

Welcome!

Thank you for joining us! Please feel free to drop in the chat what city and state you are joining us from.



From Policy to Practice:

Implementing Civil Rights Protections in the Classroom



Topics Covered

- **Who Are We?** Introducing the Education Rights Institute
- **Title VI:** Preventing & Addressing Race-Based Discrimination
- **Questions and Answers**





EDUCATION RIGHTS INSTITUTE

Our Mission

The Education Rights Institute's (ERI) **multidisciplinary** team of **legal scholars** and **social scientists** advances **equal educational opportunity** by engaging policymakers, K–12 educators, and families to support delivery of a **high-quality public education** in the United States.



SCHOOL of LAW
Education Rights Institute

Pop Quiz!

Title VI of the Civil Rights Act of 1964

- **Question 1:** Title VI of the Civil Rights Act of 1964 prohibits discrimination based on:
 - **A:** Sex, Race, or Disability
 - **B:** Race or Socioeconomic Status
 - **C:** Race or Ethnicity
 - **D:** Race, Color, or National Origin
- **Answer: D:** Race, Color, or National Origin.



Pop Quiz!

Title VI of the Civil Rights Act of 1964

- **Question 2:** Title VI prohibits discrimination based on race, color, or national origin by:
 - **A:** All public and private schools
 - **B:** All recipients of federal funding
 - **C:** Only state education agencies and public school districts
 - **D:** Only public schools
- **Answer: B:** All recipients of federal funding.



Pop Quiz!

Title VI of the Civil Rights Act of 1964

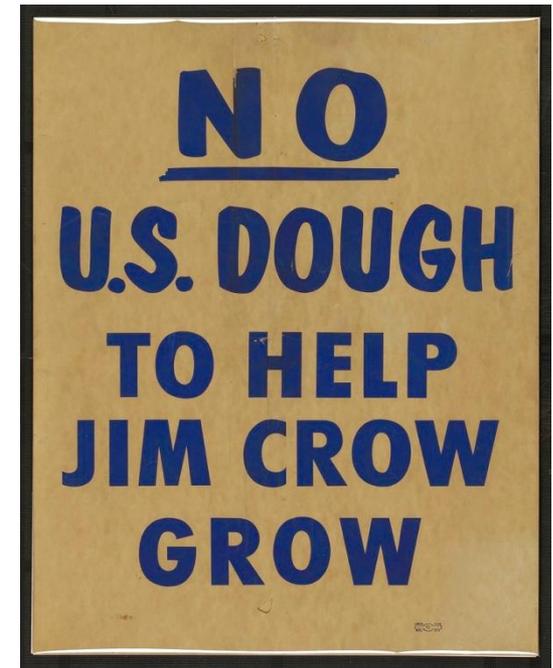
- **Question 3:** Which school district programs and activities does Title VI apply to?
 - **A:** Only academic programs and activities
 - **B:** Only programs and activities that directly receive federal funding
 - **C:** All school district programs and activities
 - **D:** Only academic and athletic programs and activities
- **Answer: C:** All school district programs and activities



Title VI of the Civil Rights Act of 1964: Why Was It Passed?

“**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



Source: Smithsonian

Title VI of the Civil Rights Act of 1964: What Does It Say?

“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.**”

42 U.S.C. § 2000d.



Source: National Archives

Title VI of the Civil Rights Act of 1964: Who Must Comply?

- State Education Agencies
- All Public School Districts
- Public Charter Schools
- Any Private School Receiving Federal Funds



Title VI of the Civil Rights Act of 1964: Which School District Programs Does It Apply To?

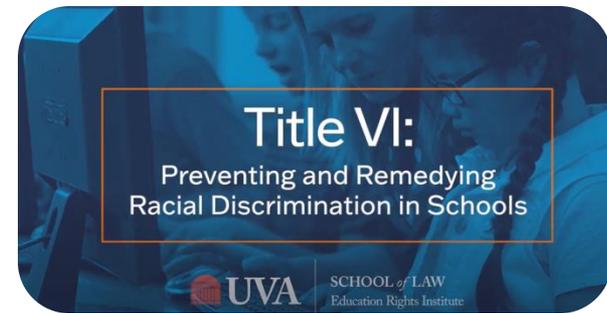
Academic Programs	Admissions	Athletics
Classroom Assignment	Discipline	Financial Aid
Grading	Guidance Counseling	Physical Education
Recreation	Student Treatment & Services	Vocational Education

ERI Title VI Resources



**Preventing and Remedying
Race, Color, and National Origin
Discrimination in Schools:
A PRIMER ON TITLE VI OF
THE CIVIL RIGHTS ACT OF 1964**

Education Rights Institute, University of Virginia School of Law



Title VI for Educators


Title VI of the Civil Rights Act of 1964 for Educators

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Understanding Title VI

What is Title VI?

