

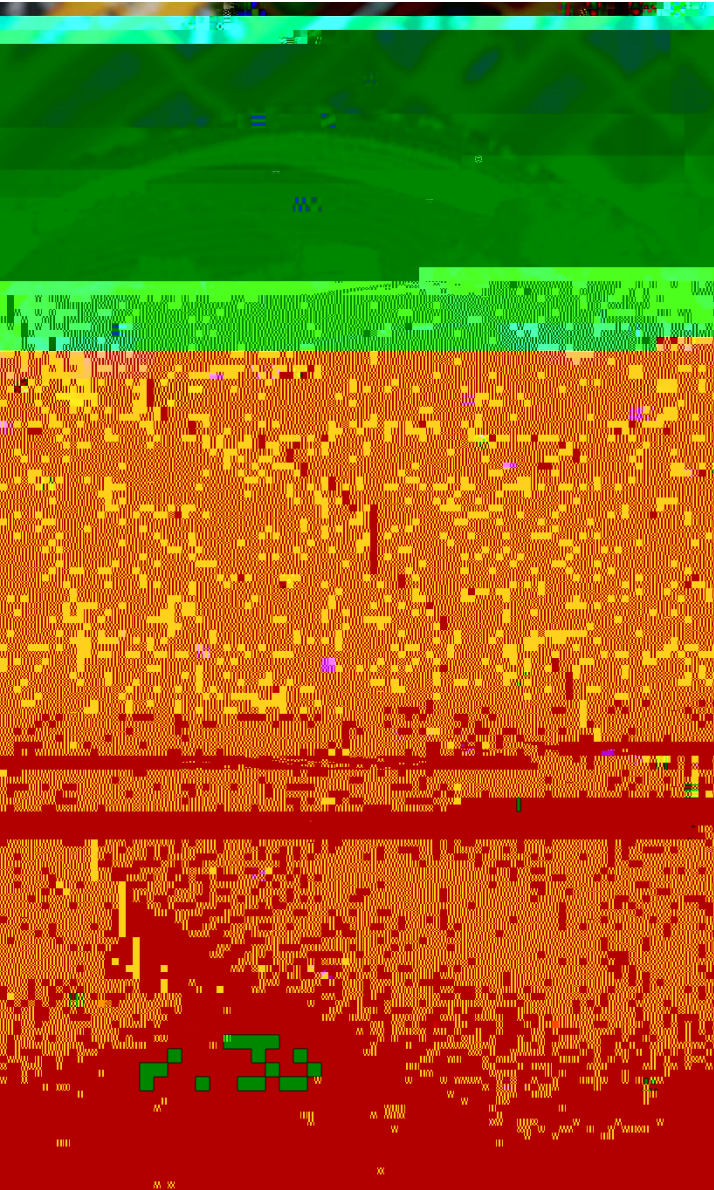


# **A Review of the U.S. Department of Education's Guidance on Harassment and Discrimination under Title VI**

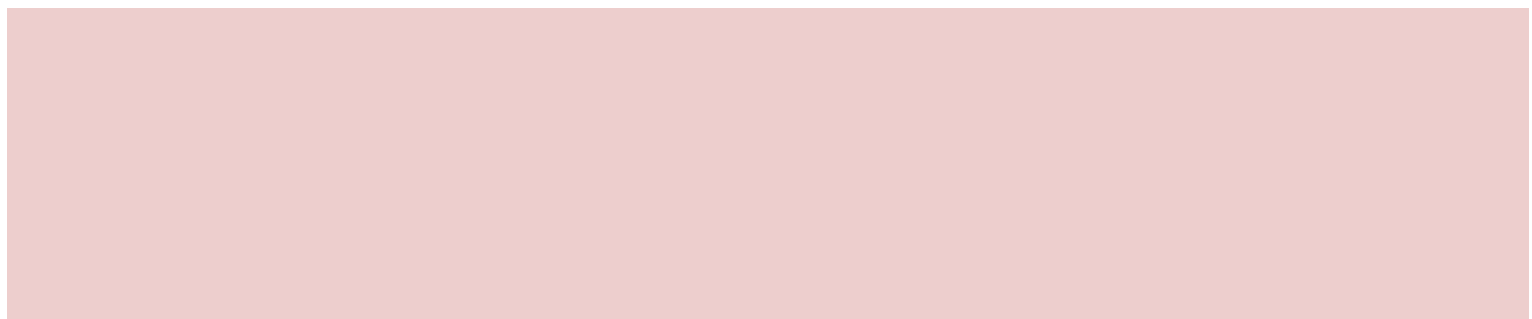
**Director, Compliance and Fairing Activities, NACCCOP**  
**VP, Equity and Civil Rights Services, DSA**

# Title VI of the Civil Rights Act of 1964





**What does “race, color, or national origin” mean within the context of Title VI?**





Does Title VI protect  
only students?





