



D. STAFFORD
& ASSOCIATES

Title VI: Law and Policy

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Title VI Coordinator: Law and Policy

- Welcome
- Overview of Title VI
- Legal Framework
- Types of Discrimination Covered
 - Race, color, national origin, including discrimination based on shared ancestry or ethnic characteristics
- Examples of discriminatory practices
- Review of Institution Specific Policies
- Considerations for Policy and Procedures
 - Complaint process overview
 - Criteria for accepting complaints
 - Determining jurisdiction
 - Process for responding to claims of retaliation
- Recent Actions



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To receive a certificate, attendees must attend the majority of the class and have paid class invoice in full. This applies to both in-person classes and virtual classes. We understand that attendees may need to miss class for a legitimate reason for longer periods of time or may need to leave the room during a class for a few minutes to take a phone call or attend to other business. If an attendee misses a significant amount of the class (depending on the length of the class) or they miss an attendance poll, they will not be issued a certificate of completion for the class.

Attendees should report each absence using the online form provided (each class has its own unique form that is sent to all attendees via email prior to class). Attendees should complete the form twice for each absence: once to record their departure, and again to record their return. Attendees should complete the form immediately before leaving class and as soon as practicable upon their return. If an attendee signs out but does not sign back in, they will be marked absent for the remainder of the day.

The criteria for receiving a certificate is determined based on missed class time and participation in the Attendance Polls that will be launched throughout each day of class. Attendance polls are left up for approximately 5 minutes and the instructor notifies the attendees that a poll is being launched to ensure that everyone who is present can respond to the poll. If an attendee is unable to respond to the attendance poll, the attendee would need to **immediately post "I am here"** in the chat feature within the Zoom platform. That way we can give the attendee credit for being in attendance for that specific poll. Notifying us after the attendance poll has been closed will not allow us to give the attendee credit for being in class during the poll.

Some of our classes may qualify for credit toward a Master's Degree at New England College (and regardless if you decide to seek credit or not, accreditation requirements mandate that we follow the same standards for all class attendees), so we have strict attendance standards that we follow for issuance of a certificate. For DSA & NACCOP, issuance of a Certificate of Completion is verification of attendance.



Adrienne Meador Murray, Vice President,
Equity Compliance and Civil Rights Services



In January 2014, Adrienne Meador Murray joined D. Stafford & Associates where she currently serves as the Vice President, Equity Compliance and Civil Rights Services after having been affiliated with D. Stafford & Associates as a part-time Associate since 2012 and the National Association of Clery Compliance Officers & Professionals (NACCOP) where she currently serves as Director of Training and Compliance Activities. Murray began her career in municipal law enforcement as a civilian employee with the City of Richmond Police Department (Virginia). She graduated from the Virginia Commonwealth University Police Training Academy and began her career as a sworn police officer for the University of Richmond (UR) Police Department (Virginia). At UR, Murray progressed through the ranks from a night shift patrol officer to Operations Lieutenant (overseeing criminal investigations, crime prevention and patrol) over the span of a decade before becoming the Chief of Police at Davidson

College in North Carolina. Most recently, Murray served as Chief of Police at Trinity Washington University (in Washington, D.C.).

As the Executive Director, Equity Compliance and Civil Rights Services for DSA, Murray builds on her 17-year career in law enforcement in which she became a nationally recognized expert in the field of best practice postsecondary institutional response to the sexual victimization of college women in the United States and in Canada. She is also a trained civil rights investigator and is well respected throughout the country for her ability to aid institutions in understating how to do best practice criminal and civil rights investigations concurrently. She is well known for her work in having provided support, advocacy and criminal investigative services for victims of sexual assault, stalking and intimate partner violence and is a sought-out speaker and investigator. She has expertise in the construction of best practice law enforcement standard operating procedures and training police officers to respond in best practice and trauma-informed ways to victims of sexual assault and intimate partner violence. In her current role, Murray coordinates curriculum development and instruction for national classes, including basic and advanced sexual misconduct investigation classes; an investigation of dating violence, domestic violence and stalking class; and a Title IX Coordinator/Investigator class offered through D. Stafford & Associates. To date, Murray has trained more than 3,500 criminal and civil rights investigators throughout the U.S.

Drawing on her experiences as a trained criminal and civil rights investigator, Murray also oversees independent investigations of complex sexual misconduct cases; conducts audits of Title IX/VAWA



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Compliance; drafts institutional sexual misconduct policies and procedures; and conducts campus-based trainings pertaining to the resolution of sexual misconduct offenses on college and university campuses. Murray frequently presents at regional and national conferences on topics such as the *Sexual Victimization of College Women*, *Understanding Consent and Incapacitation*, and *Responding to Sexual Assault on Campus: Clery Act and Title IX Implications*. Murray also conducts provincially specific sexual misconduct trainings throughout Canada.

Murray is a graduate of the University of Richmond, where she received her Bachelor's Degree in Applied Studies in Human Resource Management and of New England College, where she received her Master's Degree in Campus Public Safety Administration. Murray is also a graduate of the 235th session of the prestigious FBI National Academy where she was awarded a graduate certificate in Criminal Justice from the University of Virginia. She has authored numerous journal articles.



TITLE VI COORDINATOR: LAW AND POLICY

2025

4 HOUR COURSE

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AGENDA

- Welcome
- Overview of Title VI
- Legal Framework
- Types of Discrimination Covered
 - Race, color, national origin, including discrimination based on shared ancestry or ethnic characteristics
- Examples of discriminatory practices
- Review of Institution Specific Policies
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Introductions and Purpose of Course



WHO AM I?

What is an "identity?"

SELF-REFLECTION EXERCISE

What identities do you possess?

On a sheet of paper, write down the identities you possess.

How many identities do you currently hold?

