

# A QUICK REFRESHER ON TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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## Recent Correspondence to Secretary of Education Betsy DeVos

In a Wednesday letter, nine senators – including Sen. Patty Murray, D-Wash., the top Democrat on the Senate education committee – asked the secretary what resources the U.S. Department of Education was providing schools in order to counter "the recent increase in hateful and discriminatory speech and conduct."

## Excerpts from the Senator's letter

"According to the Southern Poverty Law Center, in the 10 days following the election of President Trump, there were nearly 900 reports of harassment and intimidation, including 183 at primary and secondary schools and 140 on college campuses. In a follow-up study, the Southern Poverty Law Center found that ninety percent of 10,000 K-12 educators surveyed "have seen a negative impact on students' mood and behavior following the election."

## A Database of Reported Hate Crimes



ProPublica is leading a national coalition of news organizations, civil-rights groups and technology companies intent on creating a database of reported hate crimes and bias incidents. A few of the orgs/groups involved with this project: The Google News Lab, Univision News, Education Week, the New York Times Opinion Section, BuzzFeed News, The Boston Globe, Latino USA, The Advocate, Ushahidi, the Southern Poverty Law Center, and schools such as the University of Miami School of Communication.

## More Info from the Southern Poverty Law Center's Survey

In an unscientific survey of 10,000 educators following the 2016 election by Teaching Tolerance, a Southern Poverty Law Center education project, two-thirds of respondents said that school and district administrators had responded to reports of harassment and bigotry that were connected to the divisive presidential election. But 40 percent also said they don't think their schools are prepared to handle such incidents of hate and bias.

## Recent Racial Harassment Incidents in the Delaware Valley

At Quakertown Community High School on Oct. 6, racial slurs and hateful comments were hurled at Cheltenham High School cheerleaders during a football game. Some students also said that Cheltenham's schools buses were pelted with rocks. Quakertown Superintendent Bill Harner said the perpetrators were a small group of middle-school students, but added "This is not just a one-time incident. We have a problem."

## Recent Racial Harassment Incidents in the Delaware Valley

### Coatesville

Several hundred students at Coatesville Area High School students walked out of school Friday morning in a protest against racism prompted by a posting by schoolmates on social media showing pumpkins carved with a swastika and KKK on them. Superintendent Cathy Taschner says the district will “exercise its full authority” to send a message that the picture and carvings are not acceptable. Earlier this month, a black baby doll was found hanging in a Coatesville High School locker with a tie around its neck, an incident Taschner called a “foolish prank,” not a hate crime.

## Recent Racial Harassment Incidents in the Delaware Valley

### Washington Township

A fight between white and black students broke out at Washington Township High School on Wednesday, a day after a text-message exchange among white students that used the N-word went viral. On Thursday, about 170 students — black and white — skipped classes and staged an hours-long sit-in at the school to protest the racist texting. Some students said previous racial incidents have not been adequately addressed by school officials.

## Recent Racial Harassment Incidents at Universities & Colleges

Racial slurs were found on posters hanging in a residence hall at Framingham State University in Massachusetts. The posters promoting the university's Black Student Union were defaced with the words "Niggers Club." Two days later the words "Niggers live here" were written on the dormitory room door of two African American students. There are no surveillance cameras in the hallways of the dormitory.

Framingham State University is located West of Boston. It enrolls nearly 6,000 students. African Americans are 10 percent of the undergraduate student body.

## Recent Racial Harassment Incidents at Universities & Colleges

Two Black Lives Matter posters were defaced on the campus of Boston College in Chestnut Hill, Massachusetts. The posters were altered to say "Black Lives Do Not Matter."

Signs were later found on campus that showed a picture of Uncle Sam with the caption, "I want you to love who you are. Don't apologize for being white."

In response, the group Eradicate Boston College Racism held a rally on campus and hundreds of students walked out of classes to participate in the protest. Speakers at the rally criticized the administration for not doing more to fight racism on campus.



