

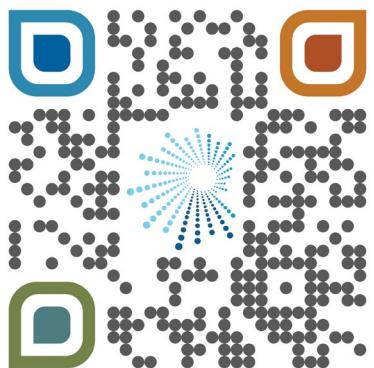


TITLE VI OBLIGATIONS FOR NEW YORK STATE HIGHER EDUCATION

November 19, 2025

MEET YOUR PANELISTS

GRS TEAM PAGE



Pari Golchehreh



Andrea I. Stagg



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REMINDER

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State laws and interpretations can differ.

This session is **not legal advice**, and attendees are advised to consult with institutional counsel

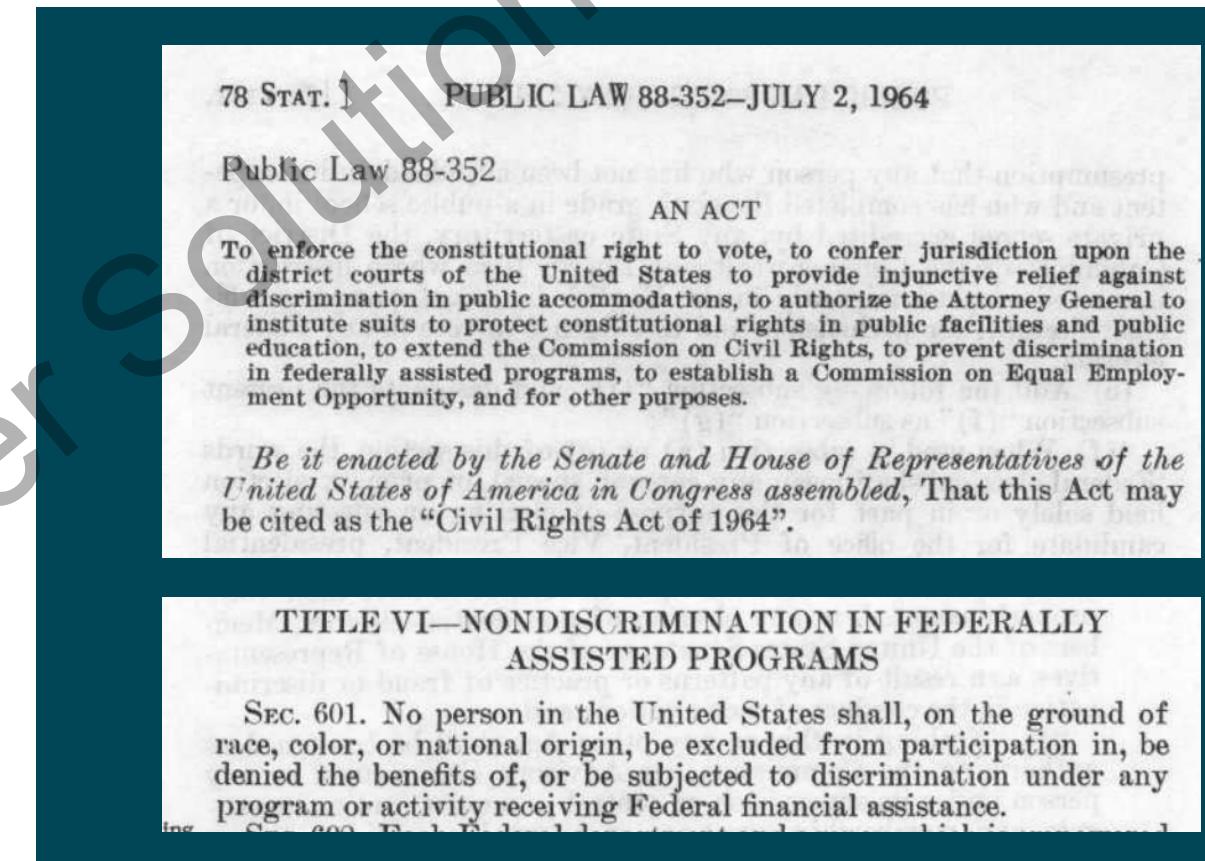
**SOME
GRATITUDE...**



INTRODUCTION OF TITLE VI

TITLE VI OF THE 1964 CIVIL RIGHTS ACT

Sec. 601. 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.



