



# Title VI

A SERIES  
OF FACT SHEETS

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# Title VI

## A SERIES OF FACT SHEETS

### Topics

**What Is Title VI**  
of the Civil Rights Act?

**How to File a Title VI Complaint**  
with the Office for Civil Rights

**What Conduct Is Prohibited**  
Under Title VI of the Civil Rights Act?

**What Remedies Are Available**  
Under Title VI of the Civil Rights Act?

### Series Overview

Filing administrative Title VI complaints with the Department of Education's Office for Civil Rights (OCR) and filing Title VI lawsuits in federal court are part of a broader strategy to combat antisemitism, particularly after October 7. These filings often represent a final effort to hold schools accountable for unaddressed antisemitism if other avenues within the university or high school have failed to produce results. This series of fact sheets answers the most commonly asked questions about Title VI.



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# What Is Title VI OF THE CIVIL RIGHTS ACT?

## What is Title VI of the Civil Rights Act of 1964?

Discrimination is defined as a harm experienced by an individual or group on the basis of a “protected characteristic.” The key federal law that prohibits antisemitic discrimination by federally funded entities is Title VI of the Civil Rights Act of 1964. Specifically, Title VI **prohibits recipients of federal funding from discriminating on the basis of race, color, or national origin.** Such recipients include all public school districts, nearly all U.S. colleges and universities, and even some private K-12 schools.

While Title VI does **not** prohibit antisemitism **targeting Jewish religious beliefs or practices**, the “national origin” category protects Jews (and individuals **perceived** to be Jewish) based on shared ancestry or ethnic characteristics. Zionist allies can also be covered if they are discriminated against for being perceived to be Jews or by virtue of **associating** with Jews at their Israel-centric activities and in Jewish spaces.

Title VI prohibits discrimination against citizens and non-citizens alike, so this is especially important as applied to international students, such as students from Israel. Israelis would be covered under the “national origin” provision of the law, which encompasses traits like ethnicity, limited English proficiency, and sometimes accent.



## Who can file a Title VI complaint?

Anyone can file a Title VI complaint, but the allegations must include information about the campus climate experienced by students. Professors and other employees alleging antisemitism in the workplace at a federally funded institution should pursue legal action under **Title VII** of the Civil Rights Act of 1964, which is enforced by a federal agency called the Equal Employment Opportunity Commission (EEOC).



## Interpretation and enforcement of the law

The Office for Civil Rights (OCR) is the office within the U.S. Department of Education tasked with enforcing Title VI, including evaluating complaints and conducting investigations. OCR has 11 regional offices around the country and is the largest component of the U.S. Department of Education. It receives over 17,000 complaints every year, the majority on the basis of disability and sex. Investigations are supposed to be prompt, with OCR asserting a goal of resolving 80 percent of its complaints within 180 days, but in practice, complaints frequently linger significantly longer.

In “[Dear Colleague](#)” letters and other guidance, OCR distinctly has highlighted rising antisemitism across the nation. OCR has reminded public schools and universities that “Title VI protects all students, including students who are perceived to be Jewish, from discrimination based on race, color, or national origin.”

OCR also has stated that schools must take immediate and appropriate action to respond to antisemitic harassment that creates a hostile environment. OCR finds a hostile environment when the “harassing conduct is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or opportunities provided by a school.”

If a recipient of federal funds could or should have found out about the harassment had it made a proper inquiry, knowledge of the harassment will be credited to the recipient (OCR/ED [letter](#) to University of Vermont, April 3, 2023).

## What constitutes a hostile learning environment under Title VI?

For a deep dive into this topic, please refer to our designated fact sheet in the series.

## Intersection with other areas of the law

Title VI applies to all recipients of federal financial assistance, which technically includes hospitals, transportation providers, public housing providers, and more. Public housing providers are doubly covered by the Fair Housing Act.

Legal issues involving antisemitism but not covered by Title VI may be covered by other federal or state laws, such as hate crimes and defamation, or laws of trespass, nuisance, and intentional infliction of emotional distress. Many state-level civil rights laws, like the New York Civil Rights Law §40-c, prohibit institutions from subjecting Jewish and/or Israeli students to discrimination or harassment, including based on their actual or perceived race, creed, or national origin. The KKK Act also provides a cause of action, in appropriate circumstances, to address deprivation of civil rights.

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There are a variety of steps and actions that can be taken in response to antisemitism. The StandWithUs Saidoff Law team is happy to consult with you on what is the best next step for your situation in responding to antisemitism, including whether a Title VI complaint may be advisable. Please visit [StandWithUs.com/legal](https://StandWithUs.com/legal) for more information.

