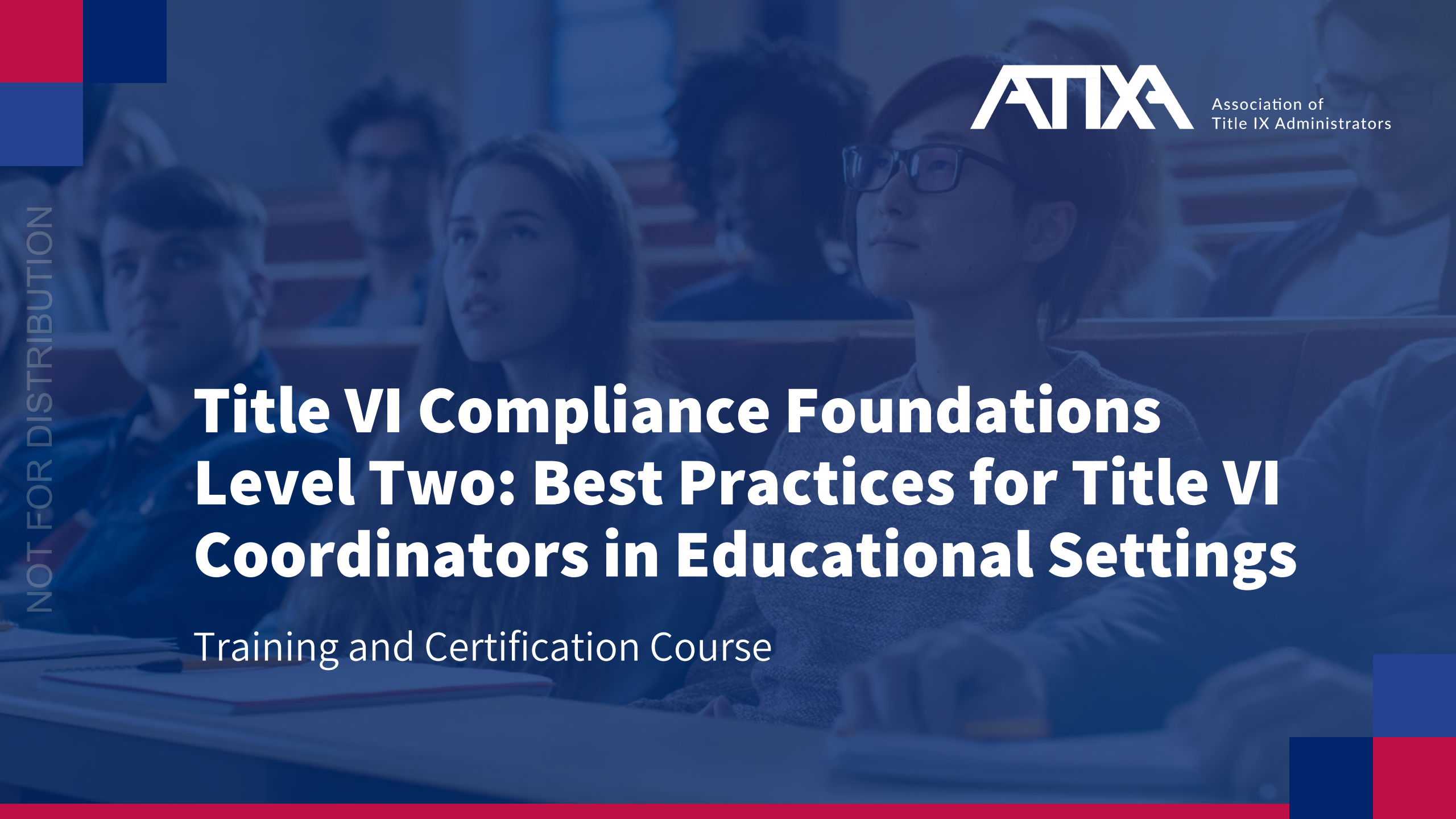

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Title VI Compliance Foundations Level Two: Best Practices for Title VI Coordinators in Educational Settings

Training and Certification Course

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Any advice or opinion provided during this training, either privately or to the entire group, is **never** to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

Content Advisory

The content and discussion in this training will engage with protected characteristic-based harassment, discrimination, violence, and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that educators may encounter in their roles including slang, profanity, and other graphic or offensive language. It is not used gratuitously, and no offense is intended.

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Introduction

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This training equips practitioners with the knowledge and skills to effectively implement and manage a Title VI compliance program in educational settings.



Practitioners will explore reporting and intake procedures, resolution processes, prevention education, and assessment practices related to potential discrimination and harassment on the basis of race, color, and national origin.



The goal of this course is to prepare Title VI Coordinators and educational leaders to fulfill their Title VI compliance roles with confidence.