**A recipient violates Title VI if one of its agents, acting within the scope of their official duties, has treated an individual differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the individual to participate in or benefit from the services, activities, or privileges provided by the recipient.**

**To establish a violation of Title VI under the hostile environment theory, OCR must find that:**

- (1) a hostile environment based on national origin existed;**
- (2) the recipient had actual or constructive notice of a hostile environment based on national origin; and**
- (3) the recipient failed to respond adequately to redress the hostile environment based on national origin.**

**When determining whether an agent or employee was acting within the scope of their official duties such that the individual has actual or apparent authority over the individuals involved, OCR takes into account such factors as the relationship between the parties and the time, location, and context of the alleged conduct.**

# List of Open Title VI Shared Ancestry Investigations



Institution	Location	Date Investigation Opened
University of North Carolina at Chapel Hill	Chapel Hill, NC	2018
University of Michigan	Ann Arbor, MI	2019
University of California, Berkeley	Berkeley, CA	2020
University of Texas at Austin	Austin, TX	2021
University of Wisconsin-Madison	Madison, WI	2022
University of Illinois Urbana-Champaign	Urbana, IL	2023
University of Minnesota	Minneapolis, MN	2024
University of Pennsylvania	Philadelphia, PA	2025
University of Washington	Seattle, WA	2026
University of Michigan	Ann Arbor, MI	2027
University of California, Berkeley	Berkeley, CA	2028
University of Texas at Austin	Austin, TX	2029
University of Wisconsin-Madison	Madison, WI	2030
University of Illinois Urbana-Champaign	Urbana, IL	2031
University of Minnesota	Minneapolis, MN	2032
University of Pennsylvania	Philadelphia, PA	2033
University of Washington	Seattle, WA	2034
University of Michigan	Ann Arbor, MI	2035
University of California, Berkeley	Berkeley, CA	2036
University of Texas at Austin	Austin, TX	2037
University of Wisconsin-Madison	Madison, WI	2038
University of Illinois Urbana-Champaign	Urbana, IL	2039
University of Minnesota	Minneapolis, MN	2040
University of Pennsylvania	Philadelphia, PA	2041
University of Washington	Seattle, WA	2042
University of Michigan	Ann Arbor, MI	2043
University of California, Berkeley	Berkeley, CA	2044
University of Texas at Austin	Austin, TX	2045
University of Wisconsin-Madison	Madison, WI	2046
University of Illinois Urbana-Champaign	Urbana, IL	2047
University of Minnesota	Minneapolis, MN	2048
University of Pennsylvania	Philadelphia, PA	2049
University of Washington	Seattle, WA	2050