## Recent Racial Harassment Incidents at Universities & Colleges

On May 20, Richard Wilbur Collins III, a 23-year-old Black man who had just been commissioned as a second lieutenant in the U.S. Army was stabbed to death as he was waiting for an Uber driver at the University of Maryland College Park. Police arrested Sean Christopher Urbanski for the murder. Urbanski is a member of an Alt-Right group. Federal officials are continuing to investigate the incident as a possible hate crime.

## Univ of MD's Response:

In response to this and other incidents, the University of Maryland has announced an action plan to "combat hate and create a safer campus."

Among the actions being taken are:

- Creating a task force on hate-bias and campus safety.
- Creating a trained, rapid-response team for hate-bias incidents.
- Increasing funding for campus-wide diversity and inclusion efforts.
- Affirming and demonstrating our core values of unity and respect as a university community.
- Compiling and publishing an annual report on hate-bias incidents on campus.
- Strengthening existing intercollegiate athletics policy to explicitly prohibit any hate-bias symbols or actions in any athletic venue.
- Reviewing our Code of Student Conduct to strengthen sanctions for hate and bias.

## OCR's 2016 Annual Report

There were also 2,439 complaints that had to do with issues of race. They made up 15 percent of all complaints filed with the Office for Civil Rights. There were 542 complaints involving allegations of racial harassment. Of these, 198 involved complaints related to racial harassment at colleges and universities. The number of racial harassment complaints relating to postsecondary institutions more than doubled during the eight years of the Obama administration.

## Title VI

Title VI of the Civil Rights Act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive Federal financial assistance. Title VI states 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."*

## Recipient's Obligations under Title VI

A school must take immediate and appropriate action to investigate or otherwise determine what occurred. The inquiry should be prompt, thorough, and impartial.

If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile, prevent its recurrence, and, as appropriate, remedy its effects.

## Hostile Environment

- To determine whether a racially hostile environment exists, it must be determined if the racial harassment is severe, pervasive or persistent.
- OCR will examine the totality of the circumstances (context, nature, scope, frequency, duration, and location of racial incidents, as well as the identity, number, and relationships of the persons involved.)
- The harassment must in most cases consist of more than casual or isolated racial incidents to establish a Title VI violation.



## First Amendment Considerations

Harassment, however, to be prohibited by the statutes within OCR's jurisdiction, must include something beyond the mere expression of views, words, symbols or thoughts that some person finds offensive. Under OCR's standard, the conduct must also be considered sufficiently serious to deny or limit a student's ability to participate in or benefit from the educational program.

## Title VI can apply to anti-Semitic Harassment

While Title VI does not cover discrimination based solely on religion, Title VI does cover discrimination on the basis of actual or perceived shared ancestry or ethnic characteristics. These principles apply not just to Jewish students, but also to students from any discrete religious group that shares, or is perceived to share, ancestry or ethnic characteristics (e.g., Muslims or Sikhs).

## Proactive Steps/Best Practices for Creating An Inclusive Environment

- Notice of Non-Discrimination
- Comprehensive annual training for investigators and others who are responsible for enforcement.
- Remind faculty/staff of their responsibility to report incidents of harassment.

## Proactive Steps/Best Practices for Creating An Inclusive Environment

- Annual staff and student training on the Racial Harassment Policy
- Climate Survey
- Community committee that provides a forum for discussing matters related to harassment
- Annual self-audit of complaints filed

## Racial Harassment Policy components:

- ❖ A statement regarding the school's commitment to ensuring a nondiscriminatory environment
- ❖ Instructions regarding how to report incidents of harassment
- ❖ Description of the school's complaint procedures (identify the contact person, specify timeframes for the investigation, provide written notice to the parties)
- ❖ An assurance that the school will take steps to end the harassment, remedy the effects of the harassment and take steps that reasonably calculated to prevent the reoccurrence.
- ❖ Standards for determining a hostile environment

## Great OCR Resources

- RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; OCR's INVESTIGATIVE GUIDANCE, March 10, 1994
- OCR's Dear Colleague Letter dated October 26, 2010 "Guidance on Schools' Obligations to Protect Students from Student-on-Student Harassment on the Basis of Sex; Race, Color and National Origin; and Disability"