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Review: Title VI Statute, Definitions, and Applicability

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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

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Definitions

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Race

- Membership in a group based on physical or cultural characteristics associated with a certain race, ancestry, or ethnic heritage

Color

- Skin color, tone, pigmentation, shade, or complexion, regardless of racial or ethnic background

National Origin

- Ancestry, ethnicity, or country of origin; includes linguistic and cultural characteristics

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Discrimination Defined

The act of treating an individual differently, or less favorably, based upon actual or perceived protected characteristics

Can be intentional or unintentional

Always based on a protected characteristic(s)

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Title VI Applicability

- Broad applicability
  - "No person"
    - Students
    - Employees (limited coverage)
  - Program or activity receiving federal financial assistance
    - Education program or activity
    - States and public agencies
    - Private agency, institution, organization
  - In the United States



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Federal Financial Assistance

- Grants of federal funds
  - Direct
    - Federal grants, loans, subsidies, agency-provided funding (e.g., National Institutes of Health (NIH), Department of Health and Human Services (HHS), Department of Defense (DOD))
  - Indirect
    - Federal financial aid, tuition for a military veteran paid by federal government
- Detail/loan of federal personnel
- Federal property (e.g., use or rental of federal land or property below market value)
- Training (e.g., law enforcement training at FBI Academy)

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Covered Programs and Activities

- Academic programs
- Admissions
- Classroom assignments
- Clubs and organizations
- Counseling and Guidance
- Discipline
- Extracurricular activities
- Facilities
- Financial aid/scholarships
- Grading
- Housing
- Physical education
- Student treatment and services
- Recruitment
- Transportation
- Vocational education
- Etc.

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Essential Compliance Elements

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Title VI policy and procedures should permit the school/institution to **promptly** respond to actual or constructive notice of discrimination or harassment on the basis of race, color, or national origin.

1

STOP discriminatory conduct

2

PREVENT recurrence, on both individual and school/institutional levels

3

REMEDY the effects of discrimination, on both individual and school/institutional levels

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Title VI Notice, Outreach, and Intake

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Actual Notice

- Direct knowledge of discrimination or harassment by an official who has the authority to address such issues within the school/institution
  - When an employee designated as a mandatory reporter is informed of discriminatory conduct, the school/institution is considered to have actual knowledge and is obliged to respond



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Constructive Notice

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A school/institution is "on notice" of Title VI hostile environment harassment if:

- The school/institution **knew** of the hostile environment
  - Usually through a report or complaint, or
- The school/institution **should have known** of the hostile environment
  - Constructive notice standard
  - Emphasizes need to monitor program or activity and be proactive
  - Broader standard than Title IX's actual notice standard
    - Schools/Institutions are responsible for knowing and acting upon what mandated reporters know, whether they share it or not

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Constructive Notice: Example

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"A [R]ecipient is charged with **constructive notice** of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination.

In other words, if the [R]ecipient could have found out about the harassment had it made a proper inquiry, and if the [R]ecipient should have made such an inquiry, knowledge of the harassment will be imputed to the [R]ecipient."

OCR Resolution Agreement, Park City School District, 03/20/24

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Reports and Complaints

- Any individual, group, or a school/institution can initiate a Title VI complaint
- Schools/Institutions should:
  - Develop a reporting system
  - Implement reporting expectations
    - Consider mirroring other reporting expectations
  - Designate at least one employee (Title VI Coordinator) to receive Title VI reports and outreach to impacted individuals
- Institution must respond effectively and prevent harassment



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Outreach Following a Report or Complaint

- After receiving a report, Title VI Coordinator (TVIC) or designee should reach out to the Complainant
- **Outreach** should include:
  - Introduction to Title VI Coordinator
  - Reason for the outreach
  - Offer to meet/speak over the phone or video (e.g., Zoom, Teams)
  - Available resources and a summary of/offer to discuss resolution options
  - Discuss supportive measures and resources
  - Explain options to report to law enforcement (if applicable)
  - Follow up in writing with resources and information

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Intake with the Impacted Party

Intake should include:

- Table setting
- Arranging for/discussing Advisor
- Written materials to reference and for parties to take with them
  - Follow up with an email containing these materials
- Fact exploration, but not interviewing
  - Needed to conduct initial assessment (e.g., jurisdiction, interim safety measures)
- Supportive Measures discussion
- Summary and discussion of resolution options
- Opportunity for questions
  - **DO NOT** answer the question “What should I do?”

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Initial Assessment and Response Options

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Initial Assessment

- Following outreach and intake, TVIC should conduct an initial assessment
- **TVIC should consider:**
  - Immediate safety or access concerns
  - What protocols are in place to determine and/or implement necessary measures?
    - Consider using a Violence Risk Assessment (e.g., Structured Interview for Violence Risk Assessment (SIVRA))
  - Is there adequate information to determine whether the incident or situation may implicate Title VI ?
    - If no, what steps can be taken to gather additional information?
  - Impacted party's wishes?
    - TVIC must take steps to address ongoing harassment impacting other students
  - Does the school/institution have jurisdiction under Title VI?