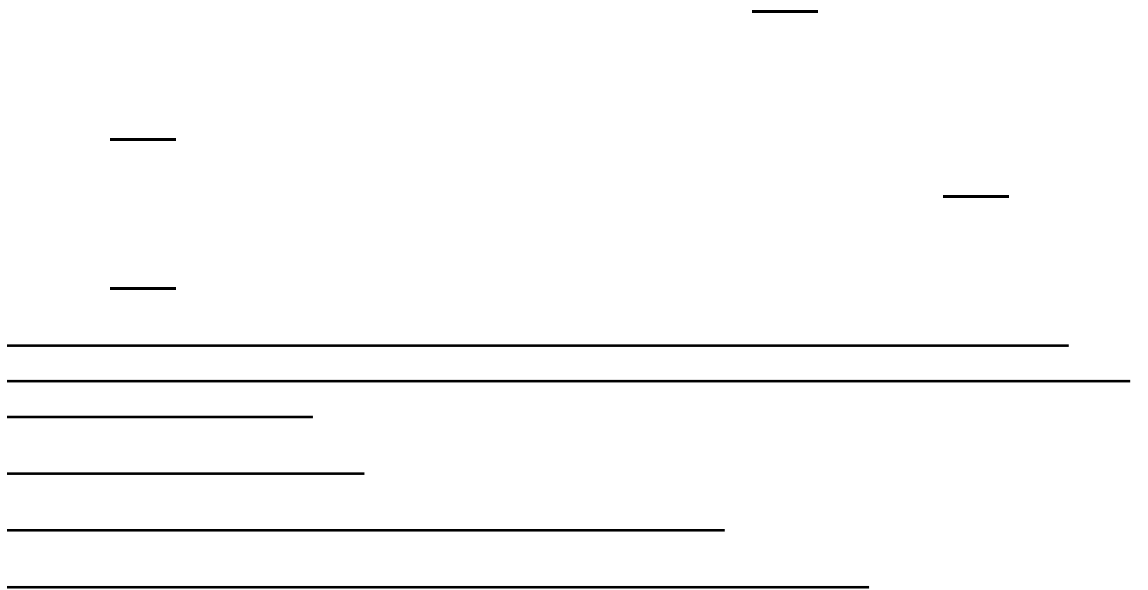


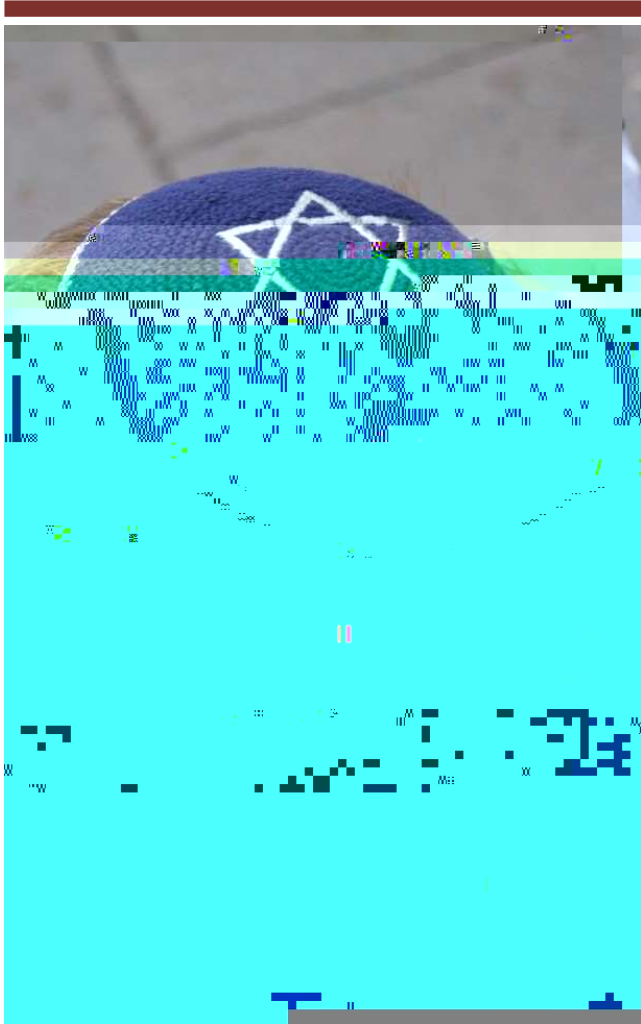






**Dear Colleague Letter**





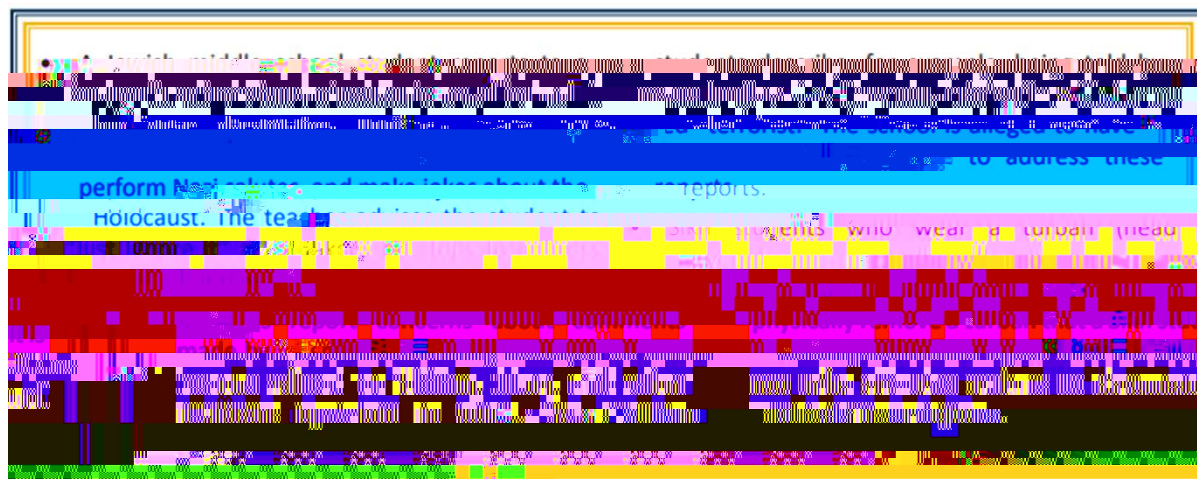
**“Schools that receive federal financial assistance have a responsibility to address discrimination against Jewish, Muslim, Sikh, Hindu, Christian, and Buddhist students, or those of another religious group, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes; when the discrimination is based on a student’s skin color, physical features, or style of dress that reflects both ethnic and religious traditions; and when the discrimination is based on where a student came from or is perceived to have come from, including discrimination based on a student’s foreign accent; a student’s foreign name, including names commonly associated with particular shared ancestry or ethnic characteristics; or a student speaking a foreign language.”**