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on **race, color, or national origin** by all recipients of federal funding. This includes discrimination against **all students**. (pp. 5-6, 15)

- Title VI's ban on national origin discrimination also prohibits discrimination against students who are **English learners**.
- Title VI protects all students, including Arab, Hindu, Jewish, Muslim, and Sikh students, from discrimination based on **shared ancestry or ethnic characteristics**.

Who Must Comply with Title VI?


 All recipients of federal funds, including state education agencies; school districts; all public schools, including public charter schools; and any private schools that receive federal funding must comply with Title VI.

What Programs or Activities Does Title VI Apply to?

Title VI protects students from discrimination based on race, color, or national origin in all school district programs and activities—even those that do not directly receive federal funding. This includes, but is not limited to:

- Grading
- Student Treatment and Services
- Career and Technical Education
- Discipline
- Guidance Counseling

Quick Guides!



Identifying and Remediating Discrimination

What Does Discrimination Under Title VI Look Like?

Disparate Treatment (pp. 17-21)	Disparate Impact* (pp. 17-18)	Hostile Environment** (pp. 12-14, 100-101)	Retaliation (p. 21)
means when...			
someone working for or contracted by the school intentionally treats someone differently based on their race, color, or national origin.	a neutral policy or practice of a school has an unintended discriminatory negative effect on members of a certain race, color, or national origin. *The school administration has applied a neutral policy or practice to all students.	someone's conduct based on race, color, or national origin is sufficiently and objectively offensive and so severe or pervasive that it limits a student's ability to benefit from school programs. **The school has made or made known an affirmative status for all parts of the institution and cannot be held liable for the harassment of one individual.	someone working for or contracted by the school intentionally, or coerces an individual who knows Title VI concerns as a school employee in any way in a Title VI investigation.
For example...			
a principal who gives more favorable grades to students who were formerly in a public school in the same city without a legitimate reason.	a school dress code forbidding short hair has been found to disproportionately impact African American students. The school's decision to implement the policy is necessary to meet an important educational goal.	a teacher writes that a student is under-achieving and makes referrals to the office and suspends the student while she is pulled in a non-emergency situation.	when a parent complains to a principal about her husband's hostile working social habits near a school's playground, the principal threatens to remove the student from that program.

How Can Educators Support Implementation of Title VI?

- Agree on the way all students will be treated in the classroom. All students and support staff in which students of all races, colors, and national origins receive equal access to educational opportunities are essential to student achievement and well-being. (pp. 21, 22)
- Consider whether your classroom policies and practices, including those related to discipline, addressing facial characteristics, and including all students, create all students well.
- Work to prevent implicit and explicit bias in your classroom. Have a classroom constitution of Title VI so that they can proactively address it.
- Stay informed about fostering discrimination-free learning environments. Use ERI's [resources](#), topical alerts [alerts and updates](#), and [webinars](#) to stay updated on best practices and changes in the law.

How Can Individuals File a Title VI Complaint?

- Individuals can sue in federal court to allege that a school engaged in disparate treatment or retaliation, or failed to adequately address a hostile environment, in violation of Title VI.
- An individual can go to sue to enforce the Title VI disparate impact theory in court.
- The U.S. Department of Education's Office for Civil Rights (OCR) and the U.S. Department of Justice (DOJ) share authority to enforce Title VI in the education context. A Title VI complaint against a district can be filed with either agency.
- The penalty for failing to comply with Title VI is the potential loss of federal funding for a district. Before that happens, Title VI requires OCR or DOJ to take multiple steps, including notifying the school of the compliance concern and working with the school to resolve the issue through voluntary means.


