



A Review of the U.S. Department of Education's Guidance on Harassment and Discrimination under Title VI

3rd Annual Mid-Year Conference

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Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., 34 C.F.R. Part 100



“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.”

In the education arena, Title VI’s protections apply to all public elementary and secondary schools and colleges and universities—public or private—that receive federal financial assistance.

Its protections extend to all aspects of these institutions’ programs and activities. When enforcing Title VI, OCR works to ensure equal access to education services and benefits and to prevent acts of retaliation against those who report Title VI violations.

*Other federal agencies enforce laws that expressly prohibit religious discrimination by schools, colleges, and universities. For example, complaints of religious discrimination **in employment** can be brought to the Equal Employment Opportunity Commission (EEOC), **in housing (including dormitories)** to the U.S. Department of Housing and Urban Development (HUD), and **by public schools and colleges** to the U.S. Department of Justice (DOJ).



What does “race, color, or national origin” mean within the context of Title VI?

Discrimination on the basis of race, color, or national origin includes discrimination based on a person’s actual or perceived race, color, national origin, ethnicity, or ancestry.

This includes discrimination based on the country, world region, or place where a person or his or her ancestors come from; a person’s limited English proficiency or English learner status; or a person’s actual or perceived shared ancestry or ethnic characteristics, including membership in a religion that may be perceived to exhibit such characteristics (such as Hindu, Jewish, Muslim, and Sikh individuals).



What is “Shared Ancestry?”

Citizenship or residency in a country with a dominant religion or distinct religious identity.

A University hospital emergency room patient requests that a hospital change his attending physician because the patient associates the physician’s surname with Judaism and Israel, and the hospital honors the request.

A human resources employee at the College regularly provides inferior services, including longer wait times, to staff and faculty members who are perceived to have come from a foreign country because of religious attire.

For example, OCR can investigate complaints that students were subjected to ethnic or ancestral slurs; harassed for how they look, dress, or speak in ways linked to ethnicity or ancestry (e.g. skin color, religious attire, language spoken); or stereotyped based on perceived shared ancestral or ethnic characteristics. Hindu, Jewish, Muslim, and Sikh students are examples of individuals who may be discriminated against based on shared ancestry or ethnic characteristics.



<https://www2.ed.gov/about/offices/list/ocr/sharedancestry.html>

2024 NACOP 3RD ANNUAL MID-YEAR CONFERENCE



Jurisdiction of OCR

- The civil rights laws enforced by the U.S. Department of Education's Office for Civil Rights (OCR) protect all students from discrimination on the basis of race, color, national origin, sex, disability, and age.
- None of the laws that OCR enforces expressly address religious discrimination. However, Title VI of the Civil Rights Act of 1964 (Title VI) protects students of any religion from discrimination, including harassment, based on a student's actual or perceived:
 - shared ancestry or ethnic characteristics, *or*
 - citizenship or residency in a country with a dominant religion or distinct religious identity.

Does Title VI protect only students?

No. Title VI protects all persons (within the Title IV funded institution) from discrimination, including parents and guardians, students, and to a limited degree, employees.



Violating Title VI



- A recipient violates Title VI if one of its agents, acting within the scope of their official duties, has treated an individual differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient.
- To establish a violation of Title VI under the hostile environment theory, OCR must find that:
 - (1) a hostile environment based on national origin existed;
 - (2) the recipient had actual or constructive notice of a hostile environment based on national origin; and
 - (3) the recipient failed to respond adequately to redress the hostile environment based on national origin.

When determining whether an agent or employee was acting within the scope of their official duties such that the individual has actual or apparent authority over the individuals involved, OCR takes into account such factors as the relationship between the parties and the time, location, and context of the alleged conduct.

List of Open Title VI Shared Ancestry Investigations



Institution	Location	Date Investigation Opened
Brown University	Providence, RI	01/09/2024
Teaneck Public Schools	Teaneck, NJ	01/05/2024
Placentia - Yorba Linda Unified School District	Placentia, CA	01/03/2024
Seneca School District	Seneca, MO	01/02/2024
San Diego State University	San Diego, CA	01/02/2024
Lammersville Unified School District	Mountain House, CA	01/02/2024
City Schools of Decatur	Decatur, GA	01/02/2024
University of Virginia - Charlottesville	Charlottesville, VA	12/29/2023
Newark Public Schools	Newark, NJ	12/21/2023
George Mason University	Fairfax, VA	12/22/2023