**OCR interprets Title VI to mean that the following type of harassment creates a hostile environment: unwelcome conduct based on shared ancestry or ethnic characteristics that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity. Schools must take immediate and effective action to respond to harassment that creates a hostile environment.**

**Harassing conduct can be verbal or physical and need not be directed at a particular individual.**

**See, e.g., *Zeno v. Fire Plains Cent. Sch. Dist.*, 702 F.3d 655, 670 n.14 (2d Cir. 2012) (citing school districts' "longstanding legal duty to 'take reasonable steps to eliminate' racial harassment in its schools" (quoting OCR's *Racial Incidents and Harassment Against Students at Educational Institutions Investigative Guidance*, 59 Fed. Reg. 11448, 11450 (Mar. 10, 1994))).**















OCR generally will open an investigation under Title VI where there are allegations that the use of a curriculum or program separates students or otherwise <sup>TM</sup> II te munnwtudi

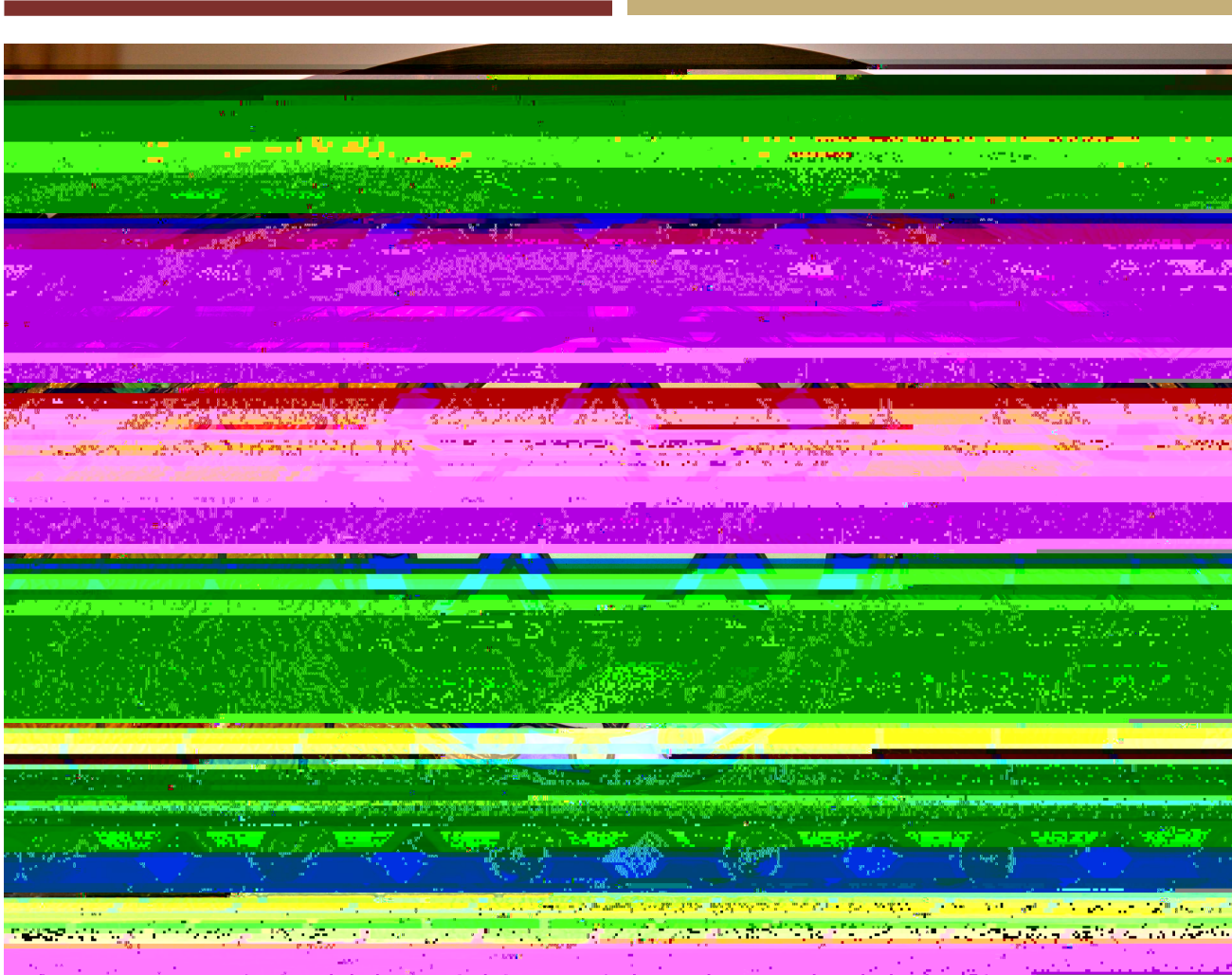


**Title VI generally does not restrict schools from holding assemblies, meetings, focus groups, or listening sessions to hear about students' experiences with race in the school or surrounding community or to hear students' ideas about creating an inclusive school community with attention to race or other aspects of identity that affect students' experiences at the school or in the world. OCR recognizes that schools often utilize such events or groups with the aim of preventing violations of Title VI, such as unjustified different**



**Example 7:** In the wake of several high profile police shootings of Black victims, a public school announces that it will convene an assembly for its Black students in order to provide a forum for them to express their frustrations, fears, and concerns. On the day of the event, several white students ask to participate, but school officials turn them away saying that the program was designed specifically for Black students. OCR later receives a complaint from a parent alleging that the assembly violated Title VI by excluding students based on race.

An institution's DEI Office has a student organization specifically for African American men because they are a significant minority on campus. The organization's membership is restricted only to students who are African American, and they meet monthly on campus. The goal of the organization is to bring Black students together, so they do not feel so alone on



**ADDRESSING  
DISCRIMINATION  
AGAINST JEWISH  
STUDENTS DCL  
MAY 25 2023**

**DON'T DISCRIMINATE AGAINST  
JEWISH STUDENTS OR OTHER  
STUDENTS WITH SHARED  
ANCESTRY**







\_\_\_\_\_

\_\_\_\_\_



- 1. Condemnation against discrimination against persons with shared ancestry**