 The Education Rights Institute's (ERI) is a division of many forms of legal services and social organizations. A business legal division of opportunity for employees and students. ERI's education, law of families, law support centers.

01/04/2025

Title VI for District Leaders

 **Title VI of the Civil Rights Act of 1964 for District Leaders** October 2020

This guide to Title VI of the Civil Rights Act of 1964 (Title VI) is designed specifically for use by school district leadership, including school board members and central office administrators. You can find more detailed information in the Education Rights Institute's (ERI) [primer](#) on Title VI of the Civil Rights Act of 1964. Short accompanying videos are also available on the [research page](#) on our [website](#). The page numbers in this summary point you to where you can find more detailed information in our primer. ERI's Title VI guide for educators is available [here](#).

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Title VI protects students from discrimination based on race, color, or national origin in all school district programs and activities—even those that do not directly receive federal funding. This includes, but is not limited to:

Technology Programs



Gifted & Talented Programming



Discipline



Extracurricular Activities



Career & Technical Education



Quick Guides!



Identifying and Remediating Discrimination

What Does Discrimination Under Title VI Look Like?

Disparate Treatment (pp. 14-15)	Disparate Impact* (pp. 14-16)	Hostile Environment** (see this report)	Retaliation (p. 6)
occurs when...			
someone working for or contracted by the school intentionally treats someone differently based on their race, color, or national origin.	a neutral district or school policy or practice has an unjustified disproportionate negative effect on individuals of a certain race, color, or national origin. *The current administration has signaled that federal use of disparate impact is unlikely.	unwelcome conduct based on race, color, or national origin is subjectively and objectively offensive and so severe or pervasive that it limits a student's ability to benefit from school programs. **Hostile environments violate Title VI when a school fails to take prompt and effective steps to eliminate the harassment and prevent its future occurrence, as well as remedy the effects of the harassment on the victim(s).	someone working for or contracted by the school intimidates, threatens, or coerces an individual who raises Title VI concerns to a school or participates in any way in a Title VI investigation.
For example...			
a principal disciplines a Hispanic/Latino student more severely than a White student who was involved in the same fight without a legitimate reason.	a school dress code banning afros and loes has a disproportionate negative effect on Black students. The school cannot articulate why the policy is necessary to meet an important educational goal.	a teacher notices that a Jewish student is bullied with racial slurs in class and has stopped attending the class in which she is bullied, but the teacher takes no action.	after a parent complains to a principal about her Pakistani child experiencing racial harassment in a school's gifted and talented programming, the principal threatens to remove the student from that program.

How Can District Leaders Prevent, Identify, and Address Discrimination?

- Spread the word: All students benefit from a discrimination-free learning environment. Safe and supportive schools in which students of all races, colors, and national origins receive equal access to educational opportunities are essential to student achievement and well-being (pp. 21-22).
- Ensure that all district and school staff receive regular training regarding the district's and school's obligation to not discriminate based on race, color, or national origin and what that means for staff.
- Collect and periodically review data, including but not limited to data related to school climate, special education, and enrollment in gifted or advanced programming, to determine whether discrimination may be serving as a barrier to equal access to educational opportunities.
- Notify all students, families, and staff of their rights pursuant to Title VI and how and to whom they can report any concerns about discrimination, providing information in non-English languages to families as needed.

How Can Individuals File a Title VI Complaint?

- Individuals can sue in federal court to allege that a school engaged in disparate treatment or retaliation, or failed to adequately address a hostile environment, in violation of Title VI.
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 The Education Rights Institute's (ERI) multidisciplinary team of legal scholars and social scientists advances equal educational opportunity by engaging policymakers, K-12 educators, and families to support delivery of a high-quality public education in the United States. You can learn more about ERI on our [website](#). ERI encourages you to share this guide widely with other district leaders.

Title VI of the Civil Rights Act of 1964: How is it Enforced?

- U.S. Department of Education (ED) Office for Civil Rights (OCR)
- U.S. Department of Justice (DOJ)
- Individuals can sue in federal court for alleged intentional discrimination.



Pop Quiz!

Title VI of the Civil Rights Act of 1964

- **Question 4:** How many complaints alleging discrimination based on race and/or national origin did OCR receive in fiscal year 2024?
 - A: 2,403
 - B: 4,307
 - C: 5,101
- **Answer: B: 4,307**



What Does Discrimination Under Title VI Look Like?