List of Open Title VI Shared Ancestry Investigations



Institution	Location	Date Investigation Opened
Rutgers University	Newark, NJ	12/11/2023
University of California-San Diego	La Jolla, CA	12/11/2023
University of Washington-Seattle	Seattle, WA	12/08/2023
Whitman College	Walla Walla, WA	12/08/2023
Stanford University	Stanford, CA	12/07/2023
University of California-Los Angeles	Los Angeles, CA	12/06/2023
Cobb County School District	Marietta, GA	12/05/2023
Montana State University	Bozeman, MT	12/05/2023
Tulane University	New Orleans, LA	12/05/2023
Union College	Schenectady, NY	12/05/2023

List of Open Title VI Shared Ancestry Investigations



Institution	Location	Date Investigation Opened
University of Cincinnati	Cincinnati, OH	12/05/2023
Santa Monica College	Santa Monica, CA	12/04/2023
New York City Department of Education	New York, NY	11/28/2023
Harvard University	Cambridge, MA	11/28/2023
Clark County School District	Las Vegas, NV	11/21/2023
Hillsborough County Schools	Tampa, FL	11/21/2023
University of Tampa	Tampa, FL	11/20/2023
Columbia University	New York, NY	11/20/2023
Columbia University	New York, NY	11/16/2023
Cornell University	Ithaca, NY	11/16/2023

List of Open Title VI Shared Ancestry Investigations



Institution	Location	Date Investigation Opened
Lafayette College	Easton, PA	11/16/2023
Maize Unified School District	Maize, KS	11/16/2023
Wellesley College	Wellesley, MA	11/16/2023
University of Pennsylvania	Philadelphia, PA	11/16/2023
The Cooper Union for the Advancement of Science and Art	New York, NY	11/15/2023
Wilson County Schools	Wilson County, TN	11/09/2023
San Diego State University	San Diego, CA	10/25/2023
Community School of Davidson	Davidson, NC	10/20/2023
Clark County School District	Las Vegas, NV	10/11/2023
Oberlin College	Oberlin, OH	09/29/2023

Guidance-Current to Past



Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics (Nov. 7, 2023) [PDF](#)

Dear Colleague Letter: Race and School Programming (Aug. 24, 2023) [PDF](#)

Addressing Discrimination Against Jewish Students
Dear Colleague Letter (May 25, 2023) [PDF](#)

Race, Religion, and National Origin Tolerance **Dear Colleague Letter** (Dec. 31, 2015)

Harassment and Bullying **Dear Colleague Letter** (Oct. 26, 2010) (see pages 5-6)

Title VI and Coverage of Religious Groups, **DOJ Letter to OCR** (Sept. 8, 2010)

Religious Discrimination, **Dear Colleague Letter** (Sept. 14, 2004) [PDF](#)

First Amendment **Dear Colleague Letter** (July 28, 2003)

Racial Harassment **Investigative Guidance** (Mar. 10, 1994)



Other OCR Resources

- Fact Sheet: Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics (January 2023) [PDF](#)
- Questions and Answers on Executive Order 13899 (Combating Anti-Semitism) and OCR's Enforcement of Title VI of the Civil Rights Act of 1964 (January 19, 2021) [PDF](#)
- Know Your Rights: Title VI and Religion Fact Sheet (Jan. 2017) [PDF](#)
- Combating Discrimination Against Jewish Students Fact Sheet (Jan. 2017) [PDF](#)
- [Combating Discrimination Against Asian American, Native Hawaiian, and Pacific Islander \(AANHPI\) and Muslim, Arab, Sikh, and South Asian Students \(MASSA\) Fact Sheet](#) (June 6, 2016)
- [Exemptions from Title IX](#)
- [How to File a Discrimination Complaint with OCR](#)
- [Resources in Other Languages \(including complaint forms\)](#)



Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics (11/7/2023)

“Schools that receive federal financial assistance have a responsibility to address discrimination against Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, or those of another religious group, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes; when the discrimination is based on a student’s skin color, physical features, or style of dress that reflects both ethnic and religious traditions; and when the discrimination is based on where a student came from or is perceived to have come from, including discrimination based on a student’s foreign accent; a student’s foreign name, including names commonly associated with particular shared ancestry or ethnic characteristics; or a student speaking a foreign language.”

Dear Colleague Letter: Discrimination, including Harassment, Based on Shared Ancestry or Ethnic Characteristics (11/7/2023)



- OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: *unwelcome conduct based on shared ancestry or ethnic characteristics that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity.* Schools must take immediate and effective action to respond to harassment that creates a hostile environment.
- Harassing conduct can be verbal or physical and need not be directed at a particular individual.