Which identity(ies) are you most comfortable displaying to the world?

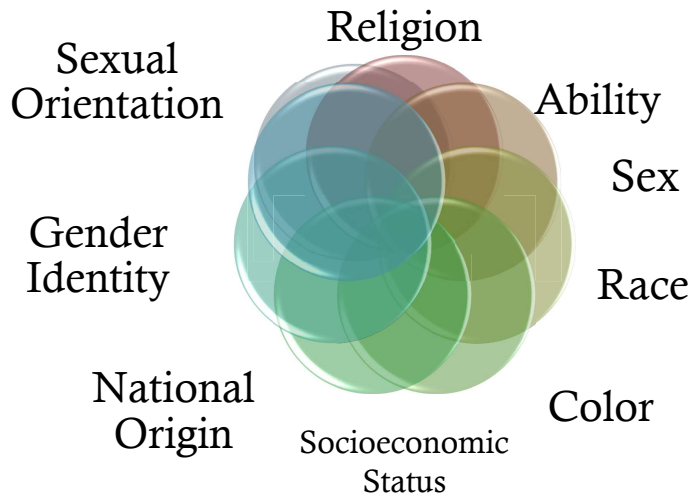
Which identity(ies) are you uncomfortable displaying to the world?



Understanding Intersectional Identities

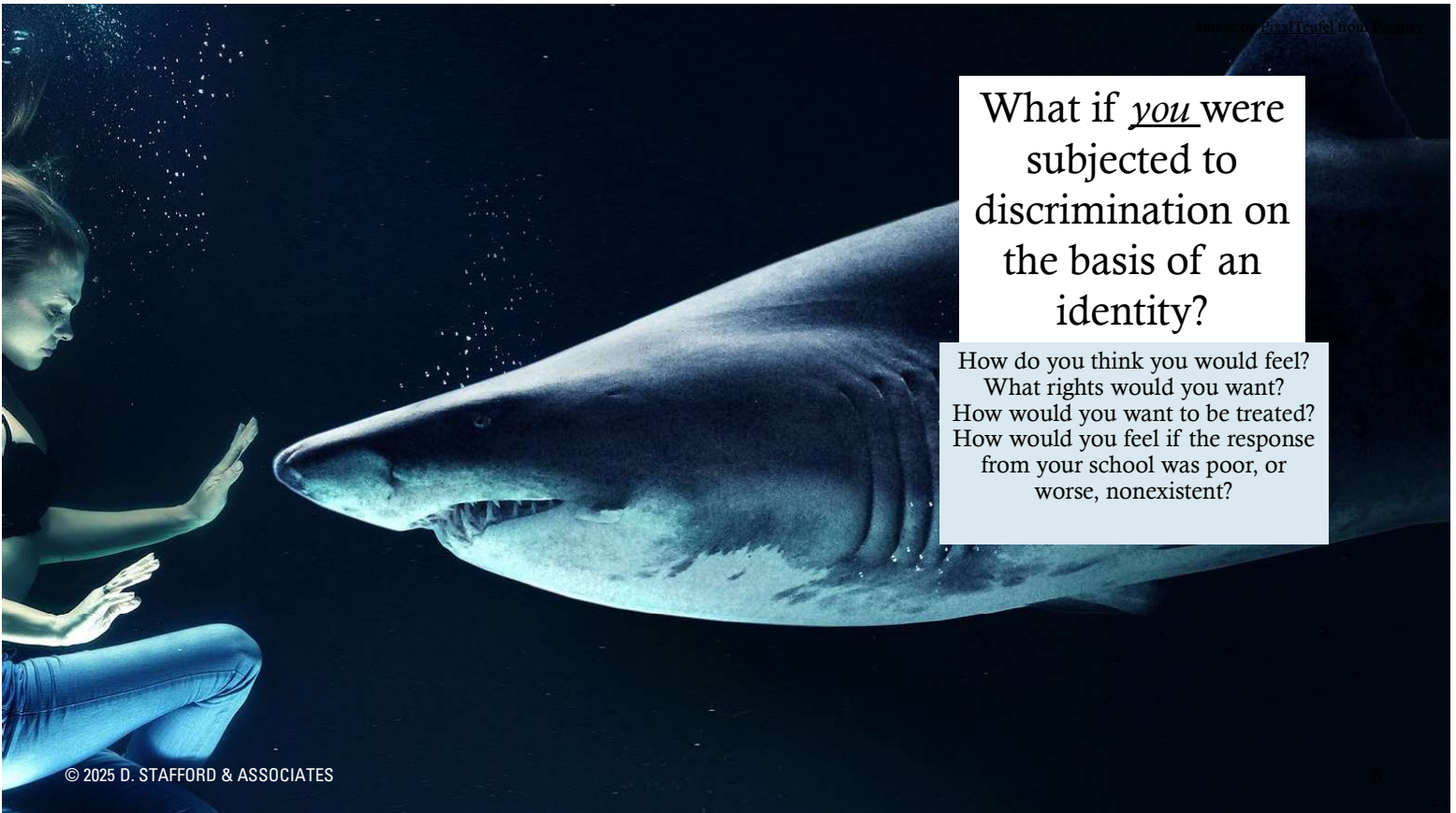
To grasp this concept, think about the many ways we identify ourselves and others, which of these identities form the core of how we think of ourselves or about others, and how the intersection of these identities affects the way we confront our lives.