- Types of discrimination under Title VI include, but are not limited to:

Disparate Treatment

Disparate Impact

Retaliation

Hostile Environment

Title VI Legal Standard: Disparate Treatment

- Prohibits **intentional** discrimination based on race, color, or national origin.
- Can be proven by:
 - **direct** evidence
 - **indirect** evidence



42 U.S.C. § 2000d; *Coghlan v. Am. Seafoods Co.*, 413 F.3d 1090 (9th Cir. 2005).

Title VI Legal Standard: Disparate Treatment

- **Direct Evidence Examples**
 - classifying a student based on race, color or national origin
 - statements of intent to discriminate by a school or district employee



Title VI Legal Standard: Disparate Treatment

- **Indirect/Circumstantial Evidence Examples:**
 - statements by a school or district employee
 - departures from a school's normal procedures or practices
 - statistical patterns



Disparate Treatment: Identifying Intentional Discrimination

Step One:

Did the school treat a student or students in an **adverse** way while it treated a **similarly situated** student or students of a **different race, color, or national origin** more favorably?

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

Disparate Treatment: Identifying Intentional Discrimination

Step Two:

Can the school provide a **legitimate and nondiscriminatory reason** for the different treatment?

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

Disparate Treatment: Identifying Intentional Discrimination

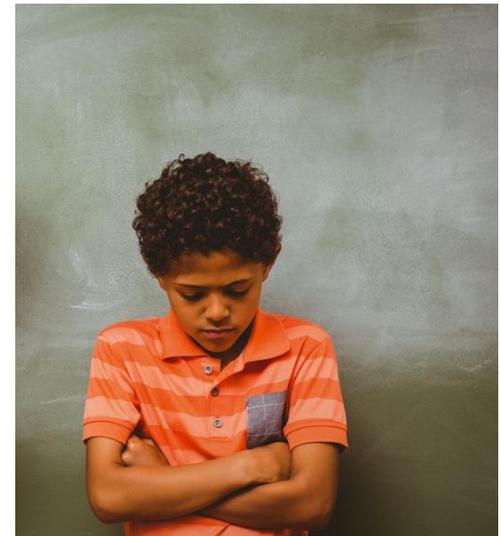
Step Three:

Is the legitimate and nondiscriminatory reason not the real reason—but rather a pretext for the actual discriminatory reason?

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973).

Disparate Treatment: Using Indirect Evidence to Prove Discrimination

- **Examples:**
 - Ignoring the normal procedures
 - Events leading to decision
 - Statistics showing “clear pattern” of discrimination



Arlington Heights v. Metro. Housing Dev. Corp., 429 U.S. 252, 266–68 (1977).

Disparate Treatment: Hypothetical Student Discipline Example

- A Black student and an Asian student were treated differently after being involved in the same physical fight in a school.
- The principal gave the Black student a three-day out-of-school suspension, while she gave the Asian student a two-day in-school suspension.
- Neither the principal nor other school staff were able to determine who started the fight.
- Neither student had a disciplinary history or was found to have a weapon.

Disparate Treatment: Hypothetical Student Discipline Example

- These facts raise concerns under Title VI.



Title VI Legal Standard: Disparate Impact

-
- “A recipient...may not, directly or through contractual or other arrangements, utilize criteria or methods of administration **which have the effect** of subjecting individuals to discrimination because of their race, color, or national origin ...”
 - 34 C.F. R. § 100.3(b)

Title VI Legal Standard: Disparate Impact

- All agencies that enforce Title VI, including ED, have adopted Title VI regulations that prohibit discriminatory effects.



Disparate Impact: Identifying Unlawful Disparate Impact

Step One: Does a facially neutral policy or practice have an adverse and disproportionate impact on a group based on race, color, or national origin?

Step Two: Is there a substantial justification for the policy or practice?

Step Three: Is there an alternative that could have achieved the same goal with less discriminatory impact?

Disparate Impact: Executive Order 14281 and Regulatory Update

- **Executive Order 14281:**
“...eliminate the use of **disparate-impact liability** in all contexts to the maximum degree possible...”
- **Regulatory Update: ED** plans to **remove** Title VI disparate impact regulation.