See, e.g., *Zeno v. Pine Plains Cent. Sch. Dist.*, 702 F.3d 655, 670 n.14 (2d Cir. 2012) (citing school districts' "longstanding legal duty to 'take reasonable steps to eliminate' racial harassment in its schools" (quoting OCR's Racial Incidents and Harassment Against Students at Educational Institutions Investigative Guidance, 59 Fed. Reg. 11448, 11450 (Mar. 10, 1994))).

Examples of the kinds of incidents that could, depending upon facts and circumstances, raise Title VI concerns include:



- A Jewish middle school student reports to a teacher that the student feels unsafe at school because classmates routinely place notes with swastikas on the student's backpack, perform Nazi salutes, and make jokes about the Holocaust. The teacher advises the student to "just ignore it" and takes no steps to address the harassment.
- Students report concerns about comments made by classmates during history and cultural lessons related to Sikhism, Islam, and other traditions prevalent in South Asia. Muslim students describe, for example, being told by peers in class that "you started 911" and being called "terrorist." The school is alleged to have not taken effective action to address these reports.
- Sikh students who wear a turban (head covering) are repeatedly called "turban" and other names at school, and a student tries to physically remove a turban that a Sikh student is wearing. Students report that the district does not take effective actions to document and address these reports.

FACT SHEET: Protecting Students from Discrimination Based on Shared Ancestry or Ethnic Characteristics, January 2023

How do educational institutions balance their Title VI obligations with individuals' First Amendment rights?



- OCR has consistently reaffirmed that the Federal civil rights laws it enforces protect students from prohibited discrimination and are not intended to restrict expressive activities or speech protected under the U.S. Constitution's First Amendment.
- The fact that discriminatory harassment involves speech, however, does not relieve the school of its obligation to respond if the speech contributes to a hostile environment. Schools can protect students from such harassment without running afoul of students' and staff First Amendment rights. For instance, in a situation where the First Amendment prohibits a public university from restricting the right of students to express persistent and pervasive derogatory opinions about a particular ethnic group, the university can instead meet its obligation by, among other steps, communicating a rejection of stereotypical, derogatory opinions and ensuring that competing views are heard. Similarly, educational institutions can establish a campus culture that is welcoming and respectful of the diverse linguistic, cultural, racial, and ethnic backgrounds of all students and institute campus climate checks to assess the effectiveness of the school's efforts to ensure that it is free from harassment. Schools can also encourage students on all sides of an issue to express disagreement over ideas or beliefs in a respectful manner. **Schools should be alert to take more targeted responsive action when speech crosses over into direct threats or actionable speech or conduct.**

First Amendment Dear Colleague Letter, July 28, 2023

- Some colleges and universities have interpreted OCR's prohibition of "harassment" as encompassing all offensive speech regarding sex, disability, race or other classifications. Under OCR's standard, the conduct must also be considered sufficiently serious to deny or limit a student's ability to participate in or benefit from the educational program.
- There has been some confusion arising from the fact that OCR's regulations are enforced against private institutions that receive federal-funds. Because the First Amendment normally does not bind private institutions, some have erroneously assumed that OCR's regulations apply to private federal-funds recipients without the constitutional limitations imposed on public institutions. OCR's regulations should not be interpreted in ways that would lead to the suppression of protected speech on public or private campuses. Any private post-secondary institution that chooses to limit free speech in ways that are more restrictive than at public educational institutions does so on its own accord and not based on requirements imposed by OCR.

Race and School Programming, DCL, August 24, 2023



Unlawful Express Racial Classifications

School programs - including the implementation of curricula or the establishment, recognition, or support of a school group, club, or other extracurricular organization - that treat individual students differently based on their race are subject to “strict scrutiny” review under Title VI.¹ To survive strict scrutiny, a school must demonstrate that any use of an individual student’s race is “narrowly tailored” to further a “compelling” interest. Strict scrutiny is a demanding standard of review that requires a careful and fact-specific analysis.²

1-See SFFA, 143 S. Ct. at 2156 n.2 (analyzing Harvard’s admissions program under Equal Protection Clause in light of prior holdings that racial discrimination by school districts that violates the Equal Protection Clause also violates Title VI).