# How to File a Title VI Complaint WITH THE OFFICE FOR CIVIL RIGHTS

## What is a Title VI complaint?

A complaint is the initial document that begins an action; a complaint sets forth a brief summary of what happened and explains why OCR should investigate and grant relief.

## Filing a complaint with the Office for Civil Rights

Complaints can be filed in person, by mail, or via email OCR. Complaints cannot be anonymous, so the person submitting the complaint must include contact information. However, the identities of witnesses (and in some instances complainants) can be kept confidential from the public and press. Complaints can be filed by individuals and/or groups – this is something with which the StandWithUs Saidoff Law regularly helps students. The person or organization filing the complaint need not be a victim of the alleged discrimination (i.e., there is no requirement that the complainant have legal “standing” as is required in court filings) and is able to complain on behalf of another person or group.

Despite the lack of a “standing” requirement, it is important to note that only student claims can be filed under Title VI. Professors and other employees alleging antisemitism in the workplace at a federally funded institution should pursue legal action under Title VII of the Civil Rights Act of 1964, which is enforced by a federal agency called the Equal Employment Opportunity Commission (EEOC).

OCR is obligated to accept for investigation, analysis, and resolution all complaints that are: filed within 180 days of the alleged discriminatory incident, or indefinitely if the discrimination is ongoing; are against a recipient of federal financial assistance, alleging a violation included in the Title VI regulations; signed and dated. The complaint should identify when the alleged incidents took place.

**Note:** It is crucial to pay attention to dates. You may have only 180 days from the last act of alleged discrimination to submit a timely complaint to OCR.





## Retaliation

A student who files a complaint may not be retaliated against by a professor or administrator. If such retaliation occurs, that can constitute a separate violation of Title VI, regardless of the finding in the foundational complaint. Title VI explicitly prohibits retaliation against those who file complaints, witness them, or offer testimony.

## Standard of proof

In an OCR investigation, documents are collected, witnesses are interviewed, on-site visits may be conducted, and all these facts are analyzed in light of Title VI laws and regulations.

OCR has a right to obtain almost all the information it wants from the institution. An institution's refusal to provide this requested information can be a separate violation, regardless of the finding regarding the underlying alleged antisemitism.

## Procedural hurdles

OCR is charged with investigating how well the universities responded to allegations of discrimination. A university's prior internal handling of a complaint does not preclude a student from filing a complaint with OCR. OCR will look at all actions taken by the university and determine if its response was adequate. Adequacy here means "reasonably calculated to put an end to the hostile environment." OCR does not have to accept the university's action as adequate, especially if the student's concern was not addressed. OCR especially looks at any redress granted to the student and any changes to policies and practices made by the university. Importantly, though, just because an institution may have made attempts to address the problem, if those efforts are ineffective (i.e., the hostile environment continues), the institution is obligated to take additional remedial steps.

## Evidence

Title VI investigations are not subject to the rules of evidence applicable in court proceedings. OCR considers all material and relevant evidence, which is broader than the evidence considered by courts and does not need to be made under oath. Original writings should be presented as evidence when possible. OCR will stand in the shoes of the complainant and can compel a university or school to produce evidence. The Daubert Rules, which concern the competence of experts to provide testimony, also do not apply to OCR investigations.

## Scope of investigation

Because OCR's mission is to reduce and eliminate discrimination, and it commonly uses the threshold of "severe and pervasive," it will often investigate and evaluate the institution's response (or lack of response) compared to the entire atmosphere at the institution, over a period of time. This includes looking at an aggregation or accumulation of complaints, or even of incidents that did not produce a complaint.



## Cost for filing complaints

It is free to file a complaint with OCR. A lawyer is not necessary. There are no “magic words” that have to be used to file a complaint. A signed and dated letter is usually sufficient.

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## Complainant's role in an investigation

After filing a Title VI complaint, during the ensuing investigation, the complainant should help the investigator by providing evidence, e.g., documents, videos, recordings, lists of potential witnesses, lists of institutional policies to review, etc.

However, the complainant does not have an active role in the investigation or settlement discussion and is not necessarily privy to what is happening within the investigation. This may feel frustrating, but StandWithUs is available to support students throughout the process, including by seeking from OCR and providing impacted students as much information and explanation as possible.

## Publicity

While a complaint is under investigation by OCR, the government will not comment on it and very little information will be available to the parties or the public. The Freedom of Information Act (FOIA) will not be useful, because there is an investigative exemption under it. While OCR will not make a complaint public while its investigation is pending, you can still choose to. Additionally, once OCR resolves a complaint, the file (subject to applicable exemptions, including redaction of personally identifying information) is subject to FOIA.

