delivery to all employees incorporating a history of civil rights in the United States, LEP requirements and policy, and the purpose and applicability of Title VI to their program. This training is designed to educate new grant and contract recipients regarding federal and state guidelines, including the proper procedures for reporting Title VI complaints. Potential sub-recipients/suppliers are informed that they are required to make available any Title VI compliance report to be reviewed by the Tennessee Human Rights Commission upon request. All sub-recipients and vendors are required to provide documentation of staff training and dates offered to its staff, and submit such documentation to THEC staff upon request. As referenced in Section XII above, a combination of an instructional video and online assessment mirroring the training delivered to THEC staff is provided to all sub-recipients and vendors for their use.

#### Procedures for Noncompliance

The Commission has adopted the following policies and procedures which will be followed through complaint investigations or compliance reviews, when it is determined that a Title VI violation has occurred. Efforts will be made to the fullest extent practicable to obtain voluntary compliance before a case is referred to the U.S. Department of Education Office for Civil Rights for possible refusal, suspension, or termination of federal financial

assistance.

#### *Procedures for Achieving Voluntary Compliance*

- In cases where a complaint investigation or compliance review results in a finding of noncompliance, the Commission will notify the sub-recipient of federal/state funds of the apparent noncompliance.
- The notice will clearly identify the conditions of noncompliance and offer a reasonable time to willingly comply.
- The Commission will record the date the recipient received notice, and will note and record the last day afforded the recipient for voluntary compliance before initiating an administrative process to terminate assistance.
- A sub-recipient of federal funds may request a meeting for the purpose of discussing the problem areas or requirement for compliance. The principal investigator will be involved in the discussion process.
- The Executive Director of the Commission, or designee, will approve the recipient's voluntary compliance plans, methods, procedures, and proposed actions if such approval will result in compliance with the Act. The plan will be put in writing. Failure of voluntary efforts will result in the implementation of an administrative process, which could result in termination or suspension of assistance.

#### *Termination or Suspension of Assistance*

If the Commission cannot obtain compliance through voluntary means, the Commission will notify the U.S. Department of Education Office for Civil Rights (USDE/OCR) and will request the assistance of the USDE/OCR to obtain compliance, which may involve termination or suspension of assistance.

If termination of assistance is considered due to noncompliance with Title VI, the alleged problems are delineated to the award recipient. Opportunity is provided for informal resolution. If these efforts fail, formal sanctions up to and including termination can be pursued.

There were no findings by THEC of noncompliance of a sub-recipient or vendor in FY 2018-19; therefore no actions were taken by the agency. Further, no corrective action was required due to a finding of noncompliance of sub-recipients or vendors by another state or federal agency during FY 2019-2020.

#### Identify Sub-recipients

##### *GEAR UP Tennessee*

The United States Department of Education awarded a Gaining Early Awareness and

Readiness for Undergraduate Programs (GEAR UP) grant to THEC to increase the number of low-income, first generation students enrolling and succeeding in college.

A list of the Commission's sub-recipients, vendors and/or contractors is found in *Appendix XIII*.

The Commission had a total of 35 sub-recipient grant contracts active in FY 2019-2020, supported in whole or in part by federal funds, totaling \$19,344,486.80. The Commission had a total of nine (9) vendor contracts in FY 2019-2020, supported in whole or in part by federal funds, totaling \$4,970,748.00. Of the nine (9) federally funded contracts, fifty-six (56%) of the contracts are registered as minority / women business enterprises, with fifty-six percent (56%) of the total federal dollar amount.

## **Public Notice and Outreach**

Because the Commission does not provide FFA directly to recipients, it disseminates information to the public about its nondiscrimination policy, available programs and services, complaint procedures, and minority participation on boards and advisory bodies primarily through the media and its website. THEC also monitors all sub-recipients and vendors concerning the dissemination of information on these topics.

Specifically, the Commission uses the following measures with respect to the Improving Teacher Quality Grant Program and the GEAR UP Program. There are no sub-recipients or vendors of the federal funds supplied to THEC for the Veterans Education Division.