RACE, COLOR, NATIONAL ORIGIN, AND?

Sec. 601. 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.

- Law review articles: shared ancestry
- Bush II Administration Office for Civil Rights
- Obama, Trump I, Biden, Trump II continuation

TITLE VI REGULATORY ACTION?

ED/OPE

RIN: 1840-AD92

Publication ID: Spring 2025

Title: Title IV Eligibility issues

Abstract:

The Department proposes to address Title IV eligibility issues to remove requirements that unnecessarily target faith-based or for-profit institutions and interfere with efficient and beneficial mergers, sales, and transfers of institutions of higher education. Such issues to be addressed in the context of institutional eligibility for participation of Federal student financial aid include rules governing change of ownership, cash management, administrative capability standards, and financial responsibility requirements.

Agency: Department of Education(ED)

RIN Status: Previously published in the Unified Agenda

Major: No

EO 14192 Designation: Deregulatory

CFR Citation: [34 CFR 600](#)

Legal Authority: [20 U.S.C. 1001, 1002, 1003](#) [20 U.S.C. 1088, 1091, 1094](#) [20 U.S.C. 1099b, and 1099c](#)

Legal Deadline: None

Timetable:

Action	Date	FR Cite
Notice of Intent to Commence Negotiated Rulemaking	07/06/2023	88 FR 43069
NPRM	07/24/2024	89 FR 60256
NPRM Comment Period End	08/23/2024	
Notice of Intent to Commence Negotiated Rulemaking	10/00/2025	
Second NPRM	03/00/2026	
Second NPRM Comment Period End	04/00/2026	
Final Action	08/00/2026	

TITLE VI RECENT RESOLUTION AGREEMENTS AND GUIDANCE

- (More on this later)
- Plus major news coverage and societal discussions driven internally and externally

TITLE VI – WHERE ARE WE GOING?

Title VI Lessons learned from Title IX:

- National Issue
- Investigations
- Guidance documents
- Regulations

Things to think about for Title VI (if past is prologue):

- Title VI Coordinator (or other owner)?
- Website and disclosure process?
- Notice, investigation and adjudication process?
- Advisor of choice?
- Hearings? Single investigator?
- Reporting?
- Data collection and analysis?



TITLE VI – TITLE IX IN THE COMMUNITY

Title VI

Privacy Scale

Title IX

- Public v. private
- Organizing wild west v. Highly regulated
- Unified political approach v. split political approach (unified that higher ed is always doing it wrong!)

INTRODUCTION OF 129-A

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EDUCATION LAWS 129-A AND 129-B

Applies to “every college chartered by the regents or incorporated by special act of the legislature and which maintains a campus.” (§ 6430).

Obligations:

- Policies and processes
- Specific responses
- Communication with specific entities
- Reporting to the State Education Department (SED)
 - Annual “Basic” Certification
 - Decennial “Full” Certification
 - Next one is July 1, 2034

EDUCATION LAW ARTICLE 129-A §6430 ET SEQ.

State law covering the waterfront for higher education compliance. Mostly covers publics and privates, except where specific to one or the other.

- Written policies and Rules for the Maintenance of Public Order;
- Cover faculty, staff, students, visitors, licensees, and invitees;
- Clear penalties for violation;
- Rules provided annually to all students and made part of organization bylaws.



NEW SECTION 6436-A

History and effective dates
Applicability

§ 6436-A HISTORY AND EFFECTIVE DATE

- Effective date is 1 year from signing, or August 26, 2026;
- Covered institutions must designate a Title VI Coordinator within 90 days of the effective date-- November 24, 2026.

§ 6436-A - APPLICABILITY

- "Any institution" is defined as "a college or university chartered by the regents or incorporated by special act of the legislature that maintains a campus in New York state";
- (6430); SUNY and CUNY campuses, most CICU and APC campuses, and a few other institutions, covering over 200 institutions of higher education.

BACK UP – TITLE VI REFRESHER

4



TITLE VI BASICS

- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs or activities that receive federal financial assistance.
- Extends to students who experience discrimination, including harassment, based on their actual or perceived: (i) shared ancestry or ethnic characteristics; or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.
- Increased guidance and enforcement since 2023.