2-SFFA, 143 S. Ct. at 2162. The Supreme Court has held that compelling interests may not just be “plainly worthy” or “commendable goals,” but must also be “sufficiently coherent for purposes of strict scrutiny” so that they can “be subjected to meaningful judicial review.” *Id.* at 2166. Compelling interests may not be “standardless.” *Id.*

Racially Discriminatory Application of Facially Neutral Policies



OCR frequently uses the following three-step test to determine whether a school treated similarly situated students differently based on race in violation of Title VI:¹

1. Did the school treat a student or group of students of a particular race differently from a similarly situated student or group of students of another race? If no, then OCR would not find sufficient evidence to determine that the school has engaged in different treatment based on race under this framework. If yes, then move to step two:
2. Can the school articulate a legitimate, nondiscriminatory reason for the different treatment? If no, OCR could find that the school has discriminated on the basis of race. If yes, then move to step three:
3. Is the articulated reason for the different treatment a pretext for discrimination (i.e., not the true reason for the school's actions)? If yes, OCR could find that the school has engaged in discrimination based on race.

1-See also *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973), a case under Title VII of the Civil Rights Act of 1964 (Title VII) that sets forth a three-part test that also applies in the Title VI context. The Department uses the *McDonnell Douglas* test in its administrative enforcement as one way to determine whether an institution has engaged in prohibited intentional discrimination. See also *Xu Feng v. University of Delaware*, 785 Fed. Appx. 53 (3rd Cir. 2019) (applying *McDonnell Douglas* to a Title VI claim); U.S. Dep't of Justice, Civil Rights Division, Title VI Legal Manual 44-46 (Apr. 22, 2021).

Separation of Students and Different Treatment Based on Race



OCR generally will open an investigation under Title VI where there are allegations that the use of a curriculum or program separates students or otherwise treats them differently based on their race. Title VI regulations specifically prohibit “separate treatment in any matter related to” a person’s receipt of services or any other benefit of the school program. In almost all circumstances, separating students based on race violates Title VI even if programming for each group is identical.

*See SFFA, 143 S. Ct. at 2160; Brown v. Bd. of Educ., 347 U.S. 483, 495 (1954) (“Separate educational facilities are inherently unequal.”)

Example 3: The curriculum for a college course requires that students of different races read different materials based on their race. The college also requires that students complete different written assignments and participate in different discussion groups based on their race. When asked why the college assigned different materials, the college stated that students often feel more comfortable reading works by authors of their own race. A student in the course files a complaint with OCR alleging race discrimination.

Other School Programming



- Title VI generally does not restrict schools from holding assemblies, meetings, focus groups, or listening sessions to hear about students' experiences with race in the school or surrounding community, or to hear students' ideas about creating an inclusive school community with attention to race or other aspects of identity that affect students' experiences at the school or in the world. OCR recognizes that schools often utilize such events or groups with the aim of preventing violations of Title VI, such as unjustified different treatment of students based on race and racially hostile environments.
- Title VI generally requires schools to ensure that all their students, regardless of race, have an equal opportunity to participate in any educational programs and activities, including meetings, focus groups, and listening sessions.
- Restricting students' participation based on their race would raise significant concerns and trigger strict scrutiny under Title VI. If, however, the school provides an opportunity for all interested students to participate regardless of race, hosting meetings, focus groups, or listening sessions on race-related topics likely would not, by itself, raise concerns under Title VI.

Other School Programming



- Example 7: In the wake of several high-profile police shootings of Black victims, a public school announces that it will convene an assembly for its Black students in order to provide a forum for them to express their frustrations, fears, and concerns. On the day of the event, several white students ask to participate, but school officials turn them away, saying that the program was designed specifically for Black students. OCR later receives a complaint from a parent alleging that the assembly violated Title VI by excluding students based on race.
- An institution's DEI Office has a student organization specifically for African-American men because they are a significant minority on campus. The organization's membership is restricted only to students who are African-American, and they meet monthly on campus. The goal of the organization is to bring Black students together, so they do not feel so alone on campus. OCR receives a complaint from a student who argues that the organization violates Title VI by excluding students based on race and Title IX by restricting access to the organization by sex.

OCR would have reason to open investigations based on these complaints. Because the complaints allege specific facts suggesting that the school limited students' participation based on their race, further investigation may be warranted.