- *Nondiscrimination policy:* Throughout the 2019-2020 project period, monitoring was conducted by THEC staff to ensure compliance with all aspects of the contractual terms. Per Section D.10. of all contracts, grantees were required to furnish to applicants and employees notices of non-discrimination.
- *Programs and services:* Information regarding programs and services was disseminated primarily in the form of communications with prospective workshop participants.
- *Complaint procedures:* The public is informed via Request for Proposals and any other program communications that Title VI requires federally assisted programs to be free of discrimination. These documents also provide contact information for the THEC Title VI Coordinator in the event that a citizen claims to have been subjected to discrimination. In addition, grantees are contractually required, under Section D.10., to annotate on all public notices that the grant was funded under an agreement with the Tennessee Higher Education Commission.
- *Minority participation on planning boards and advisory committees:* THEC maintains

records of minority participation on the, the Diversity in Teaching Grant Advisory Committee, the Historically Black Colleges and Universities (HBCU) Advisory Board, and the Committee on Postsecondary Educational Institutions, all of which are available for public review. (*See below.*)

The Tennessee Higher Education Commission holds public meetings at various times and locations throughout the year. The work of the Commission, its staff and committees is public record. All meetings are open to the public and publicized in accordance with the Tennessee Open Meetings Act. These public hearings concern such issues as funding of higher education, capital outlay and maintenance, and academic planning.

Posters and flyers are displayed in high traffic areas of the Commission offices which articulate the Commission's commitment to compliance of Title VI and contact information for filing a complaint (*Appendix XIV*).

As a general rule, staff vacancies are filled after the positions are advertised in publications that will ensure a representative pool of applicants. In addition, efforts are made to network with African-American professionals and educators to assist in identifying potential applicants for the various positions.

As previously noted, the Commission provides its Title VI Implementation Plan upon request to any agency, department or individual that may request it. Additionally, the plan is found on the Commission's website: <https://www.tn.gov/content/tn/thec/about-the-tsac/agency-information/title-vi-compliance.html>.

### Boards and Advisory Bodies

The goals and duties, impact of decisions, and details regarding the appointment of members of the Tennessee Higher Education Commission are discussed in detail in the Section 2 Overview on page three of this report. This information, as well as the details about THEC advisory boards and information about Commission and board vacancies, is also available on the agency website, which is updated regularly as changes occur.

The Commission consists of ten (10) appointed voting members. Nine (9) of these are chosen from the general public to serve six (6) year terms. The Governor appoints six (6) voting members, the Speaker of the State Senate appoints one (1) voting member, the Speaker of the House of Representatives appoints one (1) voting member, and the Speakers jointly appoint one (1) voting member. As the Governor and Speakers appoint these nine (9) voting members, they are required to appoint them so that the three (3) grand divisions of the state are represented equally.

The Governor also appoints one (1) voting student member each year, from a list of three (3) nominees selected and submitted by the Commission no later than April 15. The student member must be a resident of the state and enrolled in good standing at a public

institution of higher education in the state. The student member serves for a term of one (1) year, commencing on July 1 and concluding on June 30. The Chancellor of the Board of Regents and the President of the University of Tennessee system may each submit no more than two (2) qualified candidates, and the presidents of the state universities may each submit one (1) qualified candidate, to the Commission for consideration each year.

The Comptroller of the Treasury, Secretary of the State, and the State Treasurer serve as ex officio, voting members of the Commission. The Executive Director of the State Board of Education serves as an ex officio, nonvoting member of the Commission.

T.C.A. § 49-7-204(a)(6), states that the *"appointing authorities shall strive to appoint members to the commission in a manner that is representative of the diversity of the citizens of the state."* Three of the fourteen (21%) Commission members are African-American: Vernon Stafford, A.C. Wharton, and Dakasha Winton. Eleven of the fourteen (79%) Commission members are white/non-Hispanic. (*Appendix XV*).

The General Assembly created the Committee on Postsecondary Educational Institutions to assist the Commission with the oversight of the many proprietary and not-for-profit postsecondary educational institutions in the state. Specifically, its purpose is to provide for the protection, education, and welfare of the citizens of this state, its postsecondary educational institutions, and its students, through regulatory oversight to ensure consumer protections are appropriately maintained, while also acknowledging the heightened standards institutions may achieve and maintain through academic accreditors. The Committee fulfills these purposes by authorizing the granting of degrees, diplomas, certificates, or other educational credentials by postsecondary education institutions and prohibiting the granting of false or misleading educational credentials; establishing minimum standards concerning quality of education, ethical business practices, and fiscal responsibility, to protect against substandard, transient, unethical, deceptive, or fraudulent institutions and practices; providing certain rights and remedies to the consuming public and the commission necessary to effectuate the purposes of this part; prohibiting misleading literature, advertising, solicitation, or representation by educational institutions or their agents; and providing formal authorization to institutions of higher education in good standing and operating lawfully in compliance with this part.