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Title VI Jurisdiction

- **Title VI applies to:**
  - Any individual
  - In the "program or activity"
  - In the United States
  - In-program/downstream effects
- **Define scope of school/institution's Title VI policy**
  - Consider school/institutional mission, resources, federal and state laws and regulations, federal guidance, and relevant federal court cases
  - **ATIXA recommends** aligning Title VI jurisdiction to a nexus with your education program
- If a complaint falls outside of Title VI policy, determine whether referral to another process (e.g., student conduct, human resources) is appropriate
  - Title VI may still be able to provide remedies

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Title VI Prohibited Behaviors

- Title VI prohibits discrimination and harassment, generally, on the basis of race, color, and national origin, which includes shared ancestry and ethnic characteristics
- Title VI discrimination and harassment typically manifests as:
  - Disparate Treatment
  - Disparate Impact*
  - Hostile Environment Harassment
  - Retaliation

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Incident Response Options

- **With unidentified alleged Respondents:**
  - Supportive Measures only
  - Informal Resolution (IR) - if appropriate and all parties voluntarily agree to participate
  - School/institutional remedies (e.g., ongoing monitoring, training, community education, policy review)
- **With identified alleged Respondents:**
  - Options listed above, **AND**
  - Interim suspension and administrative leave
  - Formal Resolution – if jurisdiction is established (likely “Process B”)

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Supportive Measures and Remedies

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Supportive Measures: Best Practices

- Supportive Measures are implemented to:
  - Protect safety or well-being of parties or environment, or deter harassment
  - Restore or preserve equal access
- Supportive Measures (to align with Title IX):
  - Provided fairly to all parties at no cost to the party
  - Individualized
  - Non-disciplinary, non-punitive
  - Should not unreasonably burden other party
  - Coordinated with accessibility/disability services, as needed
  - Maintained as privately as possible



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TVIC and Supportive Measures

- TVIC (or designee) should work with the parties to determine the most appropriate Supportive Measures available
  - If the TVIC does not provide a requested Supportive Measure, document the rationale for the denial decision, and any alternative measures used
- TVIC is responsible for ensuring that Supportive Measures are implemented; this includes follow-up with the parties and those tasked with implementation
  - If the parties' needs change, or the TVIC determines the Supportive Measure is no longer necessary, the TVIC should work with the applicable party and document all actions taken
- TVIC should make sure school/institution publishes the range of possible supportive measures

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Supportive Measure Examples

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- Counseling/ Health Services
- Employee Assistance Program
- Visa and Immigration Assistance
- Community Education
- Alternate Housing
- Alternate Work Arrangements
- Safety Planning
- Safety Escorts
- Transportation Assistance
- Contact Limitations
- Academic Support
- Trespass Orders
- Emergency Notifications
- Increased Security

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Title VI Remedies

- May be short- or long-term actions taken to address, fix, and prevent the recurrence of the discriminatory conduct, policy, or climate
  - Do not require a report, complaint, or request from a party
- TVIC is responsible to ensure remedies are implemented and effective
  - TVIC must be granted the independence and authority to implement reasonably calculated remedies
- Federal agencies have reinforced the obligation to implement remedies alongside any resolution process and sanctions
  - For hostile environment complaints, must assess whether remedies owed to **any** impacted individuals and/or communities
    - May require a remedial response beyond/in lieu of disciplining the Respondent

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Implementing Remedies

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Remedies may be helpful in the following circumstances:

- Individual(s) responsible for the discrimination or harassment are unknown
- The behavior or incident does not rise to a policy violation
- The party experiencing discrimination or harassment does not wish to participate in a resolution process
- Wide-spread culture or climate issues that create or have a potential to create a hostile environment (e.g., team, classroom, department, school- or campus-wide)

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Example Title VI Remedies

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Corrective Action/Intervention

- Immediate steps to stop discriminatory practices
- Revision of discriminator/unclear policies and procedures

Restorative Measures

- Providing missed services
- Compensatory education when access has been limited or denied

Preventative Measures

- Staff and student training
- Establish auditing mechanisms

Systemic Change

- Restructuring or revising program delivery
- Modifying outreach efforts

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Interim Suspension and Administrative Leave

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Interim Suspension/Action

- Imposed upon student Respondents on a temporary basis only
- Respondent should be given immediate notice with written rationale and opportunity to challenge
- A challenge meeting may be requested
- The interim action may be affirmed, modified, or lifted as a result of the review or new information
  - Any change should be communicated to all parties in writing



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Administrative Leave

- May remove an employee Respondent using existing administrative leave procedures
  - Consider applicable union or collective bargaining agreements (CBA) policies and procedures
- TVIC will typically work with human resources to initiate this process



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Working with Parents/Guardians and Advisors

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Parent/Guardian Rights in K-12 Setting

- **Access** their student's education records, including Title VI complaint file
- **Attend** all interviews/meetings/hearings with their student
- **Communicate** with school officials regarding the process
- **Make decisions** throughout the Title VI Resolution Process on behalf of their student, such as whether to pursue Informal Resolution
- **Pursue Title VI Resolution Process** on behalf of their student
- **Seek supportive measures** on behalf of their student



