

# Title VI of the Civil Rights Act of 1964: Implications for Higher Education

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**Abstract:** Title VI of the Civil Rights Act of 1964, a federal regulation that applies to discrimination, including harassment based on race in traditional and non-traditional higher education institutions, was enacted to ban discrimination in many areas of American society, including education. Title VI focuses specifically on those organizations that accept federal dollars. Higher education institutions in accordance with receiving public funds, cannot spend designated funds on any events which promote or leads to discrimination based on race. The purpose of this paper was to discuss Title VI of the Civil Rights Act of 1964 as it applies to higher education. Students attend higher education institutions for academic purposes. Our findings indicate as demographic diversity continues to increase across U.S. College campuses, it is vital for institutions of higher education to become proactive in combatting any type of discrimination so all students can equally benefit from a safe, harmonious, and learning oriented environment, and build multicultural citizenship skills. The rate of recurrences of violations in higher education reveals levels of systemic discriminations that needs more awareness and exposure. This paper focuses on varying aspects of discrimination, both overt and implicit and at examples of best practices to reduce the occurrences in higher education in the enforcement of Title VI.

**Keywords:** Title VI, Civil Rights, Higher Education, Discrimination

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## 1. Introduction

Although the United States institutions of higher education have made great progress since the 1954 desegregation of schools, challenges still exist today. A Higher Education Research Institute report revealed that "Students from minority racial and ethnic groups at colleges where minorities are underrepresented experience more stereotyping, harassment, and other forms of discrimination than those on campuses that are more diverse" [13]. Consequently, educational leaders must reassess their institutions' policies and procedures, and become aware of the racial climate and the challenges that particular groups of students may be facing. The primary scope of higher

education institutions is to provide equal learning opportunities and an environment in which each student can become successful. The purpose of this paper is to increase awareness about licit rights and obligations and provide educational leaders and faculty with an introduction into Title VI of the Civil Rights Act of 1964's legal framework as it applies to higher education institutions in the United States.

## 2. Racial Inequity in Higher Education

In 2013, four White American San Jose State University students harassed Donald Williams Jr., an African American freshman student attending San Jose State University in 2013,

in his dormitory. Williams alleged that the four students wrestled him to the ground, fastened a bicycle lock around his neck, and used racial slurs against him. The students were convicted of misdemeanor battery but not of hate crimes. Williams filed a \$5 million racial discrimination lawsuit against the university, in which he accused the dorm advisor and school officials of ignoring warning signs of racial discrimination [9].

Racial harassment is a form of racism and occurs when individuals such as Donald Williams Jr. are intimidated, insulted, bullied, excessively monitored, and harassed because of their race. Racial harassment in universities amplified in the aftermath of the terrorist attacks of September 11, 2001. In 2015, the Department of Education's Office for Civil Rights reported that over one thousand racial harassment complaints were received over the course of seven years [7]. On the flip side of racial discrimination, Students for Fair Admissions (SFFA) filed suit against Harvard college on November 17, 2014. The suit claimed that Asian American students have been denied access to the institution of Higher Education based on higher admission standards [14]. Undoubtedly, institutions of higher education must apply the law more assertively. All cases of racial harassment and discrimination must be addressed to provide a safe environment and equal learning opportunities for all students.

### 3. Overview of the Law: Title VI

#### *Historical Context*

The 13<sup>th</sup>, 14<sup>th</sup>, and 15<sup>th</sup> amendments to the U.S. Constitution outlawed slavery, but the prejudicial treatment against blacks continued. Jim Crow laws enabled the segregation of public facilities. As time passed, the prejudicial treatment of blacks expanded to other minorities as well. After World War II, the nation recognized the need to change these kinds of inequalities for minorities. One of the most famous cases associated with status quo in the United States' history was the Supreme Court case of *Brown v. Board of Education of Topeka, Kansas* (1954), which challenged the notion of "separate, but equal" in public education [3]. In the opinion of Chief Justice Warren, the Supreme Court unanimously held that the plaintiffs were deprived of the equal protection of the laws as guaranteed by the Fourteenth Amendment. This Supreme Court decision spurred federal action in protecting civil rights [10].

The year of 1963 was critical for the Civil Rights Movement. Societal pressures started to increase. The Birmingham Campaign, which showed televised animosities between peaceful protesters and local authorities, along with the slayings of civil right workers and the deaths of four girls in the bombing of Birmingham's 16<sup>th</sup> Street Baptist Church shook the nation. The Civil Rights Movement had become a significant to the nation's agenda, and the federal government was forced to respond. Consequently, President John F. Kennedy proposed a Civil Rights Act of 1963 [10]. Following Kennedy's assassination in November 1963, Dr.

Martin Luther King, Jr. and the new President, Lyndon Johnson, pressed for passage of the bill. In response, the House of Representatives enacted the bill. President Lyndon B. Johnson signed the 1964 Civil Rights Act into law on July 2, 1964 [10].