# What Conduct Is Prohibited UNDER TITLE VI OF THE CIVIL RIGHTS ACT?

## Purpose

Title VI prohibits recipients of federal funds from accomplishing by contractors what they cannot accomplish themselves. All of an institution's activities are covered by Title VI—not just the particular program that receives and uses the federal money. Also covered are sub-recipients—entities to which the recipient passes along funds. Recipients of federal funds must provide written certifications that they will not discriminate. Conduct contrary to these assurances also may give rise to legal claims under contract law, since the funding recipient is essentially entering into a contractual relationship with the federal government.

## What general conduct is prohibited under Title VI?

Title VI prohibits funding recipients from engaging directly in discriminatory conduct and from adopting an attitude of deliberate indifference to known discriminatory conduct within their programs and activities. Specifically prohibited acts under Title VI are broad and include such things as exclusion from participation, reduced level of participation, differential treatment, harms like reduced access or grade retribution, impeded movement, threats, and actual violence. When one or more of these prohibited acts results in the creation of a “pervasively hostile environment” based on race, color, or national origin, the funding recipient has an obligation to take steps reasonably calculated to remedy that environment.

<sup>1</sup> OCR, Guidance on Racial Incidences and Harassment Against Students, 59 Fed. Reg. No. 47 (Mar. 10, 1994) at [www2.ed.gov/about/offices/list/ocr/docs/race394.html](http://www2.ed.gov/about/offices/list/ocr/docs/race394.html); Letter of Findings to Red Clay School District, January 29, 2024 at [www2.ed.gov/about/offices/list/ocr/docs/investigations/more/03231373-a.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/03231373-a.pdf).

## What constitutes a pervasively hostile environment?

The term “pervasively hostile environment” refers to the relevant location(s), program(s), or service(s) in which a person or group is made to feel fearful, limited, or under stress or threat due to their protected identity. It includes a setting that denies, limits, or interferes with a person's or group's ability to participate in or benefit from a program, activity, or job. A hostile environment makes normal activities difficult for that group as compared to others. To constitute a pervasively hostile environment, the prohibited behaviors must be offensive to a “reasonable person.” OCR/ED defines a reasonable person as one of the same age and shared ancestry as the alleged victim, and under the same circumstances.<sup>1</sup>

It is generally not against the law for people to be rude, angry, or aggressive, short of violence or threats. To qualify as a hostile learning environment, the conduct must be severe and pervasive enough to significantly alter one's ability to carry out one's daily life as a student; a hostile environment may also be created when the conduct is sufficiently severe or pervasive 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.

A hostile learning environment is evaluated according to:

- Magnitude
- Severity
- Frequency
- Egregiousness

In general, an institution bears responsibility for the actions of its students if it knows or should have known of the actions. Lack of action can also be covered, for example, if a Jewish student sought help from the institution and the institution refused for no valid reason.



## Unlawful discrimination

The perception of discrimination is not the same as proven discrimination or adverse effect. The effect should be measurable, verifiable, and different from what an individual (or group) experienced previously or from what individuals not of the same identity are experiencing.

*Examples of unlawful discrimination include:*

- Segregation
- Denial of services
- Exclusion from services
- Decreased services
- Poor services, low-quality services, unsafe services
- Denying a person the opportunity to participate

If bullying results in significantly adverse effects on the student and their ability to effectively benefit from an education, bullying might qualify as discrimination.

*Note:* “Microaggressions” standing alone typically will not give rise to a Title VI claim, since, by definition, they are small and less likely to create a pervasively hostile environment. OCR/ED can refuse to investigate a complaint if it deems the complaint “frivolous” or not serious.

“When Title VI was enacted, its focus was to prohibit discrimination by the recipient of federal financial assistance—in this case colleges and universities. Over time, however, Title VI, like Title IX, was extended to include acts of discrimination or **harassment by students against other students** on the plausible theory that colleges and universities may not turn a blind eye to such misconduct but have a responsibility to respond in ways designed to discourage and/or remedy it.” – [Title VI, Anti-Semitism, and the Problem of Compliance](#), Frederick P. Schaffer

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# What Remedies Are Available UNDER TITLE VI OF THE CIVIL RIGHTS ACT?

## Remedies available through OCR administrative complaint process

In the typical course of an OCR complaint that has been opened for investigation, the respondent (i.e., the funding recipient alleged to have violated Title VI) may, at any time, approach OCR and request to enter into a Voluntary Resolution Agreement (VRA). In such cases, the respondent and OCR will identify the steps the respondent must take to remain in compliance with Title VI and avoid the ultimate loss of federal funding.