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Working with Advisors: Best Practices

- Refer to policies related to whether parties have the right to an Advisor of their choice
- Parents/guardians may serve as Advisors or may accompany their student in addition to a separate Advisor (in K-12 setting)
- Investigators may establish participation ground rules; must be applied equally
- No obligation to provide or train Advisors, but school/institution can choose to do so
- Consult with human resources regarding additional considerations for employee parties and witnesses (e.g., union representatives)



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Title VI Resolution Processes

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A Fair and Prompt Resolution Process

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- **Treat all parties fairly**
  - If the school/institution affords a right, privilege, benefit, or opportunity to one party, consider whether it should be provided to other parties
  - Ensure parties have opportunity to **fully participate** in the resolution process
- Ensure all employees involved in a Title VI Resolution Process **operate without bias and/or conflicts of interest**
- Should be reasonably prompt to enable the school/institution to fulfill its obligations to address hostile or discriminatory environments

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Title VI Resolution Process Options

- Offer a formal grievance process as well as informal resolution
  - ATIXA Model Policy 1P2P – Process B
- Formal Process
  - Investigation followed by decision-making phase and appeal
    - Best practice to also offer opportunity for appeal
- Informal Process
  - Supportive Resolution
  - Educational Conversation
  - Accepted Responsibility
  - Alternative Resolution

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OCR Enforcement Metrics for Title VI Resolution Processes

- The school/institution:
  - Had **actual or constructive notice** (i.e., the school knew or should have known) of the alleged hostile environment harassment; and
  - Failed to take prompt and effective steps reasonably calculated to:
    - End the harassment
    - Eliminate any hostile environment harassment and its effects
    - Prevent the harassment from recurring
  - Failed to respond in a manner consistent with recent OCR guidance

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Informal Resolution Process

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Informal Resolution Process Overview

- When appropriate, Informal Resolution (IR) can be an effective resolution tool for alleged Title VI policy violations
- Key characteristics of IR:
  - Goal: Find mutual resolution without escalating conflict
  - Voluntary and collaborative
  - Flexible approach allowing for varying degrees of process structure
  - May be more efficient than Formal Resolution
  - No formal appeal process
- Useful option especially when alleged Respondents accept responsibility for alleged behavior

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Informal Resolution Policy Considerations

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Policy considerations:

- IR options may be dependent on staff training and resource availability
- When will IR be made available for TVIC complaints (e.g., employee-on-student complaints)?
- Provide parties applicable policies and procedures, notices, records, and evidence gathered and created up to that point, as well as potential consequences
- The option of starting or resuming a Formal Resolution
- If IR fails, will information shared in the IR process be used in a Formal Resolution?
- How to make a formal complaint
- How will the outcome be documented and enforced?

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Informal Resolution Best Practices

- IR should be conducted by a trained Facilitator
  - Should not serve in any other role for the same complaint
  - Should be free from bias or conflicts of interest
- IR should be allowed at the discretion of TVIC, any time prior to final determination
  - Consider:
    - Likelihood of resolution
    - Power dynamics
    - Parties' goals and motivation to participate
    - Complaint complexity and timing
    - Potential pattern or impact on community

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Formal Resolution Process

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Formal Resolution Process Overview

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1 INCIDENT

- Report/ Complaint/ Notice to TVIC

2 INITIAL ASSESSMENT

- Jurisdiction
- Supportive Measures/ Remedies
- Interim Actions
- Referral to Another Process
- Informal/Formal Resolution

3 FORMAL INVESTIGATION

- NOIA
- Interviews
- Evidence Collection
- Draft Report
- Share Draft and Evidence
- Review/ Comment
- Final Report

4 DECISION-MAKING

- Credibility Assessment
- Determination and Rationale
- Sanctions
- Remedies
- Option for Live Hearing*

5 APPEAL*

- Appeal Grounds
- Determination and Rationale

*If allowed by policy

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Recommended Formal Resolution Process

- TVIC retains ultimate discretion to pursue a Formal Resolution Process
  - TVIC should consider the parties' preference, but ultimately must ensure they **Stop, Prevent, and Remedy**
- TVIC may require a violence risk assessment (VRA) to aid in the determination of initiating a complaint
- If TVIC initiates a complaint, the school/institution does not become the Complainant
- At any point during the initial assessment or investigation, if the TVIC (or designee) determines that reasonable cause does not support a violation of policy, the process ends
  - TVIC should promptly notify the parties in writing with rationale
  - Complainant may request a review and/or request to re-open the investigation

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Parties' Rights

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Parties should have the right to:

- A thorough, fair, and impartial resolution process free of bias or conflicts of interest
- Notice of allegations and, if appropriate, investigation
- Obtain and present evidence and witnesses
- Discuss allegations and consult with confidential resources, parents/guardians, or Advisors
- Review relevant evidence and the investigation report (if applicable) the Decision-maker will consider
- Appeal (if offered in other grievance procedures)
- Choose an Advisor (if allowed in other grievance procedures)