INTERSECTIONALITY

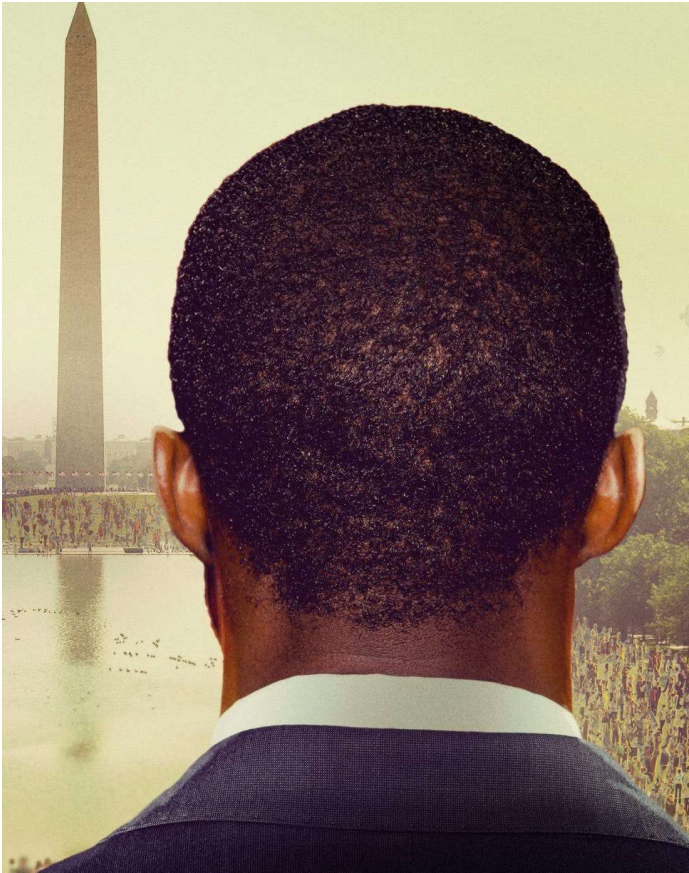


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THE CIVIL RIGHTS ACT OF 1964 (JULY 2, 1964)

The Civil Rights Act of 1964, a pivotal legislative triumph of the civil rights movement, brought an end to segregation in public places and prohibited employment discrimination based on race, color, religion, sex, or national origin.

Initially proposed by President John F. Kennedy, the Act faced formidable resistance from southern legislators before being enacted into law by his successor, President Lyndon B. Johnson. In the years that followed, Congress broadened the scope of the Act and enacted additional civil rights laws, including the Voting Rights Act of 1965.

Photo credit: History.com
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THE 11 TITLES WITHIN THE CIVIL RIGHTS ACT OF 1964

Title I: Voting Rights

Title II: Public Accommodations

Title III: Desegregation of Public Facilities

Title IV: Desegregation of Public Education

Title V: Commission on Civil Rights

Title VI: Nondiscrimination in Federally Assisted Programs

**Title VII: Equal Employment Opportunity*

Title VIII: Registration and Voting Statistics

Title IX: Intervention and Removal of Cases

Title X: Community Relations Service

Title XI: Miscellaneous Provisions

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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.1

As President John F. Kennedy said in 1963:

Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.



BACKGROUND AND CONTEXT FOR RELEVANT SUPREME COURT CASES

Compromise of 1877

13th, 14th, and 15th Amendments protections receding quickly

Disenfranchisement of southern blacks and white supremacy across the South

White and Black Southerners mixed relatively freely until the 1880s, when state legislatures passed the first laws requiring railroads to provide separate cars for “Negro” or “colored” passengers

PLESSY V. FERGUSON (1896)

- Separate Car Act of 1890-required African Americans and Whites to sit in separate train cars
- Amount of “black blood” a person
- Homer Plessy refused to give up his seat
- Established Doctrine of “Separate but Equal”
- Louisiana had a large mixed-race population thereby making it difficult to determine where the line could be drawn in separating the races

Plessy v. Ferguson, 163 U.S. 537 (1896).



BROWN V. BOARD OF EDUCATION OF TOPEKA

Brown v. Board of Education of Topeka was a landmark 1954 Supreme Court case in which the justices ruled unanimously that racial segregation of children in public schools was unconstitutional.

Brown v. Board of Education was one of the cornerstones of the civil rights movement, and helped establish the precedent that “separate-but-equal” education and other services were not, in fact, equal at all.

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).



VALENTINE'S DAY DCL, 2025

Mandates:

- Certification Requirements
- Monitoring and Enforcement
- Guidance and Communication
- Accountability Measures



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ACTING ASSISTANT SECRETARY

February 14, 2025

Dear Colleague:

Discrimination on the basis of race, color, or national origin is illegal and morally reprehensible. Accordingly, I write to clarify and reaffirm the nondiscrimination obligations of schools and other entities that receive federal financial assistance from the United States Department of Education (Department).¹ This letter explains and reiterates existing legal requirements under Title VI of the Civil Rights Act of 1964,² the Equal Protection Clause of the United States Constitution, and other relevant authorities.³

