MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES
THAT PROVIDE FEDERAL FINANCIAL ASSISTANCE

FROM: THE ATTORNEY GENERAL

SUBJECT: Use of the Disparate Impact Standard in
Administrative Regulations Under Title VI
of the Civil Rights Act of 1964

This month marks the 30th anniversary of the passage of
Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§2000d to
2000d-6), which prohibits discrimination on the basis of race,
color, or national origin in programs and activities that receive
Federal financial assistance. The anniversary of this landmark
legislation is a fitting time to remind agencies that admini-
strative regulations implementing Title VI apply not only to
intentional discrimination but also to policies and practices
that have a discriminatory effect. In Guardians Association v.
Civil Service Commission, 463 U.S. 582 (1983), the Supreme Court
held that while Title VI itself requires proof of discriminatory
intent, agencies may validly adopt regulations implementing Title
VI that also prohibit discriminatory effects. Nearly all
agencies have adopted such regulations. In Alexander v. Choate,
469 U.S. 287 (1985) (construing Section 504 of the Rehabilitation
Act of 1973), a unanimous Supreme Court restated the holding in
Guardians that disparate impact violations could be addressed
through regulations implementing Title VI.

This Administration will vigorously enforce Title VI.
As part of this effort, and to make certain that Title VI is
not violated, each of you should ensure that the disparate
impact provisions in your regulations are fully utilized so
that all persons may enjoy equally the benefits of federally
financed programs.

Enforcement of the disparate impact provisions is an
essential component of an effective civil rights compliance
program. Individuals continue to be denied, on the basis of
their race, color, or national origin, the full and equal
opportunity to participate in or receive the benefits of programs
assisted by Federal funds. Frequently discrimination results
from policies and practices that are neutral on their face but
have the effect of discriminating. Those policies and practices must be eliminated unless they are shown to be necessary to the program's operation and there is no less discriminatory alternative.

Under Executive Order 12250, the Department of Justice is responsible for ensuring that funding agencies meet their responsibilities under Title VI. This Department is committed to productive and effective enforcement of the civil rights laws by each agency that extends Federal financial assistance. Facialy neutral policies and practices that act as arbitrary and unnecessary barriers to equal opportunity must end. This was the goal of Title VI when it became law and it remains one of the highest priorities of this Administration.