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Investigation Process

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Investigation

- Investigators interview parties and witnesses
  - Collect relevant documentary evidence and other available evidence
  - Burden of evidence collection is on the school/institution, **not** the parties
  - Written investigation report recommended
  - Opportunity for parties to review and respond to the report recommended
- Investigation models
  1. Hand-off model: separation of roles (ATIXA recommendation – Process B)
  2. TVIC serves as Investigator
  3. Investigator as Decision-maker (DM)

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Investigation Scope

Scope refers to the investigation allegations, timeframes, and parties

- TVIC determines the scope of the investigation (e.g., incident, pattern, culture/climate)
- **Considerations:**
  - Allegations outside of jurisdiction
  - Individual vs. group
  - Multiple Complainants or Respondents
  - Counter-complaints
  - Complaint consolidation
  - Political and other pressures
- May need to adjust scope during process

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Investigation Strategy

TVIC consults with Investigator(s) to strategize and plan the investigation:

- The structure of the investigation process will look different based on the type of complaint
  - Disparate Treatment
  - Harassment
  - Program equity/fairness
  - Retaliation



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Types of Discrimination

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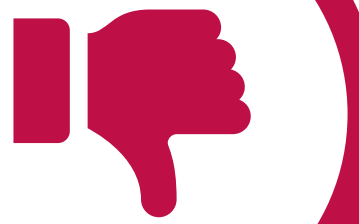
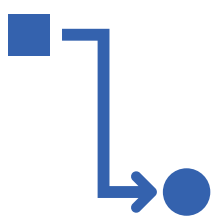


Disparate Treatment

- Intentional
- Usually requires adverse action
- Affiliation or perception of affiliation to protected characteristic



Disparate Impact

- Occurs with unintentional discrimination
- Impact disadvantages certain groups



Harassment

- Severe OR pervasive OR persistent behavior that limits a person's benefits, services, or opportunities

Retaliation

- Prohibited if engaged in protected activity
- Suffered adverse academic or employment action

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Title VI Hostile Environment Definition

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ATIXA Model Policy:
Title VI Hostile Environment

- **Unwelcome conduct** based on race, color, or national origin creates a hostile environment under Title VI if the conduct, based on the totality of the circumstances, is:
  - Subjectively and objectively offensive; **and**
  - So severe **or** pervasive
    - that it **limits or denies** a person's ability to participate in or benefit from the school's/institution's education program or activity

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Title VI Disparate Treatment Definition

- Any **intentional** differential treatment of a person or persons that is based on a person's actual or perceived **race, color, or national origin** that:
  - Excludes a person from participation in;
  - Denies the benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in a school/institution program or activity



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Disparate Treatment

Common areas and issues involving Disparate Treatment under Title VI:

- Access to resources
- Athletics
- Grading
- Hiring
- Pay
- Promotion/performance reviews
- Program access
- Responsibilities/job assignments
- Scholarships
- Shifts
- Student conduct outcomes

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Common Retaliation Definition

- The school/institution or any member of the school/institution's community,
  - Taking or attempting to take materially adverse action,
  - By intimidating, threatening, coercing, harassing, or discriminating against any individual,
  - For the purpose of interfering with any right or privilege secured by law or policy, or
  - Because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under the policy and associated procedures

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Program Equity/Fairness

- Program Equity/Fairness issues occur when policies or practices that appear to be neutral unintentionally result in a disparate impact on a protected group or person that:
  - Excludes a person from participation in;
  - Denies the person benefits of; or
  - Otherwise adversely affects a term or condition of a person's participation in an education program or activity
  - Trump Administration and courts narrowing applicability of disparate impact analysis

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Understanding Evidence

- Investigators should collect all **relevant** evidence
  - Evidence is any kind of information presented to help determine what occurred
  - Relevant evidence is evidence that tends to prove or disprove the allegations
- Investigators look for **different** types of evidence in discrimination vs. harassment complaints:
  - Similarly situated individuals (comparators)
  - Statistical evidence
  - Non-discriminatory rationales
    - Following established policy, the other applicant was more qualified, etc.
  - Pretext
    - Whether the offered rationale for the adverse action is true/legitimate
- Circumstantial evidence may play a larger role in these complaints

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Law Enforcement Investigations

- Districts and institutions must fulfill their Title VI obligations regardless of whether any parallel criminal investigation exists
  - Example: Norwin School District OCR Resolution Agreement
- State laws, local practices, and MOUs may facilitate information sharing with law enforcement
  - Develop a reporting and information-sharing protocol



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Decision-Making and Appeals

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Decision-Making

- ATIXA recommends the use of a separate Decision-maker (DM) and the use of a streamlined administrative resolution process without a live hearing, except for significant discipline at public institutions, which may require a hearing
  - The DM conducts a paper review of the investigation and has the option to meet, informally, with the parties and witnesses to assess credibility and ask questions
    - Then the DM uses the standard of evidence to make findings and issues a written determination
    - **ATIXA recommendation:** Preponderance of the evidence
- **Note:** A live hearing may be required by state law, a collective bargaining agreement, or a federal court