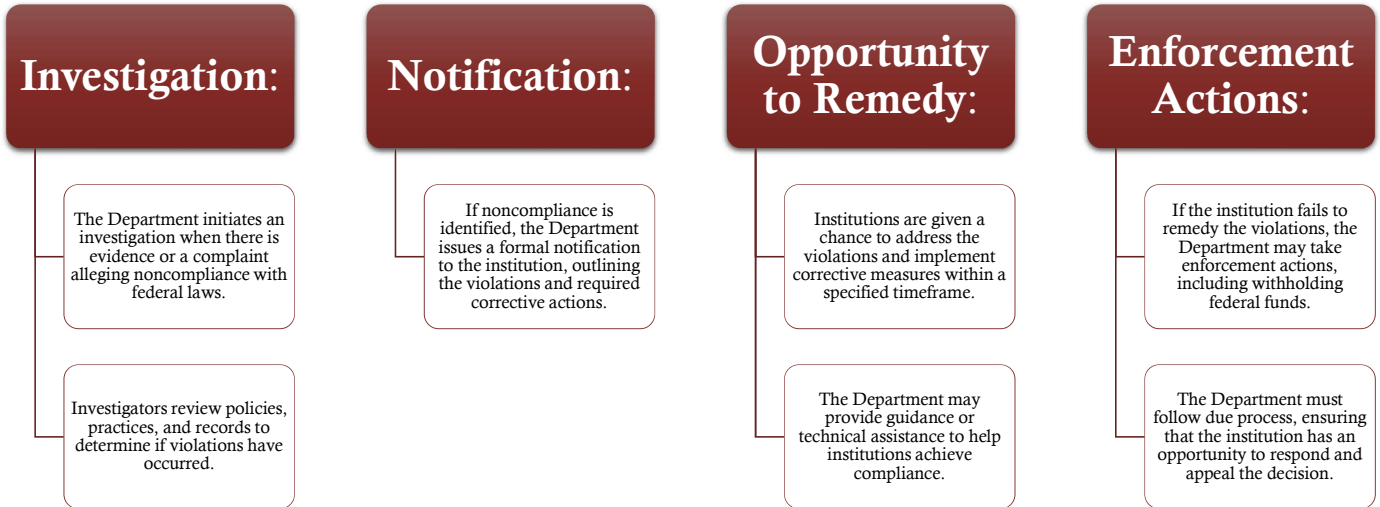
In recent years, American educational institutions have discriminated against students on the basis of race, including white and Asian students, many of whom come from disadvantaged backgrounds and low-income families. These institutions' embrace of pervasive and repugnant race-based preferences and other forms of racial discrimination have emanated throughout every facet of academia. For example, colleges, universities, and K-12 schools have routinely used race as a factor in admissions, financial aid, hiring, training, and other institutional programming. In a shameful echo of a darker period in this country's history, many American schools and universities even encourage segregation by race at graduation ceremonies and in dormitories and other facilities.

¹ Throughout this letter, "school" is used generally to refer to preschool, elementary, secondary, and postsecondary educational institutions that receive federal financial assistance from the Department.

² Title VI provides that: "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, et seq.; 34 C.F.R. § 100, et seq.

³ This document provides significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). This guidance does not have the force and effect of law and does not bind the public or create new legal standards. This document is designed to provide clarity to the public regarding existing

HOW FEDERAL FUNDS ARE LAWFULLY WITHHELD



HARVARD FILES....

artificial intelligence system that can be used to diagnose and treat cancer.

2. In recent weeks, the federal Government has launched a broad attack on the critical funding partnerships that make this invaluable research possible. To date, the Government has—with little warning and even less explanation—slashed billions of dollars in federal funding to universities across America, including Brown, Columbia, Cornell, Princeton, the University of Pennsylvania, and Northwestern. This case involves the Government’s efforts to use the withholding of federal funding as leverage to gain control of academic decisionmaking at Harvard.

3. On April 11, 2025, citing concerns of antisemitism and ideological capture, the Government identified ten conditions Harvard must satisfy to receive federal research funding already committed to by the Government and relied on by Harvard, its researchers, and its affiliates (the “April 11 Letter,” attached as Exhibit A). Ex. A at 2, 4. The Government dictated that Harvard “reform and restructur[e]” its governance to “reduc[e] the power” of certain students, faculty, and administrators. *Id.* at 2. It required that Harvard hire a third-party to conduct an “audit” of the

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 DEFINES RACE, COLOR, AND NATIONAL ORIGIN AS FOLLOWS:

1. Race: This includes all the different races of people, such as White, Black or African American, Asian, Native American, and others. It encompasses shared ancestry and physical characteristics.

2. Color: This refers to the pigmentation of a person's skin, which can vary widely among individuals of different races.

3. National Origin: This includes a person's country of origin, ancestry, or the country of their ancestors' origin. It also covers individuals who share a common language, culture, or history associated with a particular nation.

Title VI Legal Manual, U.S. Department of Justice, <https://www.justice.gov/crt/fcs/T6manual5?form=MG0AV3>



SHARED ANCESTRY

Title VI's protection from race, color, and national origin discrimination 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.

(Title VI does not protect students from discrimination based solely on religion. *OCR refers complaints of discrimination based exclusively on religion to the U.S. Department of Justice, which has jurisdiction to respond to certain complaints of religious discrimination in public schools.*)

U.S. Department of Education, Office for Civil Rights. "Shared Ancestry or Ethnic Characteristics." Available at: <https://www.ed.gov/about/offices/list/ocr/sharedancestry.html?form=MG0AV3>

SHARED ANCESTRY COMPLAINTS



“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.”

U.S. Department of Education, Office for Civil Rights. "Shared Ancestry or Ethnic Characteristics."
Available at: <https://www.ed.gov/about/offices/list/ocr/sharedancestry.html?form=MG0AV3>

SPECIFIC DISCRIMINATORY ACTIONS PROHIBITED UNDER TITLE VI

- i. Deny an individual any service, financial aid, or other benefit provided under the program;
- ii. Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
- iii. Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;
- iv. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
- v. Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;
- vi. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in [paragraph \(c\)](#) of this section).
- vii. Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.

TWO FORMS OF DISCRIMINATION UNDER TITLE VI

**Disparate Treatment
(intentional
discrimination; hostile
environment)**

**Disparate Impact
(policies or practices are
discriminatory, even
though neutral on their
face)**

OCR INTERPRETS TITLE VI TO MEAN THAT THE FOLLOWING TYPE OF HARASSMENT CREATES A HOSTILE ENVIRONMENT (DISPARATE TREATMENT)

Unwelcome conduct based on race, color, or national origin 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 a school's education program or activity.

DISPARATE IMPACT



Discrimination can occur when a school implements or enforces a facially race-neutral policy or practice in a manner that treats students differently based on their race, color, or national origin.

