

3-Part Series: Fall Semester Is Underway, Is Your College Up to Date on the Latest Federal Civil Rights Guidance? Part 1

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In this three-part series, we'll review the latest federal civil rights guidance, including Title VI, ADA and Section 504, and Title IX.

PART 1: TAKE A CLOSE LOOK AT YOUR DISCRIMINATION AND HARASSMENT POLICIES AND PROCEDURES FOLLOWING OCR'S RESOLUTION IN UNIVERSITY OF ILLINOIS URBANA-CHAMPAIGN (TITLE VI)

This past summer saw a flurry of OCR resolutions related to shared ancestry discrimination under Title VI. There were also several court cases, such as one against MIT and another against Harvard decided in U.S. District Court in Massachusetts.

The most recent OCR resolution under Title VI was announced on September 3, 2024, in a 302 (voluntary) Resolution Letter and agreement with the University of Illinois Urbana-Champaign following a complaint filed back in March 2020 alleging numerous incidents of antisemitism on campus. The complaint itself pre-dates the latest focus on Title VI shared ancestry discrimination by three and a half years, but the resolution agreement is in line with and goes even further than other Title VI resolutions that OCR has announced recently.

The 22-page Resolution Letter tracks the types of share ancestry discrimination at one *public* university over a period of several years, as OCR's investigation looked at cases of shared ancestry discrimination and harassment at the University of Illinois Urbana-Champaign from 2015 through the end of 2023. This was the investigative process in place at OCR at the time this complaint was filed, and such a broad time period of review is not necessarily how OCR investigates Title VI complaints currently.

The Resolution Letter also includes the expectations that OCR places on the University of Illinois, and by extension all other public and private colleges and universities under Title VI:

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- OCR expects college and universities to be assessing whether individual or cumulative incidents of discrimination create a hostile environment on campus
- OCR expects college and universities to take steps to ensure that incidents, especially repetitive incidents (such as the swastikas graffitied around campus in this case) do not recur
- OCR has heightened concerns about "diffuse and overlapping" policies and procedures around discrimination and harassment that make it unclear how and when a college or university will respond to such incidents
- OCR also has concerns about multiple different offices sharing responsibility for Title VI complaints, without one office overseeing to ensure that complaints were effectively addressed

If the issues that OCR flagged at the University of Illinois Urbana-Champaign sound like issues you have at your own college or university, you are not alone.

Many colleges and university administrators have spent the summer updating their Title VI or non-discrimination and harassment policies and procedures for compliance with the latest OCR sub-regulatory guidance on Title VI. If you haven't yet, now is the time, so contact your Bowditch attorney to get started.

If you have already started or finished your policy and procedure review, you should still take a look at the policy and procedure edits that OCR is requiring for the University of Illinois Urbana-Champaign in Action Item 1 of the Resolution Agreement. There are portions of this Action Item 1 that go much further than we have seen in other recent OCR decisions, so contact your Bowditch attorney to discuss how to improve your policies and procedures, as well as set up training.

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