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Making a Finding and Final Determination

- Finding – did the conduct occur as alleged?
- Final Determination – did what occurred violate policy (by the standard of proof)?
- Finding(s) must be based upon information gathered during the investigation and decision-making phases only
  - No outside information should influence decision-making
- Separate the **determination** from the **sanction**:
  - Avoid impact-based rationales for policy violation findings and determinations
  - Use impact-based rationales for sanctions only
    - Impact is **not** relevant to the policy violation question beyond whether behavior violates policy
  - Same with prior misconduct, unless a pattern is alleged/proven

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Sanctions and Remedies

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Sanctions

- Only implemented after a determination of responsibility for a specific individual or organization
- Nexus between sanctions and misconduct
- Goal: stop, prevent, and remedy
- TVIC assures sanction compliance
  - Failure to comply could lead to discipline

Remedies

- May be implemented before or after a determination
- TVIC determines remedies that are fair and not clearly unreasonable given the circumstances
- Goal: preserve or restore access to education program and activity
- TVIC ensures remedies are implemented for both Complainant and community (and Respondent, if applicable)

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Determining Sanctions

- Each sanction should have a rationale
- DM may consider:
  - Nature and severity of the conduct, including the circumstances surrounding the violation
    - Aggravating or mitigating circumstances
    - Precedent, prior misconduct, proven pattern (if alleged), acceptance of responsibility, collateral violations, or multiple violations
  - The Respondent's disciplinary history
  - The need for sanctions or other responsive actions to stop, prevent, and remedy the discrimination, harassment, and/or retaliation
  - The impact on the parties
  - Any other information deemed relevant by the DM

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Remedies

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- Remedies should seek to restore affected individuals to their pre-deprivation status
- Recover any lost work, education time, or economic or access impacts
- Restore opportunities, if applicable
- Repair damage from misconduct

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Appeals

- Offer an opportunity to appeal
  - One level of appeal to review a final determination
  - Short timeframe
- Outline grounds for appeal in policy
  - Procedural irregularity
  - New evidence
  - Conflict of interest or bias
  - Other grounds?
- Appeal Decision-maker should not have another role in the same complaint, to minimize the risk of conflicts of interest or bias

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Title VI and Free Speech

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First Amendment

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances"

U.S. Const. amend. I (1791)



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Free Speech and Expression

- Public schools/institutions must implement policies and procedures consistent with the First Amendment's freedom of speech protections
- **Natural tensions arise between:**
  - Free speech and expression
  - Harassment and/or hostile environment claims
- **Types of unprotected speech/expression**
  - Incitement of disruption and breach of peace
  - Defamation
  - True threat
  - Obscenity



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Time, Place, and Manner

- Individuals' First Amendment rights must be balanced against the school/institution's interest in providing a safe and effective learning environment
- The Supreme Court allows certain limitations on students' speech/expression to maintain an educational environment
  - **Time:** may limit when speech occurs
  - **Place:** can designate certain areas where speech is allowed or restricted
  - **Manner:** can regulate how speech is conducted
- Time, place, and manner restrictions must be content-neutral, narrowly tailored to serve a significant interest, and leave open ample alternative channels for communication

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Student Discipline

- Navigating tensions regarding student speech/expression require school/institution administrators to determine whether the speech:
  - **Materially and substantially interferes with the requirements of appropriate discipline in the operation of the school/institution;** OR
  - **Intrudes upon the rights of other students**
- Addressing speech/expression that occurs in out-of-school/off-campus settings, must evaluate how the speech/expression impacts and disrupts the education program or mission (systemic impact vs. individual impacts)

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Concepts to Consider

- **Academic Freedom**
  - Extends rights within the educational context of teaching, learning, and research
  - Includes protections for the institution, faculty, and students
  - Instructors may not create a hostile environment
- **Off-campus faculty speech/expression**
- **Non-faculty speech/expression rights**



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Barnard College Settlement

July 2025

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Barnard College Lawsuit

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Facts

- February 2024 - Students Against Antisemitism, Inc., StandWithUs Center for Legal Justice, and unnamed student plaintiffs filed a lawsuit against Barnard College
- The lawsuit alleged that following reports of increased antisemitism on campus, including during protests related to the Israel-Hamas conflict, Barnard failed to address and combat antisemitism, violating Title VI
- Allegations included:
  - Jewish and Israeli students were subjected to unchecked harassment during protests
  - Students who served in the Israeli military were singled out and experienced harassment, affecting their ability to concentrate in class
  - Antisemitic incidents occurred in person, online, and on social media platforms

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Barnard College's Initial Response

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Facts Cont.