SHARED ANCESTRY, FROM ED

- Title VI prohibits discrimination against students of any religion when the discrimination involves:
- racial, ethnic, or ancestral epithets, or slurs;
- how a person or group looks, dresses, or speaks if linked to ethnicity or ancestry (e.g., skin color, facial features, attire, accent, language spoken);
- potentially or allegedly inherited traits;
- stereotypes about people who share certain ancestral or ethnic characteristics.



WHAT IS TITLE VI HARASSMENT, HOSTILE ENVIRONMENT?

1. **Unwelcome conduct** based on race, color, or national origin that, based on the totality of circumstances, is
2. **subjectively and objectively** offensive and
3. **so severe or pervasive,**
4. **that it limits or denies** a person's ability to participate in or benefit from your education program or activity.

MORE ON HOSTILE ENVIRONMENT

- Does not need to be directed at a single person.
- Whether harassing conduct creates a hostile environment must be determined from the totality of the circumstances.
- Relevant factors for consideration may include, but are not limited to, the **context, nature, scope, frequency, duration, and location** of the harassment based on race, color, or national origin, as well as the identity, number, age, and relationships of the persons involved.

WHAT IS DIFFERENT TREATMENT DISCRIMINATION?

A school official treats people differently based on race, color, or national origin in a way that limits or denies access to programs, opportunities, benefits, or services.

- *What should you consider when investigating these matters?*



ELSEWHERE, IN THE EMPIRE STATE...

New York State and New York City Human Rights Laws

- Note definitional differences
- How do we reconcile that in our policies?
- To whom do the different policies apply?
 - There are different approaches

A good conversation to have with counsel...

HYPOTHETICAL 1:

Sufficiency of detail:

Robbie is a transfer student. While in her first class, the teaching assistant pointed in her direction and said, “When did we start accepting those types?”

What needs to be established to move to a formal process?

HYPOTHETICAL 2:

Complaint Assessment:

Jo, a Latin American applicant, was waiting in a conference room for his job interview with the admissions office. He overheard the interview panelists talking in the office next door. Jo reported someone said, "Well, Asians are more organized, so do we need to interview this one?"

What prohibited conduct are we likely investigating?

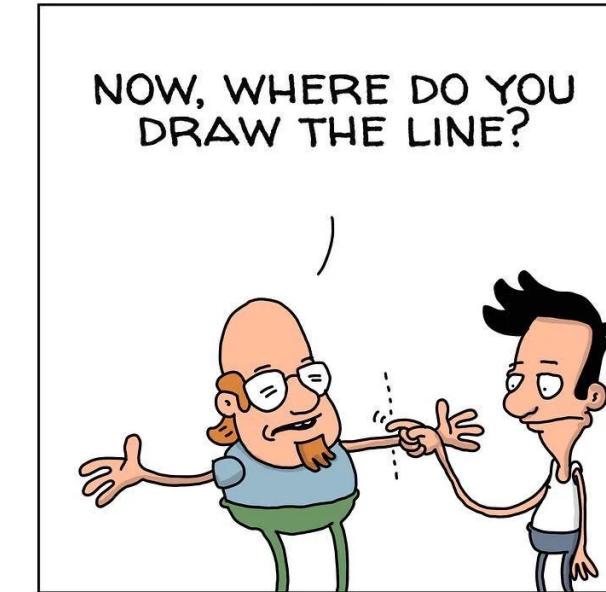
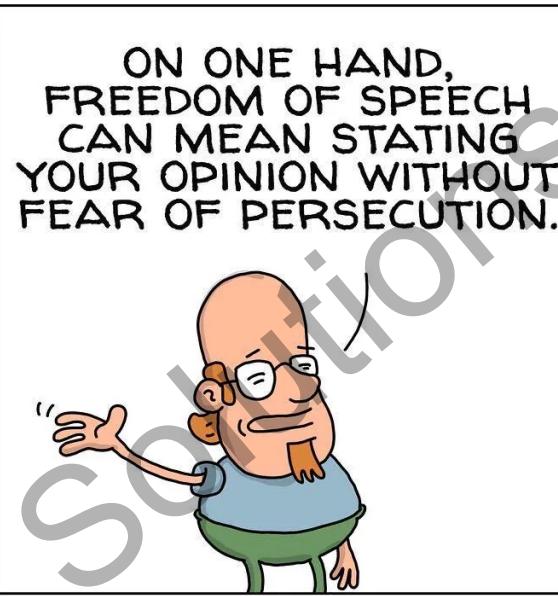
HYPOTHETICAL 3:

Intake scenario:

Ava was attending an open house for student organizations. While walking around the tables, perusing her options, a student passing out fliers touched her hijab and said, “This club is only for real Americans.”

