

# TITLE VI INVESTIGATIONS



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# Welcome





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# Agenda

- What is Title VI?
- How did we get here?
- How campuses comply with Title VI
  - Compliance Offices and Policies
  - Investigations
  - Training

# Title VI Protected Categories

Title VI prohibits unlawful discrimination, including harassment, on the basis of race, color, and national origin, including shared ancestry and ethnic characteristics, in programs or activities that receive federal financial assistance.

# What is “race”?

Race is interpreted broadly to include majority and minority groups.

The law covers physical traits: skin color, hair texture, etc.

More recently, there have been reported concerns from historically majority groups.

# What is “color”?

Color refers to skin pigmentation, complexion, shade, or tone.

# What is “national origin”?

National origin refers to the place where a person or their ancestors are from, and any shared physical, cultural, or linguistic characteristics of that place. National origin discrimination includes harassment or related retaliation based on someone’s actual or perceived: (i) shared ancestry or ethnic characteristics, or (ii) citizenship or residency in a country with a dominant religion or distinct religious identity.

# What is “shared ancestry”?

Title VI prohibits discrimination against people of any religion when the discrimination involves:

- racial, ethnic, or ancestral epithets or slurs;
- how a person or group looks, dresses, or speaks if linked to ethnicity or ancestry (e.g., skin color, facial features, attire, accent, language spoken);
- potentially or allegedly inherited traits;
- stereotypes about people who share certain ancestral or ethnic
- characteristics.

# Federal Enforcement



# The Changing Landscape under Title VI

Higher education institutions are facing heightened scrutiny and expectations around responding to national origin and shared ancestry discrimination, with a particular focus on antisemitism. This began under the prior Biden administration

The Trump administration has continued its focus on antisemitism. There has been an increase in demands from the Trump administration, including a loss of funding for some institutions.

Under the current administration, there has been an increase in enforcement action from EEOC and DOJ. Higher education institutions are facing new expectations on response to allegations of Title VI discrimination.

[Dear Colleague Letter: Protecting Students from Discrimination, such as Harassment, Based on Race, Color, or National Origin, Including Shared Ancestry or Ethnic Characteristics \(PDF\)](#)