- Barnard College did take some initial action in response to reports of increased antisemitism following the October 7, 2023, attacks in Israel
  - **Established a Task Force on Antisemitism** (November 2023) to address antisemitism and foster a more cohesive community
  - **Emphasized existing policies** as the framework to address, resolve, and prevent the recurrence of incidents
  - **Encouraged reporting** as a means of resolving harassment and discrimination through investigations and potential disciplinary actions
  - **Offered support** for impacted students

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Settlement Agreement

Terms of the settlement agreement (July 7, 2025)

- **Create a dedicated Title VI infrastructure with an appointed Title VI Coordinator** with the same powers as the Title IX officer
- **Implement systemic accountability** including an annual report on disciplinary outcomes and response effectiveness for Title VI incidents
- **Incorporate federal guidelines on Antisemitism** including the consideration of the International Holocaust Remembrance Alliance (IHRA)
- **Mandate campus-wide training** on how to recognize, report, and address Antisemitism and other forms of harassment
- **Extend anti-discrimination jurisdiction** to off-campus and online conduct
- **Reaffirm policies limiting demonstrations** and prohibiting face coverings
- **Affirm that Barnard's endowment is not a political tool**, precluding divestment based on political motives

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Title VI Prevention Education

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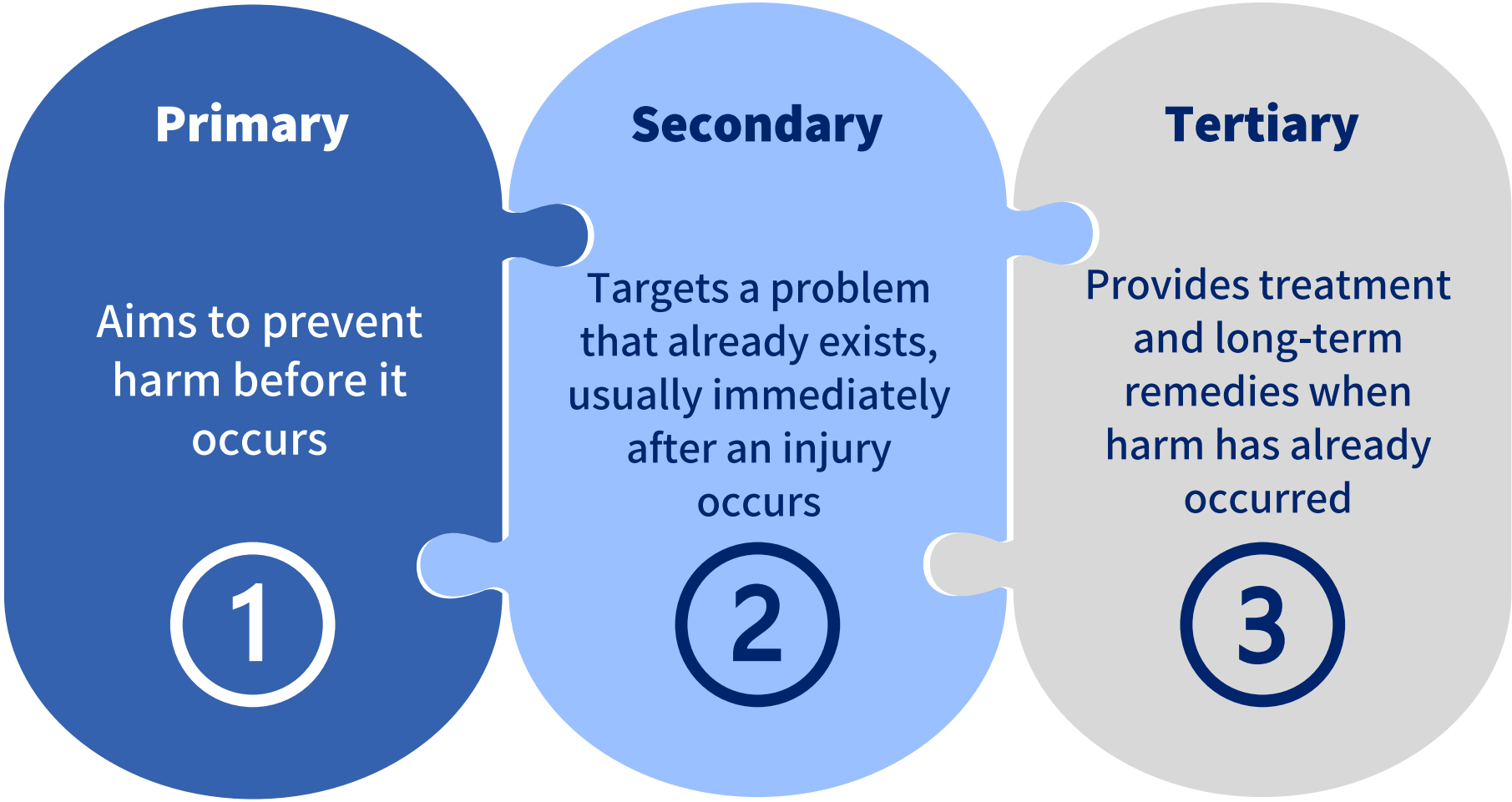
What is Prevention?