At the conclusion of a Title VI investigation, if a respondent does not request to enter into a VRA, and if OCR finds evidence that the respondent has failed to take the necessary steps to comply with its legal obligations, OCR will present the respondent with a Settlement Agreement outlining required actions. Both VRAs and settlement agreements often include OCR's ongoing monitoring of the

respondent's progress until it completes the agreed upon terms.

Typical VRAs and/or settlement agreements may require the respondent to review and update its policies and procedures to ensure a discrimination-free environment. Training of identified administrators and staff may also be required. In some cases, OCR will require the respondent to redo investigations into discrimination complaints that OCR deems to have been deficient in some manner.

The ultimate penalty for a Title VI violation is to defer or withdraw federal funding from the institution. This is sometimes called the "nuclear option" and can occur only after an administrative hearing. Rarely, if ever, will this result occur, as recipients of funding will almost always agree to take the steps identified by OCR to remedy discriminatory environments.

In appropriate circumstances, a complainant may obtain compensatory damages for expenses incurred as a result of the hostile environment. These can include things such as costs of therapy, inability to go to work, or necessity of hiring a tutor.

**Note:** A complainant is not part of resolution discussions when OCR engages with a respondent during an investigation. The complainant's opportunities to address the issue of remedies are (1) within the complaint itself and (2) during subsequent communications with OCR during the investigation. Notably, there is **no appeal** of a finding by OCR. There can, however, be a request for reconsideration if the complainant feels the law was not followed or OCR made a serious mistake.



## OCR's early mediation process

At the time of submitting an administrative Title VI complaint to OCR, a complainant may request to participate in the Early Mediation Process. If OCR believes this process is appropriate, it will approach the respondent (funding recipient). If the respondent agrees to participate as well, an OCR attorney will act as a neutral, third-party in a mediated session in which complainant and respondent both participate. While this process eliminates the full investigation in which OCR would otherwise engage if it opened the complaint, it affords the complainant the opportunity to directly shape the resolution of the complaint, including obtaining from respondent agreed upon terms that OCR may not otherwise have the authority to require. This process is particularly suited to situations where the allegations are more limited in scope.



## Remedies available through federal district court process

If one meets the threshold requirements (including demonstrating standing – i.e., personal harm caused by the funding recipient's alleged Title VI violations), one can file a Title VI discrimination complaint directly in federal district court. Unlike with other civil rights laws (e.g., Title VII, which applies to employment-related discrimination), there is no “exhaustion of administrative remedies” requirement. This means that a plaintiff need not file with OCR before being permitted to file a lawsuit that includes a Title VI claim.

However, to prevail in federal court with a Title VI complaint, one must show intentional discrimination. This means that the person filing the case must show that the institution itself directly discriminated against the person alleged to have been harmed or was deliberately indifferent to such discrimination by others (i.e., the institution knew of the discrimination but failed to take proper steps to remedy the problem). Factors that the court will consider are:

- Whether the alleged conduct bears more heavily on one group than another.
- Background and series of relevant events; any departures, substantive or procedural, from the normal decision-making process and the policies and procedures of the institution.

Federal courts have jurisdiction to enter injunctive relief, which can include identifying specific steps the funding recipient must (or must not) take. They may also award compensatory damages for actual expenses incurred by a plaintiff as a result of the hostile discriminatory environment. Under current court interpretations of Title VI, however, a plaintiff may not recover damages for emotional harm.





## “Standing” in federal district court

In federal court, a complainant must show that they are directly involved in the case or controversy at hand. This is called “standing,” and many cases are dismissed by the court because of a lack of standing. To invoke the court’s jurisdiction, the plaintiff must demonstrate that:

- he has suffered a distinct injury as a result of the recipient’s allegedly unlawful conduct;
- the injury is fairly traceable to the challenged conduct; and
- the injury is likely to be redressed if the requested relief is granted.

Certain membership organizations may be deemed to have “associational” or “organizational” standing to bring a Title VI lawsuit in court. To do so, the membership organization must satisfy three elements:

- its members would otherwise have standing to sue in their own right;
- the interests it seeks to protect are germane to the organization’s purpose; and
- neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.<sup>1</sup>

As long as these conditions are met and the organization is operating in good faith as a membership group, the court will likely uphold its standing.

Because a plaintiff must show that he has suffered—or is imminently about to suffer—a particularized injury that is traceable to the conduct and likely to be redressed by a favorable court decision, when a membership organization serves as plaintiff, its “associational standing” is based on injuries suffered by some of its members. Note that the remedies available to membership organizations may be different from those available to individual plaintiffs.

<sup>1</sup> *Hunt v. Washington State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977). See also [www.valejreg.com/nc/associational-standing-in-the-affirmative-action-cases](http://www.valejreg.com/nc/associational-standing-in-the-affirmative-action-cases).

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