For example, a school could violate Title VI if it enforces its race-neutral rules related to extracurricular activities in a way that makes it harder for students of a particular race to form a club or hold activities because of their race.

U.S. Department of Education, Office for Civil Rights. (2023). Dear Colleague Letter, Race and School Programming. Retrieved from <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-20230824.pdf>



HARASSMENT UNDER TITLE VI

“Harassing conduct may take many forms, including verbal acts and name-calling; graphic and written statements, which may include use of cell phones or the Internet; or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Harassment creates a hostile environment when the conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit a student’s ability to participate in or benefit from the services, activities, or opportunities offered by a school. When such harassment is based on race, color, national origin, sex, or disability, it violates the civil rights laws that OCR enforces.”

HARASSMENT NEED NOT BE DIRECTED AT A PARTICULAR PERSON

Harassing conduct need not always be targeted at a particular person in order to create a hostile environment for a student or group of students, or for other protected individuals.

The conduct may be directed at anyone, and the harassment may also be based on association with others of a different race (the harassment might be referencing the race of a sibling or parent, for example, that is different from the race of the person being harassed whose access to the school's program is limited or denied). Additionally, a hostile environment may take the form of a single victim and multiple offenders.



Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

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RACIAL HARASSMENT AND HOSTILE ENVIRONMENT

The existence of a racially hostile environment that is created, encouraged, accepted, tolerated, or left uncorrected by a school can constitute discrimination on the basis of race in violation of Title VI.

OCR could find a Title VI violation in its enforcement work if:

- (1) a hostile environment based on race existed;
- (2) the school had actual or constructive notice of the hostile environment; and
- (3) the school failed to take prompt and effective steps reasonably calculated to
 - (i) end the harassment,
 - (ii) eliminate any hostile environment and its effects, and
 - (iii) prevent the harassment from recurring.

Doe v. Los Angeles Unified Sch. Dist., 2017 WL 797152, *10 (C.D. Cal. Feb. 27, 2017) (applying the hostile environment standard in *Monteiro*) (“To prove a violation of Title VI’s prohibition on racially hostile environments, a party must show: (1) the existence of a racially hostile environment, (2) of which a recipient of federal funds had notice and (3) failed to adequately redress.”).

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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.

Generally, the less pervasive the harassing conduct, the more severe it must be to establish a hostile environment under Title VI.

For example, in most cases, a single isolated incident would not be sufficient to establish a Title VI violation. However, in some cases, a hostile environment requiring appropriate responsive action may result from a single severe incident.

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

EXAMPLE 1:

A college student files a complaint with OCR alleging that she was subjected to a hostile environment because she is Jewish. In support of her complaint, she alleges that the dry-erase board on her dorm room door was defaced with swastikas. Additionally, she alleges that epithets referencing poor hygiene and racial impurity of Jewish people and white supremacist slogans stating conspiracy theories about Jewish people, were scrawled on the door and posted by fellow students as comments to her social media feed. The student informs her school counselor of these incidents and that she no longer feels comfortable going to her dorm. The counselor has a meeting with the student to discuss her concerns but fails to take any further action.

EXAMPLE 2:

The mother of an Arab Muslim elementary school student files a complaint with OCR alleging her daughter who wears a hijab to school was harassed by other students when several classmates pulled her daughter's hijab off, threw it on the playground, started stomping on it, and called her a terrorist while teachers witnessed the incidents and did nothing. In a separate incident, a teacher said that because the girl did not wear loose fitting clothing every day, she should not be concerned because she was already being a bad Muslim. For these reasons, the student felt unsafe at school and could not concentrate in class.

EXAMPLE 3:

At a public university, a school organization announces that it has invited an Israeli filmmaker to screen a video about his observations from Israel. In response, several dozen students and faculty members gather in the main entryway of the building and refuse to allow anyone to get through, including the event organizers who had arrived for setup, explaining that they do not want to give a “Jewish filmmaker an opportunity to spread their propaganda.” The college does not remove the protesters but arranges for the film to screen in a different college building. Upon learning of the new location, those protesting congregate outside the building, but next to the windows of the room, and begin chanting epithets about Jews. When the film ends, the protesters stand by the door, yelling to those entering or exiting. Some students, including many Israeli and Jewish students, found the yelling from outside distracting and fearsome.

EXAMPLE 3 (CONTINUED)

The next day, a group of protesters wrap “Do Not Cross” tape in front of the college building housing the campus chapter of the school organization. The protesters ask every student attempting to enter the building that houses the organization whether they are Jewish. If they are, the protesters run towards the student and prevent them from entering the building. That night, antisemitic graffiti featuring swastikas appears on the organization’s building. The graffiti sparks fear in Jewish students in the college community, who complain to college administrators that they feel unsafe. Jewish students who encounter these protests and the graffiti ask the college’s administrators to provide them security to escort them across campus and to investigate who graffitied the building. The college administrators issue a statement saying that they condemn vandalism of school property. The leader of the organization sends an email to all Jewish students on campus suggesting that they should finish the semester by going home and attending classes remotely since campus is not safe, and many Jewish students begin doing so. The college takes no further actions. A group of Jewish students file a complaint with OCR.

EXAMPLE 4:

A college experiences widespread incidents of harassment in one semester. Jewish students report being spit at, called antisemitic slurs referencing facial features and materialistic tendencies, having their Star of David jewelry ripped off, having their kippahs snatched off their heads, seeing antisemitic graffiti in the Jewish fraternity house and other campus facilities where Jewish and Israel-related cultural events are routinely held, and discovering the campus center mailboxes of those with stereotypically Jewish last names stamped with the words “Stop stealing Palestinian lands” on International Holocaust Remembrance Day.