The Birmingham Crisis of 1963 raised the conscious of a nation and demanded legislative action. The result was Title VI, apart of the Civil Rights Act of 1964. Title VI applies to all institutions that receive federal aid and assistance particularly institutions of higher education while also regulating other federally assisted entities, such as public transportation (e.g., bus, train, etc.). Title VI (section 2000d) is a "Prohibition against exclusion from participation in, denial of benefits of, and discrimination under federally assisted programs on ground of race, color, or national origin." [16]. The act further states:

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. (Pub. L. 88-352, title VI, Sec. 601, July 2, 1964, 78 Stat. 252) [16].

Government Agencies and institutions that receive U. S. Department of Education funds covered by Title VI include: (a) 50 state education agencies, (b) vocational rehabilitation agencies, (c) education and vocational rehabilitation agencies of the District of Columbia and of United States territories, (d) 16,000 local education systems, (e) 3,200 colleges and universities, and (f) 10,000 proprietary institutions, such as libraries and museums that receive funds [18].

Title VI utilizes two enforcement mechanisms to ensure compliance. The first implementation method is the withdrawal of federal funding where unlawful discrimination occurs. The second enforcement method is through lawsuits brought by individuals. Title VI contains no provision for awarding monetary damages; however, the Supreme Court has interpreted it as an implied right of private action for monetary damages [8]. In *Guardians Assn. v. Civil Service Commission of New York City* (1983), the court stated that "Title VI, in turn, permits monetary damages in cases of intentional discrimination" [6]. Additionally, in *Alexander v. Sandoval* (2001), it was established that "private individuals may sue to enforce...Title VI and obtain both injunctive relief and damages" [1].

### 4. Title VI Compliance

#### *4.1. Office for Civil Rights*

Title VI states that "no person in the United States, on the grounds of race, color, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial from the Department of Education" [11]. The Office of Civil Rights (Office for Civil Rights) carries a heavy responsibility in monitoring institutions and government agencies that receive federal

financial assistance. As stated in *the United States of America v. El Camino Community College* (1978), this official agency has the authority to investigate institutions' employment practices to determine whether or not there has been discrimination on the grounds of race, color, or national origin in the organization's employment practices [17].

The President of the United States, with the advice and consent of the Senate, appoints the Assistant Secretary for Civil Rights at the United States Department of Education. The Office for Civil Rights is composed of a headquarters office and 12 enforcement offices located throughout the country. The headquarters and enforcement office are located in Washington, DC, and the remaining 11 enforcement offices are based in Atlanta, Boston, Chicago, Cleveland, Dallas, Denver, Kansas City, New York, Philadelphia, San Francisco, and Seattle [12]. The agency's core activities include responding to civil rights complaints filed by the public and conducting investigations to enforce federal civil rights laws. The Office also monitors institutions' adherence to resolution agreements and issues policy guidance to increase students' understanding of their civil rights privileges and obligations. Lastly, the agency administers and disseminates the Civil Rights Data Collection [12].

#### 4.2. Enforcement Methods

The Office for Civil Rights employs various methods to enforce Title VI. The following procedures illustrate these methods:

- (1) Compliance reports: Each applicant (for federal financial assistance) shall keep complete and accurate compliance records and submit them to an Office for Civil Rights Department official [11].
- (2) Access to information: Each applicant or recipient of federal financial assistance shall allow access by the responsible Office for Civil Rights Department official during regular business hours to any required sources of information. Considerations of privacy and confidentiality may not bar the Office for Civil Rights from evaluating or seeking enforcement of compliance with this process [11].
- (3) Periodic compliance reviews: The responsible Office for Civil Rights Department official will periodically examine the practices of the recipient to determine whether or not they are in compliance with Title VI [11].
- (4) Complaint and investigation: Any individual who believes he or she has encountered discrimination may file directly or have a representative submit a claim to an Office for Civil Rights Department official. The official will conduct a prompt investigation whenever a complaint, report, compliance review, or any other information indicates a potential failure to comply with Title VI [11].
- (5) Denying federal financial assistance: Upon review of any investigation, if an applicant (or recipient) fails to or refuses to comply with regulations under Title VI,

federal financial aid may be refused [11].

#### 4.3. Qualifying Institutions

Title VI applies to institutions that receive federal funding such as public-school districts, public post-secondary institutions, and some private higher-education organizations. Public colleges and universities receive federal financial assistance, and most private colleges and universities receive support as well. Title VI does not apply to private colleges who do not receive federal assistance [12].

Title VI covers all programs of a school that receives financial support including academics, extracurricular activities, and athletics as well as activities that occur off campus. Various examples of discrimination that may arise in these programs include discipline, racial harassment, and "denials of language services to national origin minority students who are English language learners" [12].

To prevent acts of discrimination, certain universities have instituted Title VI compliance programs. When a student or faculty member experiences a discriminatory incident based on race, color or national origin, that individual can file a complaint with a compliance representative. For example, Boise State University has an investigator who addresses Title VI incidents. After a complaint is filed and is deemed appropriate, the investigator initiates an investigation within ten calendar days. When the investigation is completed, one of two reports will be issued: a closure report or a report of finding. A closure report encapsulates the claims and concludes that no Title VI violation occurred so the investigation will be closed. A report of finding recaps the allegations and interviews regarding the incident, provides a list of the violations that transpired, and describes what corrective action the institution should take. If a complaint requires additional time to investigate, the complaining party will be notified in writing [2].

