LEGAL EXPLAINER #6

UNDERSTANDING TITLE VI

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What is Title VI?

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities that receive federal financial assistance. 42 U.S.C. § 2000d.* This applies to public and private schools. Title VI ensures that no one is excluded from participation in, denied the benefits of, or subject to discrimination under any educational program or activity based on race. *Id.*

What Title VI Prohibits

Under Title VI, all schools receiving federal funds may not, on the basis of race, color, or national origin:†

- Deny an individual any service, financial aid, or other benefit
- Provide services or benefits differently to individuals
- Segregate or treat individuals separately in any matter related to receipt of any service, financial aid, or other benefit
- Restrict any individual's enjoyment of any advantage or privilege
- Treat individuals differently regarding admission, enrollment, quota, eligibility, membership or other program requirements
- Deny any individual the chance to participate in programs or offer participation opportunities that are different from those given to others

* "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." 20 U.S.C. § 2000d.

† 34 C.F.R. § 100.3(b).

- Deny any individual the opportunity to serve on a planning or advisory committee that is an important part of the educational program

Race-Based Educational Programs: What the Law Actually Says

Despite the plain text of Title VI—which prohibits racial discrimination in federally funded schools—many school districts have embraced race-based policies under the banner of "Diversity, Equity, and Inclusion" (DEI). These policies regularly prioritize certain racial groups over others in areas like admissions, scholarships, discipline, and academic programming.

In classroom instruction specifically, such academic programming often involves activities that treat individuals or racial groups differently based on race or ethnicity, including: instruction that some races are privileged or disadvantaged because of their race; that America is an inherently racist country founded on racist principles; that individuals should experience guilt or discomfort because of their race; that different races have inherent or fixed traits or shared experiences because of their race; that racial groups should be treated "equitably" to make up for past discrimination; or that all racial disparities among groups are the result of past discrimination against those groups.

But in *Students for Fair Admission v. Harvard* (2023) ("SFFA"), the U.S. Supreme Court made clear that race-based discrimination is illegal. The Court held that any use of race in education must meet the most exacting constitutional standards. For K-12 schools subject to Title VI, that means race-based DEI programs are presumptively unlawful.

Under the SFFA framework, to survive judicial scrutiny, a race-based policy must satisfy *all five* of the following legal tests:

(1) The policy may only be used to remedy "specific, identified instances of past discrimination that violated the Constitution or a statute," not vague goals like "diversity" or racial proportionality.*

(2) It must use precise and clearly defined racial categories, not "imprecise" or "overbroad" racial categories like "Asian" or "Hispanic."†

(3) It can never use race as a "negative" because a "benefit provided to some applicants but not to others necessarily advantages the former group at the expense of the latter."‡

(4) It cannot further "stereotypes that treat individuals as the product of their race"§; and

(5) It must have a clear, measurable, and "logical end point."¶

* *SSFA*, 600 U.S. 181, 207 (2023).

† *Id.* at 215–16.

‡ *Id.* at 218–19.

§ *Id.* at 221.

¶ *Id.*

Parents should be mindful of the following types of DEI programs or practices that many schools use to promote DEI, which raise concerns about potential racial discrimination:

- **Race-conscious admissions:** The practice of considering an applicant's race in admissions.
- **Race-based scholarships:** These programs allocate financial aid based on race.
- **Racial priority programs:** Programs that prioritize certain racial groups for academic support or special resources.
- **Disciplinary Disparities:** Differing disciplinary policies based on race.

Equality vs. Equity

In recent years, many schools and programs have increasingly focused less on "equality" and more on "equity." While equality calls for treating every student as a unique individual, equity seeks to "even out" results through racial balancing and other affirmative action policies. As a result, equity often leads to measures that prioritize certain groups over others based on race—resulting in discriminatory practices.

The unanimous June 2025 U.S. Supreme Court decision in Ames reaffirmed what WILL has long argued: Title VI protects all individuals, without any preference for certain groups over others.* Accordingly, schools receiving federal funding are prohibited from discriminating against any student, regardless of race. Therefore, race-based "equity" policies—no matter how well-intentioned—frequently violate Title VI.

What if I Believe My District Violated Title VI?

- Schools receiving federal financial assistance must comply with federal laws as a condition of that federal funding. If they do not, their federal funds are at risk.
- Anyone can file a complaint with the Department of Education's Office for Civil Rights (OCR) alleging that a school has violated Title VI. (OCR Complaint From linked *here*).†
- OCR has 180 days to decide whether to launch an investigation.
- If there is a violation, OCR and the school district will work towards a solution.

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* *Ames v. Ohio Dep't of Youth Servs.*, 145 S.Ct. 1540, 1546 (2025) ("By establishing the same protections for every 'individual'—without regard to that individual's membership in a minority or majority group—Congress left no room for courts to impose special requirements on majority-group plaintiffs alone."); *Id.* ("Title VII bars discrimination against whites on the same terms as racial discrimination against nonwhites.") (citation and quotation omitted).

† *https://www.ed.gov/laws-and-policy/civil-rights-laws/file-complaint/ocr-discrimination-complaint-form*

- In the most extreme scenario, the school district may lose its federal funding.
- The U.S. Department of Justice may also bring enforcement actions for noncompliance.*

WILL's Work Defending Equality Under the Law

WILL has challenged race-based programs and scholarship policies across the country.

- In *Rabiebna v. Higher Educational Aids Board*, WILL successfully challenged a scholarship program called the "Minority Undergraduate Retention Program" which excluded most students because of their race.
- In *Young Americans for Freedom, et al. v. U.S. Department of Education, et al.*, WILL is in litigation seeking to end the unconstitutional and unfair discriminatory McNair scholarship program.
- In *WILL v. MMSD*, WILL filed an open records lawsuit related to a policy wthat stated teachers should "meet with your African American students first and more often." WILL secured a settlement containing thousands of dollars in damages and reforms to how the school district processes open records.
- In *Decker v. GBAPS*, WILL filed a federal Title VI complaint with the Office for Civil Rights (OCR) against the Green Bay Area Public School District (GBAPS) for discriminating against a dyslexic student based on race. The district is currently under investigation by the federal government.
- WILL *filed a federal Title VI complaint* with OCR against the Wauwatosa School District for its plan to shut down the successful Wauwatosa STEM School and phase out other STEM programs because too many white students use the programs.
- WILL wrote a *letter to the Appleton Area School District* when Appleton East High School planned to hold two back-to-school nights, with one night being designated for only "Freshmen Students of Color" and their families.
- WILL filed a *Title VI complaint* against a public middle school in Indiana for hosting a racially segregated party during school hours.
- Visit *www.will-law.org/equality* to learn more.

WILL is a legal resource for parents, students, and school districts. If you believe your rights have been violated, you can contact us at www.will-law.org/contact-a-lawyer. Depending on your situation, we may be able to help further.

* Federal agencies have provided resources recently based on Title VI, which may be useful for more information. Although some of these are the subject of litigation, they are still useful discussions of Title VI obligations. *See* USDOJ, "Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination," July 29, 2025, available *here*; U.S. Dept. of Education, Title VI Certification Letter, April 3, 2025, available *here*; U.S. Dept. of Education, Dear Colleague Letter on Title VI, Feb. 14, 2025, available *here*.