Discrimination Based on Shared Ancestry or Ethnic Characteristics

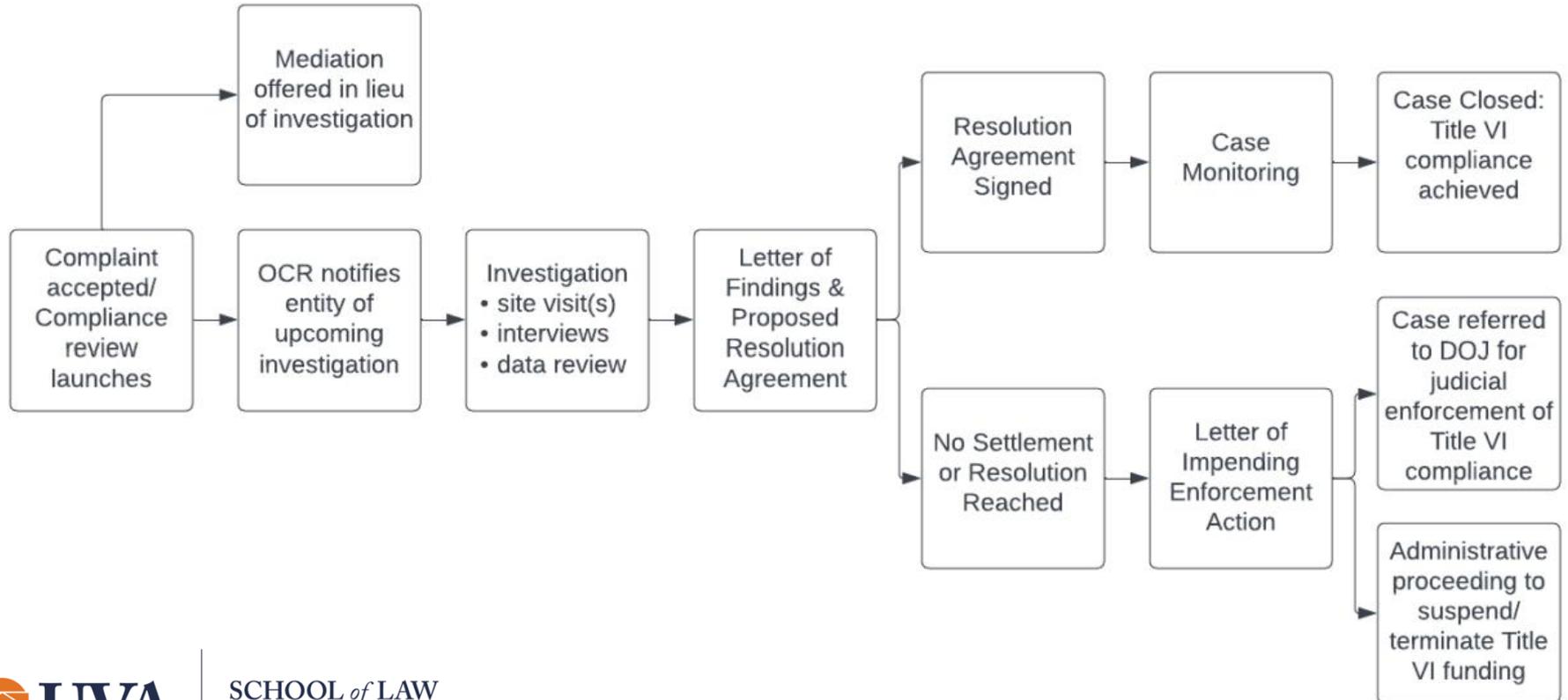
-
- Prohibits discrimination based on actual or perceived **shared ancestry or ethnic characteristics**.
 - All students, including **Arab, Hindu, Jewish, Muslim, and Sikh** students, are protected.

Title VI Prohibits Retaliation

- Title VI **forbids** schools from **retaliating** against anyone for:
 - **Raising concerns** about possible violations of Title VI
 - **Participating in any way** in a **Title VI investigation**.
- **Retaliation** can include **threatening, scaring, or pressuring** someone who engaged in a **protected activity**.