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Title VI Prevention Education Examples

- OCR Resolution Agreements typically include the requirement of additional education and training for students and employees
- Although prevention efforts should be overseen by the TVIC, specific responsibilities can be delegated to:
  - Title VI Compliance team members
  - Prevention specialists (school- or community-based)
  - Staff with Title VI expertise or research backgrounds
  - External Title VI trainers
- **Prevention education and training should include consistent messaging that is compliant with Title VI, federal and state guidance, and school/institutional policy**

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Title VI Prevention Education Elements

- Prevention efforts should carefully consider:
  - **All possible audiences** (e.g., students, full- and part-time employees, faculty, athletic staff, graduate students, and administration)
  - **Messaging** (e.g., clear, consistent, comprehensive, continual, developmentally appropriate, and community-wide)
  - **Methodology** (e.g., delivery model, frequency, scaffolded approach)
- Elements to successful prevention efforts:
  - **Relevant approach and content** (e.g., school/institutional culture, broader current events, aggregated school/institutional reports and complaints)
  - **Collaboration** with buy-in at all levels
  - **Strategic planning** with ability to pivot as needs change

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Employee Training Topics

- All employees, including teachers/faculty should receive annual Title VI training
  - Purpose of Title VI
  - School/institution's obligations
  - Types and examples of discrimination under Title VI
  - Recognizing discrimination
  - Responding and reporting
  - Available school/institution and community-based resources



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Student Training Topics for K-12

All K-12 students should receive developmentally appropriate Title VI education

- Understanding difference
- Empathy and respect for others
- Recognizing discrimination
- Promoting positive behavior (e.g., bystander intervention)
- Seeking help and reporting



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Student Training Topics for Higher Education

- Title VI Overview
- Definitions and examples of discrimination, harassment, and retaliation under Title VI
- Navigating conversations across difference
- Bystander intervention
- Institutional policy and response
- Reporting mechanisms



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Title VI Assessment

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Compliance Assessment

- OCR Resolution Agreements often include a commitment to perform an assessment to evaluate climate regarding race, color, or national origin
  - Usually coupled with a mandate to develop an action plan
- Assessment is helpful step to begin Title VI compliance efforts, inform current practices, or guide future planning



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Assessing Title VI Efforts

- **Monitoring: Conduct regular needs assessment**
  - Identify strengths and program gaps
  - Fairness and Barrier analysis
  - Address areas of improvement
  - Assess resources
- **Identify patterns and systemic problems**
  - Internal reviews/audits/assessments
  - Climate assessments
- Complaint/investigation debriefing
- Benchmarking



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Compliance Audits

- Audits are intermittent assessments to measure compliance and to monitor barriers
- Factors such as cost and personnel capacity impact frequency

Disciplinary/Conduct Outcomes

Reports/Complaints

Hiring, Compensation, Evaluation, and Promotion

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Annual Compliance Report Elements

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Common included elements:

- TVIC information, copy of the non-discrimination statement
- Data on enrollment and demographics
- Complaint resolutions
- Programs, services, and trainings provided
- Monitoring and accountability efforts
- Resource allocation

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Climate Survey

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Climate Survey Purpose

Purpose: to learn about experiences with discrimination or harassment on the basis of race, color, or national origin

- Measure policy, procedure, and resource awareness levels
- Identify barriers to reporting or accessing resources

- Demographic questions
  - Narrow/segment results
  - Basis for comparison

- Experience and perception questions
  - Bulk of the survey
  - Gain a better understanding of the participants' experience

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Design Guidelines

- Keep the survey to a reasonable length that can be completed in one sitting
  - 10-15 minutes is ideal
- Use simple questions that can be understood by all participants
- Focus on how the results will be reported
  - What is the purpose of this question?
  - What will we do with the information we learn from this question?
- Use a mixed methods design to capture both qualitative and quantitative data
- Avoid tendency to “kitchen sink” the survey
- Be willing to use “Prefer not to answer” or “Not listed” as a response

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Consent and Confidentiality

- How will the school/institution maintain the confidentiality of responses while adhering to its mandated reporting policies?
  - Consider outsourcing data analysis
  - Who has access to the raw data?
- Intro to the survey should provide a description of survey scope
- K-12 schools/districts
  - Be familiar with the Protection of Pupil Rights Amendment (PPRA)
- Provide informed consent prior to the start of the survey
  - For K-12, this will include sign off from the parent/guardian

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Climate Survey Report

- Comprehensive overview of the climate survey responses
- Tips for report writing:
  - Create or follow a template
  - Allocate sufficient time for writing and review
  - Use a committee to analyze results, draft and review report
- Consider:
  - Accessible platform for sharing the results
  - Showcase qualitative and quantitative data
  - Share a “next steps” plan to address areas needing improvement



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Recordkeeping

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Recordkeeping

- TVIC should maintain records related to:
  - Reports or complaints of discrimination and harassment
  - Grievance process documentation
  - Hostile environment assessments
  - Supportive measures and remedies
  - Climate survey results and action plans
- Develop records retention policy
  - Recommend consistency with retention policies for similar records (e.g., Title IX, Title VII)



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Questions?

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