What questions should you ask during the intake?

THE FIRST AMENDMENT AND ACADEMIC FREEDOM



THE SCOPE OF INSTITUTIONAL DISCRETION

- Constituents may have difficulty understanding why institutions can and do limit speech activities (maybe even less offensive ones) in some circumstances and not others.
- Often the exercise of discretion to limit speech turns on whether the speech activity at issue is in the context of a University-sponsored activity or event or occurs within a space over which the institution has greater control.

HYPOTHETICAL

A student resident hung a Confederate flag from their dorm room window, visible from outside of the residence building.

The institution demanded immediate removal of the flag from public view and threatened disciplinary action if the Student did not comply.

The Institution put out a message explaining its commitment to free speech, while creating distance from the Student's expressed ideation.

The Institution had discussions with the Student about the theoretical harm the conduct could cause due to a lack of participant complainants.

What are some issues that could arise from these various response options?

ACADEMIC FREEDOM

Is Academic Freedom an Exception to Governmental Authority to Restrict Government Employees' Speech?

The Supreme Court recognized that applying Government's discretion to restrict Government Employee Speech to public university professors would deny professors First Amendment protection for "expression related to scholarship or teaching." The court did not "decide whether the analysis . . . would apply in the same manner to a case involving speech related to scholarship or teaching."

ACADEMIC FREEDOM

What are the bases for Academic Freedom?

1

Teaching



2

Research



3

Intramural Speech



4

Extramural Speech



SHOULD I INVESTIGATE THIS?

- A faculty member comments on a student's assignment that the work was "third world." The student is from Egypt and was offended.
 - What else would you need to know in order to decide?
- A Black employee who works remotely came into the office one day, and a colleague referred to him as the "tall, dark, mysterious stranger."
 - Would the analysis change if the supervisor made the comment?
- A comment by a student in a history class stating that the professor is exaggerating the scope or impact of the Holocaust.
 - What else would you need to know in order to decide?

RECENT HE OCR RESOLUTION AGREEMENTS

- Brown University (August 2025)
- George Washington University (January 2025)
- Harvard University (January 2025)
- Emory University (January 2025)
- University of Washington (January 2025)
- Johns Hopkins University (January 2025)
- Lehigh University (January 2025)
- UCLA (January 2025)
- Rutgers University (January 2025)
- University of California (December 2024)
- University of Cincinnati (December 2024)
- Temple University (December 2024)
- Muhlenberg College (September 2024)
- University of Illinois (September 2024)
- Drexel University (August 2024)
- Brown (July 2024)
- Lafayette College (June 2024)
- City University of New York (CUNY) (June 2024)
- University of Michigan (June 2024)



RECENT OCR GUIDANCE AND FACT SHEETS

Seven Title VI Guidance
Documents since January 2023

- January 2023
- May 2023
- November 2023
- March 2024
- May 2024
- July 2024
- January 2025

SOME COMMON THEMES

Reiterating
institutional
obligations

Recordkeeping

Coordination or
centralization

Policy updates

Training (and
effectiveness
assessments)

Climate assessments

WHAT IF...

- Respondent is unidentifiable, unknown, or isn't a member of our community.
 - Shift from punitive focus.
- Aggregated experiences and conduct without one particular respondent to pinpoint.
- There is no "respondent" - institutional policy or action or inaction.



TITLE VI BEST PRACTICES...

- Harassment: Subjectively and objectively offensive, and so severe or pervasive that it interferes with or limits the ability to participate or benefit from the institution's services, opportunities, or activities.
- Need to assess the totality of the circumstances including context, nature, frequency, duration and location as well as the number impacted, relationships, and power differential(s).
- Does not need to be directed at a particular individual.
- May be based on an association with others of a different race, color, national origin.
- May occur in classrooms, residence halls, hallways, facilities, social media.
- Need to assess whether the collective incidents created hostile environment (overall environmental impact)

PROTECTED SPEECH

If speech is protected...