# OCR Resolution Agreements

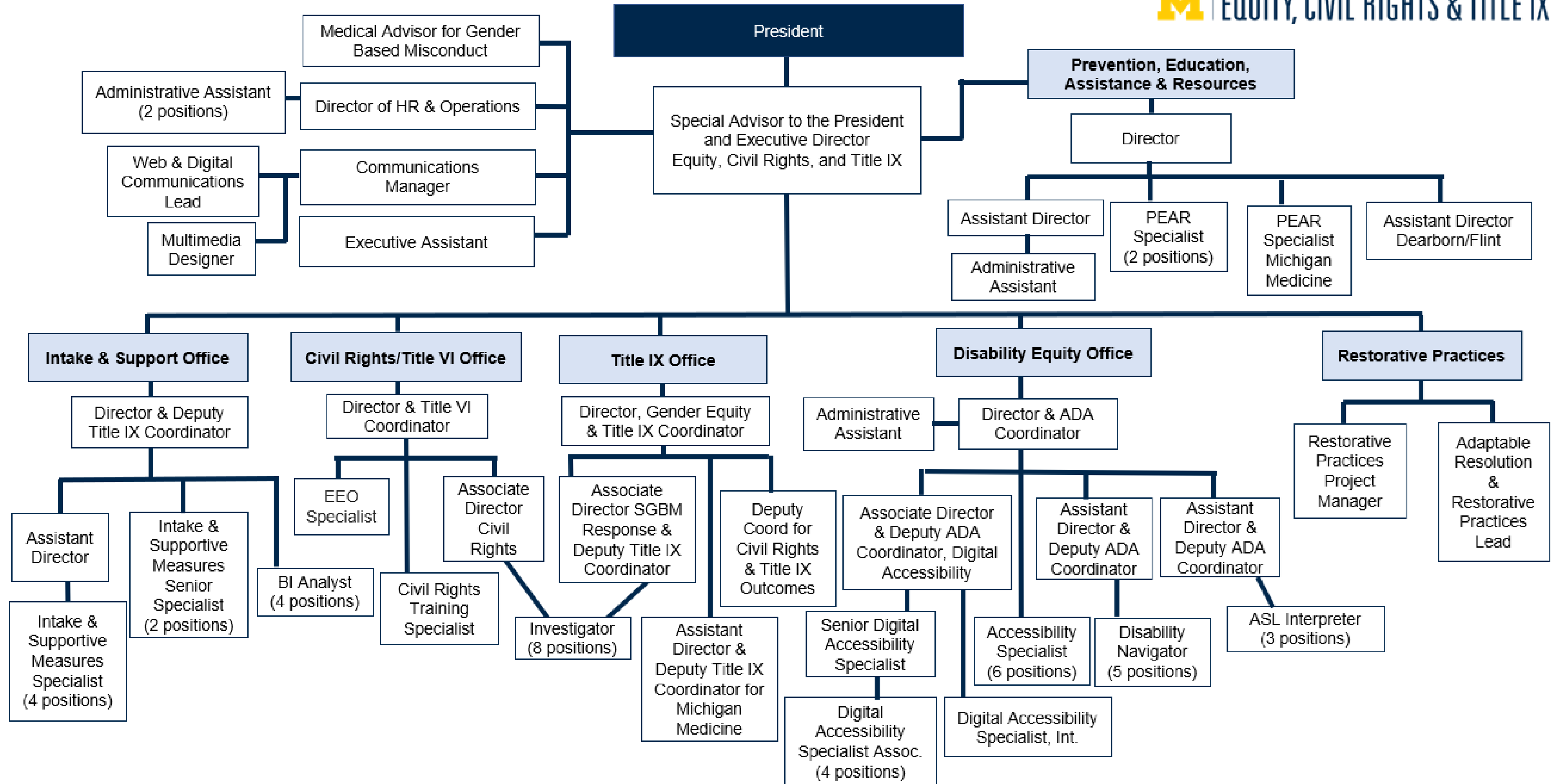
Beginning in 2024, under the Biden administration, several institutions entered into Resolution Agreements with the Department of Education, Office for Civil Rights.

Many of the Agreements had similar requirements:

- Hostile Environment Assessments
- Policy Reviews
- Training
- Climate Assessments

# How to Incorporate Title VI Compliance Programs/Offices Effectively

- Designate a Title VI Coordinator.
  - Some schools have hired inaugural Coordinators (Some state laws require this position.)
- Determine where the position will be located within the institution
  - Will the office be part of a centralized compliance office?
  - Consider existing offices/efforts addressing issues
- Coordination with existing groups: Bias Response Teams, Student Life, Human Resources, Student Government, Academic Units, etc.
- Partnership with existing offices/functions is critical.



# Title VI offices and Resolution/Investigation

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# Considerations are similar to Title IX

## Requirements under Title IX

- Do you have clear grievance policies and procedures?
- Are you following similar procedures under Title VI? If not, why?
- Reporting Obligations

## \*\*\*\*Supportive Measures

- Required in both Title IX and Title VI.

# Appropriate Path for Resolution

## **Inquiry v. Investigation**

- Do you have sufficient information to move forward?
  - Who, when, where?
  - How to proceed with limited information
  - First Amendment considerations
- These considerations may influence how you draft your policies

## **\*\*\*\*Supportive Measures**

- These are critical in every matter regardless of the resolution pathway

# How to conduct an investigation

- Will you use one investigator or two?
- Interview the parties involved
- Witnesses
- Gather evidence/information
- Generate a report

## **Important Considerations:**

- Will you use a hearing model (similar to Title IX)?
- Will you allow/provide advisors?
- Will you allow appellate rights?
- What other policies might be implicated?

# Hostile Environment Assessment

Under Title VI, the following harassment creates a hostile environment: **unwelcome** conduct that, based on the totality of the circumstances, is **subjectively and objectively offensive** and is so **severe or pervasive** that it limits or denies a person's ability to participate or benefit from a recipient's education program or activity.

- How to proceed with this assessment
- HEA should be conducted even without targeted behavior

# Effective Training Programs

- Consider the focus of training programs (Title VI only, part of a more robust civil rights training curriculum)
- Engaging other campus partners to help create training
- Required v. "encouraged" trainings
- Consider climate assessments in order to help guide training programs



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