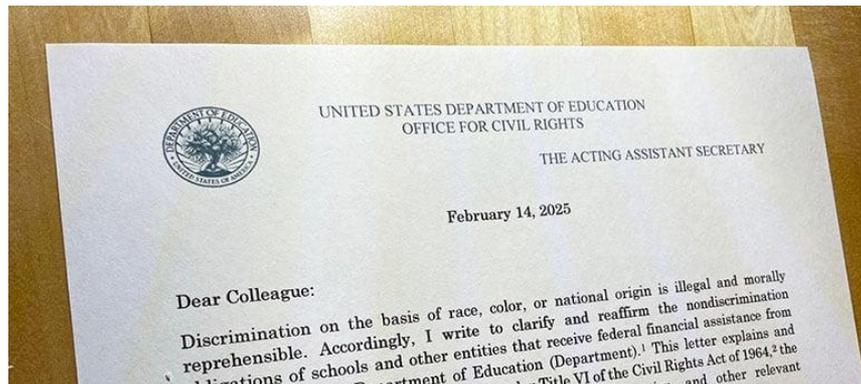


U.S. Department of Education Office for Civil Rights Enforcement



Common Title VI Questions

- **Q1: Do OCR's February 14th Dear Colleague Letter and April 3rd certification requirement change how Title VI applies to schools' programs and activities?**



Common Title VI Questions

- **A:** No. A federal judge **vacated** the **February 14th letter** and **certification requirement** on **August 14th**.
 - Both documents **violate federal law** and the **Constitution**.
 - ED provided **no reason** for “large-scale policy changes.”
 - Guidance conflicts with ED regulations and caselaw
 - These ED documents **no longer apply** to schools nationwide.
 - The U.S. Department of Education **appealed** the decision on **October 15th**.

Common Title VI Questions

- **Q2:** Does Title VI bar schools from recognizing student groups with race-related themes, such as a Black Student Union or an Asian Student Association?



Common Title VI Questions

- **A:** No. Title VI does not bar schools from recognizing student groups with race-related themes so long as these groups:
 - are open to all students, without regard to race, color, or national origin.
 - do not treat students differently based on race, color, or national origin.
 - do not create a hostile environment based on race, color, or national origin for any student

Common Title VI Questions

- **Q3:** Does Title VI bar schools from recognizing or supporting celebrations related to race or national origin, such as Chinese New Year or Cinco de Mayo?



Common Title VI Questions

- **A:** No. Title VI does not bar schools from recognizing or supporting celebrations related to race or national origin, such as Chinese New Year or Cinco de Mayo, so long as these celebrations:
 - are open to all students, without regard to race, color, or national origin
 - do not treat students differently based on race, color, or national origin
 - do not create a hostile environment based on race, color, or national origin for any student.

Common Title VI Questions

- **Q4:** Does Title VI bar schools from offering classes that focus on the history or culture of a particular group of people, such as an African American Studies or Chinese Language and Culture?



Common Title VI Questions

- **A:** No. Title VI does not bar schools from offering classes that focus on the history or culture of a particular group of people, so long as these classes:
 - are open to all students, without regard to race, color, or national origin
 - do not treat students differently based on race, color, or national origin
 - do not create a hostile environment based on race, color, or national origin for any student

Key Title VI Takeaways

- Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin by any program or activity receiving federal financial assistance.



Key Title VI Takeaways

- Title VI prohibits both intentional disparate treatment (intentional) discrimination and disparate impact discrimination.



Key Title VI Takeaways

- Courts and federal agencies may consider both **direct evidence** and **indirect (circumstantial) evidence** to determine whether intentional discrimination occurred.



Key Title VI Takeaways

- The U.S. Department of Education, like all agencies that enforce Title VI, have adopted Title VI regulations that prohibit **discriminatory effects** or **disparate impact**. We do not expect to see disparate impact enforcement by the current administration.



Key Title VI Takeaways

- Title VI protects all students, including Jewish, Muslim, Arab, Sikh, and Hindu students, from discrimination based on shared ancestry or ethnic characteristics.



Key Title VI Takeaways

- Title VI prohibits retaliation against any individual who brings concerns about possible violations of Title VI to a school's attention **or** makes a complaint or participates in a Title VI investigation.



Future Webinars

**Winter:
Racial Harassment
and Hostile
Environments in
Schools**

**Spring:
Supporting
Multilingual
Learners in Schools**

ERI Title VI Resources

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