EXAMPLE 4 (CONTINUED)

During anti-war demonstrations, protest signs list specific Jewish students by name and use epithets that stereotype all Jewish people as racist murderers. In addition, Jewish students find flyers posted throughout campus advocating for the genocide of Jewish people and calling them Nazis. The protesters block many of the main pathways to academic buildings on campus. Several Jewish students are prevented from attending class because protesters state that “no Zionists can pass through” and the protesters accuse any student who they believe is Jewish of supporting genocide. When students wearing kippahs are walking by, protesters chant “Colonizers aren’t welcome here” and “go back to Europe.”

EXAMPLE 4 (CONTINUED)

Thereafter, a dozen Jewish students meet with the Dean of Student Services to express that these incidents of harassment during that semester made them feel unsafe, unwelcome, and concerned about continuing their education at the school. No action is taken by the Dean or other college officials, and the harassing conduct continues.

EXAMPLE 5:

A Muslim eighth grader who is of Saudi Arabian descent is followed and taunted by several classmates every day for several weeks during history class, her last class of the day. These classmates allegedly taunt the student for not eating pork; mock the student's mother's Saudi accent, limited English proficiency, and traditional Saudi clothing; and throw trash in the student's direction. The student tells the teacher that she does not want to work in groups with those particular classmates because they made fun of her mother's accent. The stress is causing her to dread the end of the day, and as a result her attention in history class is waning and causing her grades to suffer. The student's mother complains to the school principal, who checks in with the history teacher. The history teacher speaks with the harassers without addressing the discriminatory nature of their actions.

EXAMPLE 5 (CONTINUED)

The harassers agree to apologize to the student being harassed and are given after-school detention for two days for the trash-throwing in violation of the school's conduct policy. The principal offered no individualized supports to the student who experienced the harassment. The school re-publicizes its nondiscrimination policy and ensures that future annual diversity trainings for employees will include examples of national origin discrimination involving religion. However, the school fails to put in place a method for monitoring whether further incidents happen to the affected student and makes no effort to assess whether there may be a larger school climate problem related to discriminatory harassment. The student's mother feels that the harassers' after-school detention was inadequate for the trash throwing in particular and is upset that they were not transferred to another class because the classmates continue to mock the student's mother's accent, and so complains to OCR that without a harsher punishment, the school is not sufficiently deterring future harassers.

EXAMPLE 6:

A college student files a complaint with OCR alleging that he was subjected to a hostile environment because he is Israeli. The student alleged that a professor stated during office hours that “Israelis don’t even deserve to live.” The professor and other students make similar comments in subsequent classes. The student’s complaint stated that several Israeli students in the professor’s class, including the complainant, reported the professor’s and classmates’ comments to the college and noted that they felt threatened. The student alleged that although the college had investigated complaints of comments by college staff and students targeting other individuals based on other protected characteristics as required under its nondiscrimination policy, the college declined to speak to any students who indicated they felt threatened by their professor’s or classmates’ conduct. Israeli students in the class stopped attending.

ESTABLISHING A VIOLATION



OCR generally assesses a school’s response to race, color, or national origin harassment using a hostile environment legal analysis.

To establish a violation of Title VI using this analysis, OCR must find that:

- 1) a hostile environment based on race, color, or national origin existed;
- 2) the school had actual or constructive notice (i.e., the school knew or should have known) of the hostile environment; and
- 3) the school failed to take prompt and effective steps reasonably calculated to: i. end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring.

See Racial Incidents and Harassment against Students at Educational Institutions: Investigative Guidance, 59 Fed. Reg. 11,448, 11,449 (Mar. 10, 1994); OCR’s Guidance on Schools’ Obligations to Protect Students from Student-on-Student Harassment on Basis of Sex; Race, Color and National Origin; and Disability at 2, 4, 6 (Oct. 2010); OCR’s Dear Colleague Letter on Race and School Programming (Aug. 2023).

DIFFERENT TREATMENT ANALYSIS

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.**

U.S. Department of Education, Office for Civil Rights. (2023). Dear Colleague Letter, Race and School Programming. Retrieved from <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/letters/colleague-20230824.pdf>

DIFFERENT TREATMENT ANALYSIS

Circumstances that could raise Title VI concerns under a different treatment analysis could include, for example:

- (1) a school disciplining Somali Muslim students more harshly than their white classmates based on fears that such students present a greater safety concern;
- (2) a teacher or professor giving Jewish students lower grades than non-Jewish students out of disdain for perceived stereotypical claims about Jewish students;
- (3) (3) a school refusing to investigate allegations of national origin discrimination from students who are Kurdish, Hmong, or from other stateless ethnic groups based on the incorrect view that protections against national origin discrimination only extend to discrimination based on a specific nationality; or
- (4) (4) a university investigating allegations of national origin harassment against Christian students with a shared ancestry (such as Greek Orthodox, Chaldean, or Coptic Christians) while ignoring similar allegations from Sikh students.

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

EXAMPLE 9:

A high school world history class includes weekly discussions on current events. One week, a teacher asks the class to discuss the Israel-Hamas conflict. The teacher asks the only Jewish student in the class, who he assumes is Jewish based on her last name, to explain her position on the conflict. The teacher demands that the student condemn Israel, and when the student says she is uncomfortable speaking about the issue publicly, the teacher tells her that she must write an essay explaining why Israel should be condemned. The teacher threatens the student with detention if she does not turn in the essay by the end of the week. No other student is required to take a position on the conflict or to write an essay outlining their opinions. The student reports the teacher's behavior to the school's principal. The principal tells the student that she "should not have issues answering such an easy question." The student files a complaint with OCR.

EXPRESSION OF VIEWS ABOUT A PARTICULAR COUNTRY

Speech expressing views regarding a particular country's policies or practices is protected by the First Amendment and does not necessarily implicate federal civil rights laws.