### 5. Discrimination Complaints

Anyone who believes that an institution of higher education receiving federal financial assistance has discriminated against an individual by race, color, national origin, sex, disability or age, may file a complaint with the Office of Civil Rights. The individual filing the grievance does not have to be the person who has been directly affected may file the complaint on behalf of another person or group. The complaint must be filed within 180 calendar days of the date of the alleged discrimination unless the Office has extended the filing deadline for good cause shown under certain circumstances [19].

When an individual files a complaint, although not required by law, he/she may be encouraged to become familiar with the institution's grievance process and use that process to resolve the claim. If the complainants use an institutional grievance process and also choose to file their complaint with the Office of Civil Rights, the complaint must be filed within 60 days after the completion of the

institutional grievance process [19].

Certain universities within the United States have established Title VI compliance and policy programs. The University of Tennessee provides one example of how a school can implement Title VI through various programs, training, and compliance reviews throughout the university system [15]. In *Geier v. Lamar Alexander* (1984), the United States District Court of Tennessee ruled that “no public institution of higher education in Tennessee shall actively engage in racial discrimination or practices which discourage enrollment or involvement of other-race persons” [5].

## 6. Best Practices

The University of Tennessee has established a Title VI Coordinator, who coordinates Title VI activities for the campus within the university system. These activities monitor compliance with Title VI by federal and state laws. The coordinators report to the vice president of equity and diversity, who is responsible for the development and implementation of the University’s Title VI Plan and subsequent updates [15]. The responsibility for implementing the Title VI program at each campus or institute rests with the president, the vice president, chancellors, and the school coordinators. The university’s policy that supports Title VI is found under Personnel Policy 220, Equal Employment and Affirmative Action. The processes for policy dissemination are located in the campus/institute affirmative action plans and the handbooks for students and staff. The university’s policy against discrimination in educational programs and activities is disseminated in university publications, contracts, catalogs, student handbooks, advertisements, and recruiting brochures [15].

Furthermore, the University of Tennessee utilizes various means to notify the general public regarding its compliance with Title VI. Posters are distributed throughout the University. A Title VI brochure also has been developed and is presented in both English and Spanish. The University of Tennessee at Knoxville (UTK) has placed the Title VI plan on its website [15]. Moreover, compliance reviews are established concerning entities that are sub-recipients of federal funds through the University of Tennessee. The procedures for both pre-award compliance and post-award compliance are outlined in the university’s Title VI plan [15]. Also, each campus and organization of the university have a discrimination complaint procedure. The university’s student handbooks, faculty handbooks, personnel manuals, and affirmative action plans all notify students and employees of the necessary procedures for filing a complaint of discrimination by race, color, or national origin [15]. University of Tennessee’s pro-active initiative and comprehensive compliance and implementation approach could be used as a model for higher education institutions.

## 7. Implications

Racial discrimination is a form of bullying, which involves

intentional and unprovoked efforts to harm another. The acts of bullying can be physical or verbal, direct or indirect. They also include repeated negative actions by one or more persons against another. Bullying, unlike teasing, concentrates on an imbalance of physical or psychological power [4]. Colleges and universities combating school violence should be concerned about bullying because it is a form of school violence that can further escalate to more severe acts of school violence. School violence can be defined as any behavior that violates a school’s educational mission or climate of respect. It can jeopardize the intent of the school to be free of aggression against persons or property, and free of drugs, weapons, disruptions, and disorder. Bullying serves as a warning to other more serious types of campus violence, such as “rape, assault, fighting, hazing, dating violence, sexual harassment, hate and bias-related violence, and other kinds of serious crime” [4].

Universities and college administrators have a legal and moral obligation to ensure a safe and cooperative environment for all individuals including students, faculty, employees, and university guests. Campus communities are composed of individuals with diverse backgrounds. Students participating in educational and other campus activities should not have to encounter racial harassment or discrimination in any form or manner. Otherwise, the university or college may be legally liable for allowing such an environment to exist. It is important that all students are educated about their rights and obligations under Title VI, as well as any other laws to punish those individuals who inflict such harm on others.

## 8. Conclusion

In conclusion, the purpose of this paper was to provide an introduction to Title VI of the Civil Rights Act of 1964. Students attend colleges and universities for academic purposes. However, at times, some may be confronted with cases of harassment, threats, bodily harm, and other types of malicious behavior. Students and other individuals should not have to be subjected such behavior, nor should colleges and universities tolerate or allow individuals who commit such acts of discrimination without repercussions. As demographic diversity continues to increase across U.S. College campuses, it is important that all institutions of higher education become proactive in combatting any types of discrimination so that all students can equally benefit from a safe, harmonious, and learning oriented environment, and build multicultural citizenship skills.

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