- Who decides?
- Time, place, and manner
- Intersecting policies

BEST PRACTICES IN TITLE VI INVESTIGATIONS

What stays the same and what we can
change

INVESTIGATION PLAN

Scope of the investigation

Policy definition of prohibited conduct

Witnesses

Evidence

By maintaining a running record of these things, you ensure you stay within your scope and can easily reference specific materials once you're ready to draft your report.

WHAT ARE THE MATERIAL ISSUES IN TITLE VI?

Discrimination: Individual

What conduct/speech is being alleged?
What is the protected status of the impacted person(s)?
Do you have comparators?
Was there an impact?
Is there a nexus between the conduct/speech and the impacted person(s) protected status?

Discrimination: Programmatic

Did the policy/procedure have a discriminatory impact?
Is there a legitimate, non-discriminatory purpose?
Are there alternatives that do not unfairly burden?

Harassment

What conduct/speech is being alleged?
How often (pervasiveness)?
On the basis of what protected status?
Was the conduct/speech targeted at the impacted person(s) actual or perceived identity?
Where did it occur (jurisdiction)?
Was Complainant impacted?
Witnesses and evidence?

RELEVANT OR NOT RELEVANT EVIDENCE

RELEVANT

Does the evidence make a fact more or less probable than it would be without the evidence?

Can the Decision-Maker rely on the evidence in reaching a determination?

NOT RELEVANT

Does not contribute to making any fact more or less probable than it would be without the evidence.

"Character evidence"

INVESTIGATION CONSIDERATIONS

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-  The Respondent is a student group. How should I proceed?
-  A comment in class – do I need to interview every student?
-  I have video. Do I need to interview anyone?
-  Why investigate - I don't see how that comment could have offended anyone.

PRIOR BAD ACTS

TITLE IX VS. TITLE VI

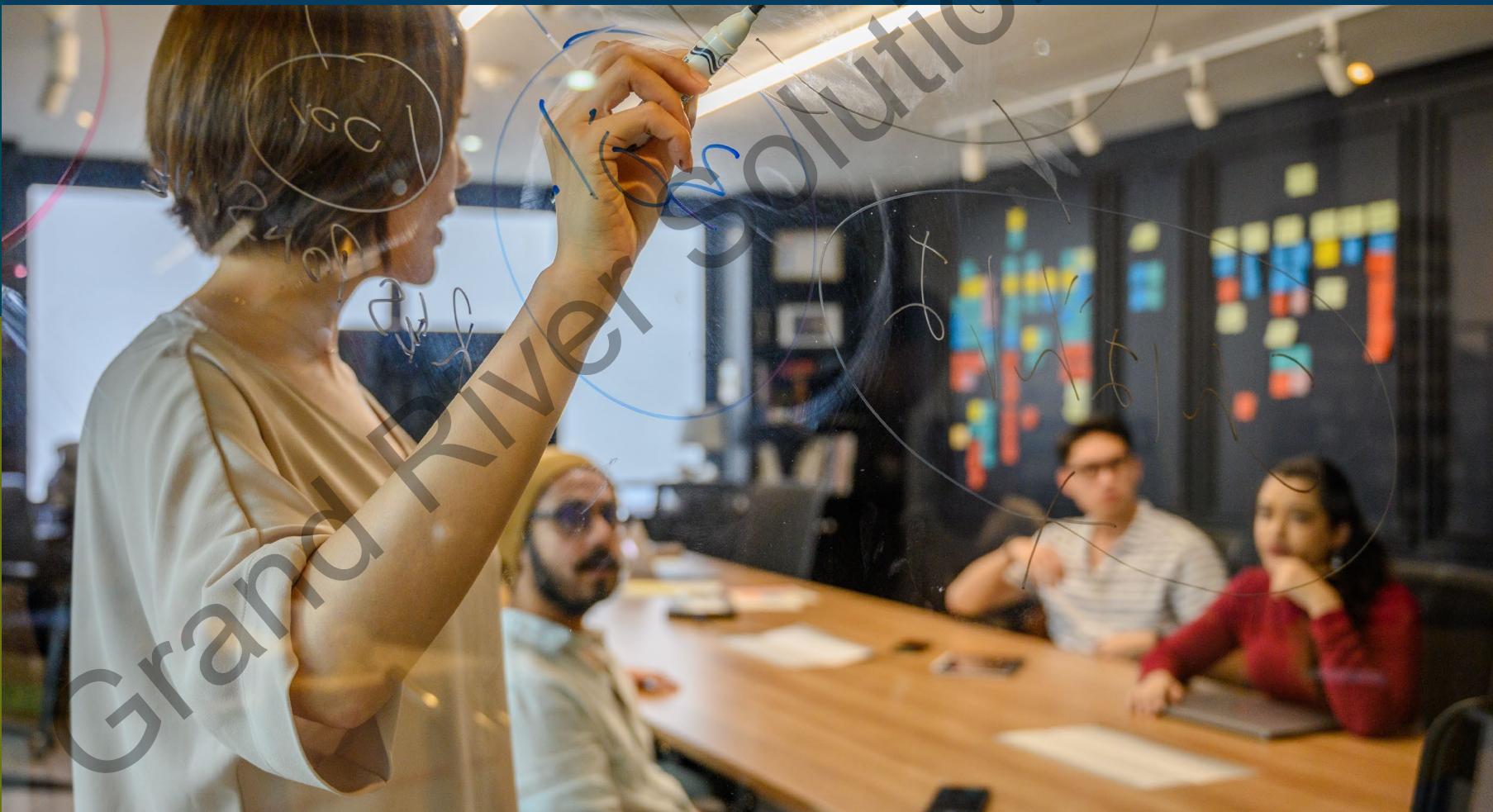
- Unlike in Title IX cases, prior bad acts can be relevant to prove a propensity.
- Prior bad acts can be relevant to assessing credibility and reliability.