Pursuant to T.C.A. § 49-7-207, the Committee is composed of the Executive Director of the Tennessee Higher Education Commission and twelve persons appointed by the Commission from the general public. Persons appointed by the Commission must be broadly representative of the geographical characteristics of the state. Six (6) members of the Committee shall be employed by, hold an ownership interest in, or otherwise be affiliated with an institution or other entity subject to the Committee's supervision and oversight. Four (4) members shall be representative of the public interest and shall have no association or relationship with the institutions. Two (2) members shall be representative of community-based organizations that have an interest in postsecondary

occupational education. The Commission may receive lists of nominees from the postsecondary institutions or from other sources to fill vacancies on the Committee, who shall be considered by the Commission in making its appointments. Of the persons appointed as committee members, five are from a racial or ethnic minority group (*Appendix XVI*).

Below is an analysis of minority participation on advisory bodies for which the Commission has the authority and/or responsibility for appointing or recommending members. One of the Commission’s goals and objectives is to ensure that minorities are adequately represented on advisory bodies.

Advisory Body	Total	# African American	% African American	# White/Non-Hispanic	% White/Non-Hispanic	# Vacant	% Vacant	# Hispanic	% Hispanic
Committee on Postsecondary Educational Institutions	13	3	23%	8	62%	2	15%	0	0%
Diversity in Teaching Grant Advisory Committee	4	1	25%	2	50%	0	0%	1	25%
HBCU Advisory Board	9	8	89%	1	11%	0	0%	0	0%
<b>Total</b>	<b>26</b>	<b>12</b>	<b>46%</b>	<b>11</b>	<b>42%</b>	<b>2</b>	<b>8%</b>	<b>1</b>	<b>4%</b>

The Diversity in Teaching Grant Advisory Committee determines which entities will receive the grants under this state-funded program. The Advisory Committee members are chosen by Commission staff based on their ability to evaluate the proposals submitted as evidenced by their educational preparation and experience related to the subject matter of the program. The committee that reviewed and recommended awards for FY 2019-2020 included one African-American and one Hispanic out of a total of four committee members (*Appendix XVIII*).

### Documentation of Minority Input

In 2017, Public Chapter 464 created the Initiative on Historically Black Colleges and Universities (HBCUs) as an organizational unit of THEC to focus on Tennessee's seven HBCUs, with a goal of increasing the capacity of HBCUs to provide the highest quality education to a greater number of students, and to take advantage of these institutions' capabilities in serving the state's needs through five core tasks:

1. Strengthening the capacity of HBCUs to participate in state programs;
2. Fostering enduring private-sector initiatives and public-private partnerships while promoting specific areas and centers of academic research and programmatic excellence throughout all HBCUs;
3. Improving the availability, dissemination, and quality of information concerning HBCUs to inform public policy and practice;
4. Sharing administrative and programmatic practices within the consortium for the benefit of all; and
5. Exploring new ways of improving the relationship between the state and HBCUs.

In response, THEC created a new position within the agency, the Director of HBCU Success, to work with state departments, agencies, offices, the private sector, educational associations, philanthropic organizations, and other partners to advocate for and pursue equity in state policies on behalf of Tennessee's HCBUs, thereby exposing state leaders to the positive economic, educational, and workforce impacts of these institutions, and building a community of informed, devoted supporters across sectors and industries. The Director of HBCU Success also works to close persistent equity gaps across various demographics, including (but not limited to) socioeconomic, geographic, and racial disparities in educational attainment.

The Commission has used a woman-owned business enterprise (WBE) firm for coordination of many of its marketing activities. As a part of the firm's market research responsibilities, it solicits input from populations representing a cross-section of Tennesseans. Those populations necessarily include minority representation.

During FY 2019-2020, the Commission's outreach work around college access programs included efforts to be diverse and inclusive. The Commission holds a contract with a minority-owned marketing firm to facilitate outreach regarding its programs and college-going messages. In conducting market research focused on creating effective college access and success messages for all Tennesseans, the Commission made a concerted effort to be inclusive of minority voices. This research will, in turn, shape future outreach initiatives. In the development of an upcoming public outreach campaign, a diverse set of college students will be featured in an effort to make the communications process inclusive to a wide set of constituents.



As mentioned above, the Request for Proposals (RFP) is the method of informing potential grant recipients of available federal and state funding. RFPs are disseminated to public and private higher education institutions as well as non-profit organizations, if applicable. The Commission makes special efforts to provide notice to African-Americans and other racial and ethnic minorities of all program activities. This information is also provided to institutions whose primary focus is to reach racial and ethnic minorities.

## Compliance Reporting

Federal or state departments/agencies (other than THRC) to which THEC furnishes or shares Title VI compliance reports: N/A

Currently, the Commission submits its Title VI report only to the Tennessee Human Rights Commission (THRC). Compliance reports will be maintained by the Commission and forwarded to the other state and federal agencies as may be requested or directed.