However, if harassing conduct that otherwise appears to be based on views about a country's policies or practices is targeted at or infused with discriminatory comments about persons from or associated with a particular country, then it may implicate Title VI and should be analyzed on a fact-dependent basis.

For example, if a professor teaching a class on international politics references or criticizes the government of Israel's treatment of non-Jewish people, the nation of Saudi Arabia's response to religious extremism, or the government of India's promotion of Hinduism, so long as such comments do not target Israeli, Jewish, Saudi, Arab, or Indian students based on race, color, or national origin, that would not likely implicate Title VI.

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

EXPRESSION OF VIEWS ABOUT A PARTICULAR COUNTRY

By contrast, Title VI protections could be implicated if a professor teaching about international politics refers to Jewish people, Muslim people, or Hindu people using offensive stereotypes based on perceived shared ethnic characteristics or shared ancestry.

If OCR received a complaint from a student in this class, OCR would analyze whether the conduct was unwelcome, subjectively and objectively offensive, and so severe or pervasive that it created a hostile environment and whether the university took prompt and effective steps to end the harassment that created the hostile environment and prevent it from recurring.

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

DISTINGUISHING CONDUCT

OCR acknowledges that it may sometimes be difficult to distinguish between alleged conduct based on views regarding a particular country or its policies (which would not implicate Title VI) and alleged conduct based on students' actual or perceived shared ancestry or ethnic characteristics or their citizenship or residency in a country whose residents share a dominant religion or a distinct religious identity (which could implicate Title VI).

However, these distinctions help determine when conduct falls within OCR's jurisdiction under Title VI.

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.

RESPONSE

“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.”

Guidance on Schools’ Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability, 2010.



FIRST AMENDMENT CONSIDERATIONS



Communicate its opposition to stereotypical, derogatory opinions

Provide counseling and support for students affected by harassment

Take steps to establish a welcoming and respectful school campus, which could include making clear that the school values, and is determined to fully include in the campus community, students of all races, colors, and national origins

SPEECH



“For instance, if students at a public university engage in offensive speech about members of a particular ethnic group and that speech contributes to a hostile environment within an education program about which the university knows or should know, the university has a legal obligation to address that hostile environment for students in school. The university may, however, be constrained or limited in how it responds if speech is involved.”

Dear Colleague Letter: Title VI and Shared Ancestry or Ethnic Characteristics Discrimination, 2024.



MINIMUM REQUIREMENTS UNDER TITLE VI

1

Respond to the discriminatory conduct

2

Eliminate any hostile environment and its effects

3

Prevent the harassment from recurring

APPLYING INSTITUTION SPECIFIC POLICY AND PROCEDURES

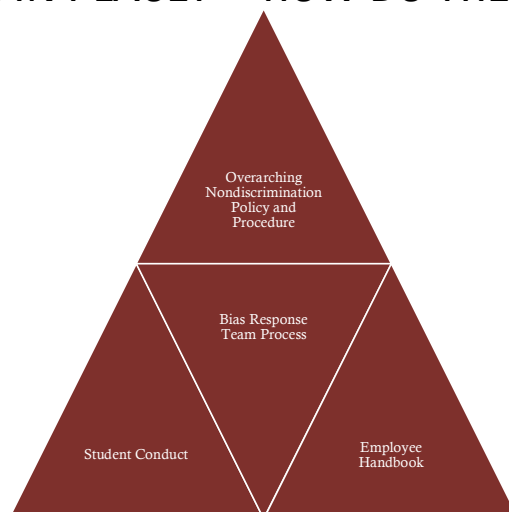


NATIVE AMERICAN COLLEGE TOUR INCIDENT



INSTITUTIONAL POLICIES AND PROCEDURES-

*WHAT DO YOU HAVE IN PLACE? *HOW DO THEY FIT TOGETHER?

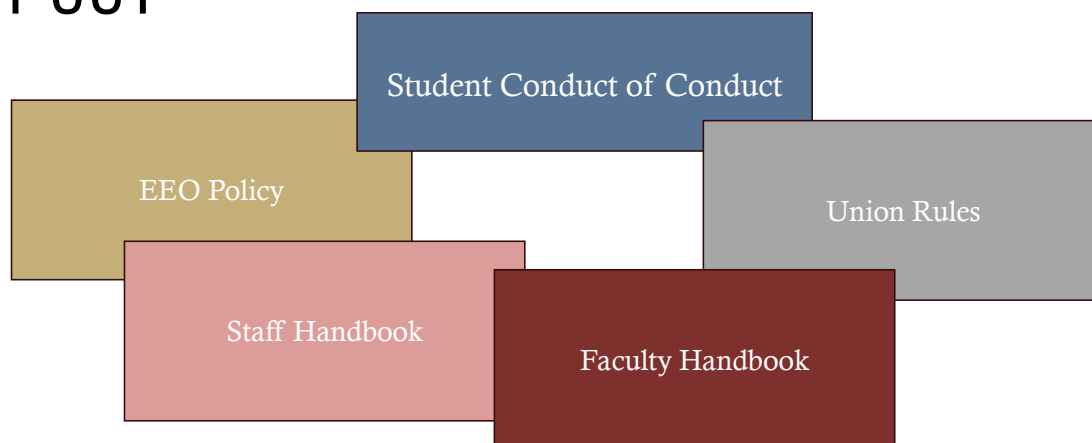


GROUP WORK

In groups, discuss where a complaint of racial discrimination would go when the parties are:

- A student complainant and a student respondent
- A student complainant and a faculty respondent
- A faculty complainant and a student respondent
- A faculty complainant and a staff respondent
- A staff complainant and a student respondent
- A visitor complainant and a staff respondent
- A student complainant and a vendor (third party-nonstudent, nonemployee, but contractor) respondent

REPORT OUT



COMPLAINT PROCESS OVERVIEW

“A Report is an oral or written request to the College regarding an alleged incident of harassment, discrimination, or other prohibited conduct under the EO Policy by a Reporting Party that objectively can be understood as a request for the College to investigate and make a determination about alleged discrimination under the EO Policy.”