CONDUCTING INTERVIEWS



REMEDIES AND SOLUTIONS

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ASSESSING IMPACT AND ALIGNING REMEDIES

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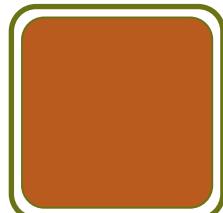
Access to Programs

Has the institution taken steps to ensure or restore access denied?



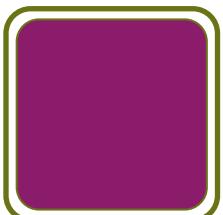
Supportive measures

Safety, counseling, academic accommodations?



Protection from Retaliation

Notifying parties of protections and obligations



Proactive accommodations

What steps can be taken in advance of activities that are risky, Title VI wise?

EXAMPLES OF SUPPORTIVE MEASURES

- Facilitating access/referral to university resources
 - *Counseling*
 - *EAP*
- Temporary relocation of housing or work location, and/or
- Administrative mutual no contact orders.
- Disability Services
- This list is not exhaustive*

TWO WAYS TO THINK ABOUT REMEDY

- Specific to the individual affected party or complainant; restoring them as much as possible
- Holistic – taking reasonable steps to ensure it doesn't happen again

REMEDIES

- Gain consistent language among the group
- Assign an owner
- Limited only by creativity!
- Must read investigation report before determining appropriate remedy

EXAMPLES - FROM INFORMAL RESOLUTION

- Mutual no contact orders;
- Individual training on tailored topics;
- Impact statements and written responses—
hearing each other, understanding each other;
- Agreements to limit contact (housing,
schedules, activity participation, etc).
- More!

EXAMPLES - HOLISTIC

- Policy changes
- Training
- Educating on impact
- increased oversight—supervision; cameras; lights
- Community building initiatives
- More!

CAMPUS TRAININGS TO CONSIDER



- Campus Safety/Campus Police: Response Protocols and De-Escalation Techniques
- Campus Wide: Where to Report
- Title VI Resolution Process Participants
- Level-Setting
- Prevention
- Faculty Members: Classroom Management Techniques
- Faculty and Staff: Effective Dialogue and Critical Conversations

6436-A REQUIREMENTS

7



6436-A PURPOSE

To ensure students are protected from illegal discrimination based on characteristics . . . institutions shall engage in proper coordination of these efforts through a centralized process and with a centralized point of contact for all compliance, similar to the role of the Title IX coordinator.



6436-A PURPOSE (2)

- Centralization key to guidance and enforcement;
- Title IX distinctions and similarities;
- Varying policy landscapes.