Federal reporting requirements for which THEC is responsible: N/A

The Commission is not aware of any CFR regulations requiring any reporting obligations.

Title VI related audits or reviews THEC received from a federal or state monitoring agency, including all findings and any corrective action measures to which the agency must comply: N/A

The Commission has not received any Title VI or discrimination-related audits or findings from federal or state monitoring agencies.

The Commission will maintain the following records:

- Administrative records such as copies of assurances, public notification plans, press releases, and training materials;
- Data collection and participation records, documentation of analytical review procedures, and results of follow-up;
- Monitoring records, including working papers, reports, and corrective action plans; and
- All Title VI correspondence and reports received from and submitted to the federal government.

There were no Title VI-related complaints or lawsuits filed against THEC during FY 2019-2020.

# Evaluation Procedures

## Evaluation of Program Access

THEC Title VI staff continually monitors and evaluates the performance of and access to the agency's programs by reviewing the activity of program directors and outreach staff during biweekly leadership discussions, contractually-required status reports and end-of-program reconciliation reports from grantees, and statistical data from the THEC Bureau of Research and Planning. All THEC employees have access to this information, but THEC Bureau Chiefs, Title VI staff, the Director of Human Resources, and agency legal counsel are particularly focused on the evaluation of this information. The substance of feedback from stakeholders, lawmakers, and constituents are also discussed and addressed when received.

## Comparison of Quality of Services

Statistical data regarding beneficiaries or program participants, in most cases high school and post-secondary students, is compared to demographic data of the population of potential or intended recipients or beneficiaries. Changes in outcomes for the educational metric or problem targeted by a particular program, for example, college going rates, semester-to-semester retention, and credential completion, are tracked and reported regularly to agency leadership and the appointed Commission members to insure equitable access to, and promote the equitable effect of, THEC programs, regardless of funding source.

## Compliance Deficiencies

THEC's primary goal in Title VI enforcement is to ensure that information on all THEC programs is disseminated to all Tennesseans regardless of race, color, or national origin. THEC's secondary goal is the appropriate recipient representation regardless of race, color, or national origin.

THEC's Title VI Coordinator is responsible for recommending policy changes in Title VI enforcement to the Executive Director. For the purpose of monitoring compliance activities, THEC's Program Administrators, Title VI Coordinator, and the Executive Director will meet at least once a year to review the prior year's activities. This yearly meeting will focus primarily on complaints filed during the year. Any significant problems of general compliance will also be addressed. If Title VI deficiencies are noted, prompt corrective action will be taken.

Further mechanisms to ensure compliance will also be considered. Notices to inform THEC employees, clients, and prospective clients of their obligations and rights under Title VI and of the availability of services will be posted at the agency and shown on documents that clients receive. THEC's Title VI Coordinator is responsible for displaying the Title VI information in the agency. THEC employees shall receive information regarding the

obligations and rights involved in the Title VI program. The information will apprise staff of their responsibility to render a high quality of service to all clients regardless of their race, color or national origin. THEC will review its publications, literature, website, and other media to address Limited English Proficiency as it relates to discrimination and implement procedures to address deficiencies.

THEC will require a statement of compliance with Title VI of the Civil Rights Act of 1964 from every contracting agency before entering into a contract or other agreement which involves the purpose of services or other benefits on behalf of persons served by the programs of THEC. Any state or contracting agency believed by THEC to be in violation of the provisions of Title VI shall be given a written notice. Failure to eliminate further discrimination within 30 days of receipt of the notice will be considered as a violation of the terms of the contract and a basis for contract suspension, termination, or rejection. The enforcement procedure by THEC for termination of the contracting agency from participation as a recipient of federal financial assistance will be in accordance with the enforcement procedure contained in 45 C.F.R. 80.9, 80.10 and 80.11.

The Title VI Coordinator monitors and recommends to the Executive Director appropriate changes in applicant selection criteria that may be discriminatory to racial groups. As appropriate, the Executive Director will forward recommendations to the Commission members.

The Title VI Coordinator will investigate all complaints in a timely manner and submit recommendations to the Executive Director. The Executive Director will be responsible for appropriate resolution of all complaints.

THEC's Title VI Coordinator shall set a date in October for its annual meeting with the Program Administrators and the Executive Director to discuss implementation goals and deficiencies.

THEC's Title VI Coordinator shall attend training offered by the THRC. THEC's Title VI Coordinator shall contact the THRC in October to discuss training objectives.

THEC's Title VI Coordinator shall immediately review Statements of Assurance and Statements of Compliance deficiencies observed in this report and will ensure that any deficiencies are corrected.