DETERMINING JURISDICTION-SAMPLE STATEMENT

“The Policy applies when a Community Member engages in prohibited conduct under this Policy and:

- the conduct occurs on campus or on property owned, controlled, used, or managed by the College or a student organization that is officially recognized by the College;
- the conduct occurs off-campus in the context of College employment, education, programs, or activities, including but not limited to College-sponsored study abroad, internships, athletics, or other affiliated programs; and/or
- the conduct occurs off-campus or online outside the context of a College program or activity but affects a *substantial interest* of the College.”



A “SUBSTANTIAL INTEREST” COULD BE DEFINED TO INCLUDE:

- any situation where it appears that the Responding Party may present a danger or threat to the health or safety of self, others, or to the campus community;
- any situation that significantly breaches the peace and/or causes social disorder on campus; and/or
- any situation that significantly interferes with the operations of the College, e.g. a situation reasonably having an adverse effect on the College, any member of the College community, or affecting the stability and continuance of College functions.

POLICY AND OTHER CONSIDERATIONS

What policies and procedures do you currently have in place to respond to claims of discriminatory actions on the basis of race, color, or national origin, including shared ancestry?

For complaints involving students, do these follow the same process as employee complaints or a different one?

Does your policy address social media?

Does your policy strictly limit its jurisdiction to on campus incidents? What if something begins off campus and comes on campus OR if something is tech based but impacts on campus persons?

Have you addressed First Amendment protections? (Private schools under equal scrutiny!)

Web Presence for Title VI

Appointed Title VI Coordinator

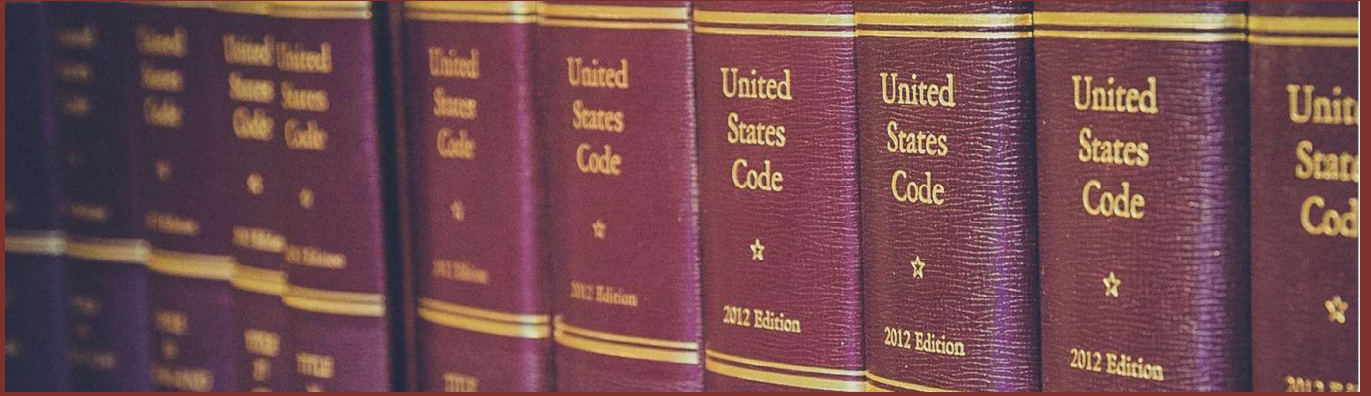
Clear instructions on how to report and to whom

Existence of some bias response team

Community and team training

DISCUSSION





THANK YOU





NACCOP Title IX & Equity Alliance

The Alliance is a dedicated affinity group through which Title IX and Equity Professionals, and the practitioners who support and/or supervise them, can benefit from NACCOP's expertise in complying with the Clery Act, Title IX, and other civil rights laws that affect their work.

BENEFITS OF JOINING THE ALLIANCE

- **Access to NACCOP's annual 9 on IX webinar series at no additional cost (a \$710 value)**
 - These 60-minute succinct webinars will offer legal insight and practical guidance on Title IX topics from experts who have served or are currently serving as active practitioners on college and university campuses.
- **Alliance-Exclusive Professional Development Opportunities such as the Title IX & Equity Open House Discussion Series**
 - An Alliance-exclusive virtual open house will be held bi-monthly (every other month, 6 sessions annually) to engage with experts from NACCOP's partner organization, D. Stafford & Associates, as well as other invited guests, to discuss current trends and issues. Each open house will focus on a specific topic for discussion and participants will be encouraged to engage in the conversation.
- **Access to Alliance-Exclusive Whitepapers regarding Title VI, VII, and IX**
- **Connect and collaborate with other Title IX and Equity Professionals via an Alliance-restricted Listserv**
- **Discounted Professional Development Opportunities**
 - Coffee and Conversations webinar series and individual webinars focused on Title IX & Equity compliance issues
- **A 50% discount on the Title IX Notice Document Library developed by NACCOP's Partner Organization, D. Stafford & Associates (a \$335 value)**

Join the Alliance

Eligible individuals must have Institutional, Professional, or Committee Membership with NACCOP.

Cost: \$425 for 1 year subscription

(The first year of enrollment will be pro-rated to match the NACCOP membership expiration date.)

Request to Join: <https://naccop.memberclicks.net/join-the-alliance>

Questions? Contact us at info@naccop.org or 302-344-1068.