ADDRESSING
DISCRIMINATION
AGAINST JEWISH
STUDENTS DCL
MAY 25, 2023

**DON'T DISCRIMINATE AGAINST
JEWISH STUDENTS OR OTHER
STUDENTS WITH SHARED
ANCESTRY.**



Race, Religion, and National Origin Tolerance Letter, DCL, December 31, 2015

Even though Title VI does not expressly prohibit discrimination based solely on religion per se, discrimination against persons belonging to religious groups violates Title VI **when the discrimination is based on the religious group's actual or perceived shared ancestry or ethnic characteristics**, rather than solely on its **members' religious practices**. In addition, the Department of Justice enforces Title IV of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, national origin, and religion by public schools and colleges, 42 U.S.C. § 2000c-6, and the Equal Educational Opportunities Act, which prohibits discrimination on the basis of race, color, or national origin by public schools, 20 U.S.C. § 1703.

Harassment and Bullying DCL, October 26, 2010 (pages 5-6)



The statutes that OCR enforces include Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (Section 504); and Title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and Title II prohibit discrimination on the basis of disability.

School districts may violate these civil rights statutes and the Department's implementing regulations when peer harassment based on race, color, national origin, sex, or disability is sufficiently serious that it creates a hostile environment and such harassment is encouraged, tolerated, not adequately addressed, or ignored by school employees.

Takeaway—"bullying" can be "harassment" based on protected classes as identified in the statutes above. Minimizing "bullying" and not recognizing it as "harassment" is not a defense to the law.

Title VI and Coverage of Religious Groups, DOJ Letter to OCR, September 8, 2010



Groups that face discrimination on the basis of shared ethnic characteristics may not be denied the protection of our civil rights laws on the ground that they also share a common faith. Similarly, the existence of acts indicative of religious discrimination does not divest OCR of jurisdiction to investigate and remedy allegations of race or ethnic discrimination. OCR will exercise its jurisdiction to enforce the Title VI prohibition against national origin discrimination, regardless of whether the groups targeted for discrimination also exhibit religious characteristics. Thus, for example, OCR aggressively investigates alleged race or ethnic harassment against Arab Muslim, Sikh, and Jewish students.

OCR's Dear Colleague Letter: Title VI and Title IX Religious Discrimination in Schools and Colleges (Sept. 13, 2004)



1. Condemnation against discrimination against persons with shared ancestry.
2. OCR has also recently investigated allegations of race and sex discrimination against white, male Christian students. In one unfortunate incident, a white male undergraduate student was harassed by a professor for expressing conservative Christian views in a classroom discussion regarding homosexuality. Just last year, OCR issued a “Dear Colleague” letter admonishing recipients of federal financial assistance that “schools in regulating the conduct of students and faculty to prevent or redress discrimination must formulate, interpret, and apply their rules in a manner that respects the legal rights of students and faculty, including those court precedents interpreting the concept of free speech.” No OCR policy should be construed to permit, much less to require, any form of religious discrimination or any encroachment upon the free exercise of religion. While OCR lacks jurisdiction to prohibit discrimination against students based on religion per se, OCR will aggressively prosecute harassment of religious students who are targeted on the basis of race or gender, as well as racial or gender harassment of students who are targeted on the basis of religion.

RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; INVESTIGATIVE GUIDANCE (3/10/1994)



- Though the recipient may not be responsible directly for all harassing conduct, the recipient does have a responsibility to provide a nondiscriminatory educational environment.
- If discriminatory conduct causes a racially hostile environment to develop that affects the enjoyment of the educational program for the student(s) being harassed, and if the recipient has **actual or constructive notice of the hostile environment**, the recipient **is required to take appropriate responsive action.**
- This is the case regardless of the identity of the person(s) committing the harassment; a teacher, a student, the grounds crew, a cafeteria worker, neighborhood teenagers, a visiting baseball team, a guest speaker, parents, or others.
- This is also true regardless of how the recipient received notice. So long as an agent or responsible employee of the recipient received notice, that notice will be imputed to the recipient.

Race



Some students anonymously inserted offensive notes into African-American students' lockers and notebooks, used racial slurs, and threatened African-American students who tried to sit near them in the cafeteria. Some African-American students told school officials that they did not feel safe at school. The school investigated and responded to individual instances of misconduct by assigning detention to the few student perpetrators it could identify. However, racial tensions in the school continued to escalate to the point that several fights broke out between the school's racial groups.

The nature of the harassment, the number of incidents, and the students' safety concerns demonstrate that there was a racially hostile environment that interfered with the students' ability to participate in the school's education programs and activities. Had the school recognized that a racially hostile environment had been created, it would have realized that it needed to do more than just discipline the few individuals whom it could identify as having been involved. By failing to acknowledge the racially hostile environment, the school failed to meet its obligation to implement a more systemic response to address the unique effect that the misconduct had on the school climate.

RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; INVESTIGATIVE GUIDANCE (3/10/1994)



- Once a recipient has notice of a racially hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it. Thus, if OCR finds that the recipient took responsive action, OCR will evaluate the appropriateness of the responsive action by examining **reasonableness, timeliness, and effectiveness**.
- The appropriate response to a racially hostile environment must be tailored to redress fully the specific problems experienced at the institution as a result of the harassment. In addition, the responsive action must be reasonably calculated to prevent recurrence and ensure that participants are not restricted in their participation or benefits as a result of a racially hostile environment created by students or non-employees.
- In evaluating a recipient's response to a racially hostile environment, **OCR will examine disciplinary policies, grievance policies, and any applicable anti-harassment policies**. OCR also will determine whether the responsive action was consistent with any established institutional policies or with responsive action taken with respect to similar incidents.
- Examples of possible elements of appropriate responsive action include **imposition of disciplinary measures, development and dissemination of a policy prohibiting racial harassment, provision of grievance or complaint procedures, implementation of racial awareness training, and provision of counseling for the victims of racial harassment**.

RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; INVESTIGATIVE GUIDANCE (3/10/1994)



- When responding to harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in a school's investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough, and impartial.
- If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. These duties are a school's responsibility even if the misconduct also is covered by an anti-bullying policy, and regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination. Appropriate steps to end harassment may include separating the accused harasser and the target, providing counseling for the target and/or harasser, or taking disciplinary action against the harasser. These steps should not penalize the student who was harassed. For example, any separation of the target from an alleged harasser should be designed to minimize the burden on the target's educational program (e.g., not requiring the target to change his or her class schedule).

Complaint No. 01-
22-2002

The University of
Vermont and State
Agricultural College

April 3, 2023

Summary of Evidence Obtained

The University is located in Burlington, Vermont and enrolls 11,326 undergraduate and 1,395 graduate students. The University houses more than 5,800 students on campus. UVM Hillel (Hillel) is an affiliate organization of the University with a mission “to enrich the lives of Jewish undergraduate and graduate students so that they may enrich the Jewish people and the world.” Hillel leases its on-campus building from the University; the building’s second floor houses University students (affiliation with Hillel and/or identification as a student of Jewish ancestry is not a requirement for Hillel housing).² According to the [redacted content], the University enrolls between two and three thousand students who identify as Jewish. Over 80% of the University’s students are involved in at least one club or organization; there are over 200 such organizations recognized by the University’s Student Government Association (SGA).

The Complainant alleged that the University failed to respond appropriately to the following incidents:

- In April and May 2021, a University [redacted content]³ who identified herself as a teaching assistant (Teaching Assistant) made a series of antisemitic public tweets.
- On September 24, 2021, students threw “small rocks” and “items with a sticky substance” at the Hillel building. When one student living in the dormitory portion of the building called out and “asked them to stop throwing things,” one of the students outside responded, “Are you Jewish?”
- In May 2021, two student groups excluded Jewish students from group membership and one of the groups made antisemitic comments on social media.

<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/01222002-a.pdf>

Complaint No. 01-
22-2002

The University of
Vermont and State
Agricultural College

April 3, 2023

Conclusion

Prior to the conclusion of OCR's investigation and pursuant to Section 302 of OCR's *Case Processing Manual*, the University expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the University resulted in the University signing the enclosed Agreement which, when fully implemented, will address the evidence obtained and all of the allegations investigated. The Agreement provides that the University will:

- Review and revise its policies and procedures to ensure that the University's response to notice of discrimination including national origin harassment on the basis of shared ancestry is consistent with Title VI;
- Develop protocols clarifying the roles and responsibilities of AAEO and the Bias Response Team¹⁵ and monitor implementation of the protocols by the Provost;
- Provide training to University staff responsible for investigation of Title VI complaints;
- Provide training to University senior leadership, all other staff, and students on the Title VI prohibition against harassment based on national origin, including shared ancestry, in the University's programs and activities;
- Issue a statement of commitment to address discrimination based on shared ancestry, including antisemitism, within 30 days of the signing of the Agreement and again with its annual antidiscrimination statement;
- Review the University's 2022 Climate Survey results to determine if other actions, beyond those memorialized in the Agreement, are needed to improve the campus climate; and
- Annually submit to OCR during the monitoring of the Agreement copies of case files of complaints of antisemitism filed during the preceding academic year.

<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/01222002-a.pdf>



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