RESPONSIBILITIES OF THE TITLE VI COORDINATOR WHEN RECEIVING REPORTS

- Offer supportive measures to student(s) raising the complaint;
- Notify reporting students about Title VI and its protections, applicable policies;
- Ensure there's a compliant policy and procedure for investigation and resolution;
- Develop training for all students and employees to promote equal access;
- Annual notification to the campus community about policies and procedures;
- Training for Title VI Coordinator or designees;
- Recordkeeping.

WHAT ARE SUPPORTIVE MEASURES?

- Offer supportive measures to student(s) raising the complaint;

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NOTIFY RE TITLE VI AND ITS PROTECTIONS

- Notify reporting students about Title VI and its protections, applicable policies;

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WHAT DOES A COMPLIANT POLICY AND PROCEDURE LOOK LIKE?

- Ensure there's a compliant policy and procedure for investigation and resolution;
 - Clear definitions of prohibited conduct;
 - Hostile environment assessment;
 - Considers the totality of the circumstances;
 - Identify who assesses whether conduct involves protected speech/expression;
 - What else?

STUDENT AND EMPLOYEE TRAINING – SOME IDEAS

- Develop training for all students and employees to promote equal access;
 - Explanation of prohibited conduct under the nondiscrimination policies;
 - Examples of types of conduct that's prohibited;
 - Description of policies and procedures that apply and the institution's obligation to respond;
 - What that response looks like;
 - Information about jurisdiction--quite broad.

ANNUAL NOTIFICATION TO THE CAMPUS

- Annual notification to the campus community about policies and procedures;

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DESIGNEES; TRAINING FOR TVIC AND DESIGNEES

- Training for Title VI Coordinator or designees;
- No timeframe—not annual necessarily, but...

RECORDKEEPING

The Title VI coordinator shall be responsible for appropriate recordkeeping related to:

- any reports and complaints of discrimination and harassment, in accordance with applicable state and federal law, including
- all records related to assessments of reports, records documenting actions the institution took to meet its obligations, and
- any records of training attendance and materials.

RECORDS RECORDS RECORDS

Recordkeeping
Data collection and analysis

WHAT GOES IN A RECORD

- Written Report of the Complaint
- Documentation of Actions Taken
- Disciplinary Actions and Outcomes
- Supportive Measures and Remedies
- Prevention and Institutional Response

MAINTAINING CASE DATA – WHY????

Track all incoming reports and know the status

Document process decisions and deviations, if any

Identify patterns, trends, systemic issues

Identify training and prevention needs

Audits, lawsuits

Advocating for additional support or structural change



COMMUNICATING BACK TO THE COMPLAINANT

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GATHERING MEANINGFUL DATA

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GATHERING MEANINGFUL DATA

- Why?
- What?
- Sharing is caring? Or not.
- Best practices

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WHAT IF...EXAMPLE

- Maddie reports that someone drew on her dry-erase board in permanent marker. They drew swastikas and wrote conspiracy theories such as "Jews did 9/11" and "don't take our jobs, k***s."
- Maddie and her roommate Jordyn are not Jewish. Jordyn's last name is Goldman, and sometimes people incorrectly assume she is Jewish.

WHAT IF...EXAMPLE (2)

- In her interview, Jordyn shares it was just announced that she won a prestigious undergraduate fellowship.
- Jordyn states that she received some anonymous hateful messages online, similar to what was written on the door.

EXAMPLE: UNWANTED DINNER GUESTS

- On the first night of Rosh Hashanah, the Jewish new year, some brothers at ZBT, an inclusive Jewish fraternity, gathered in a communal meeting space for prayers before dinner.
- The front door opened, and an individual threw a package inside and then ran back to a car, which quickly drove away.
- Some brothers hesitated; was that a bomb? One stepped toward the package and saw that it was ground pork from the grocery store.

CASE MANAGEMENT SOFTWARE

Case Tracker

Titles VI, VII, IX & Equity
Software Solution

by Grand River Solutions



Schedule a Demo

Designed for you,
by practitioners like you.

We are experts and practitioners working in response and resolution for discrimination, harassment, & equity concerns.

Case Tracker allows you to:

- track and manage your cases
- communicate with campus stakeholders without compromising case privacy, and
- provide parties with the ability to follow the status of their case

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