- 2. OCR has also recently investigated allegations of race and sex discrimination against white, male Christian students. In one unfortunate incident, a white male undergraduate student was harassed by a professor for expressing conservative Christian views in a classroom discussion regarding homosexuality. Just last year, OCR issued a “Dear Colleague” letter admonishing recipients of federal financial assistance that “schools in regulating the conduct of students and faculty to prevent or redress discrimination must formulate, interpret, and apply their rules in a manner that respects the legal rights of students and faculty including those court precedents interpreting the concept of free speech.” No OCR policy should be construed to permit, much less to require, any form of religious discrimination or any encroachment upon the free exercise of religion. While OCR lacks jurisdiction to prohibit discrimination against students based on religion per se, OCR will aggressively prosecute harassment of religious students who are targeted on the basis of race or gender, as well as racial or gender harassment of students who are targeted on the basis of religion.**

**RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; INVESTIGATIVE GUIDANCE (3/10/1994)**



**constructive notice of the hostile environment responsive action**

**actual or is required to take appropriate**



**Some students anonymously inserted offensive notes into African American students' lockers and notebooks, used racial slurs, and threatened African American students who tried to sit near them in the cafeteria. Some African American students told school officials that they did not feel safe at school. The school investigated and responded to individual instances of misconduct by assigning detention to the few student perpetrators it could identify. However, racial tensions in the school continued to escalate to the point that several fights broke out between the school's racial groups.**

**The nature of the harassment, the number of incidents, and the students' safety concerns demonstrate that there was a racially hostile environment that interfered with the students' ability to participate in the school's education programs and activities. Had the school recognized that a racially hostile environment had been created, it would have realized that it needed to do more than just discipline the few individuals whom it could identify as having been involved. By failing to acknowledge the racially hostile environment, the school failed to meet its obligation to implement a more systemic response to address the unique effect that the misconduct had on the school climate.**

**RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; INVESTIGATIVE GUIDANCE (3/10/1994)**



**reasonableness, timeliness, and effectiveness**

**grievance policies, and any applicable anti-harassment policies**

**OCR will examine disciplinary policies**

## **RACIAL INCIDENTS AND HARASSMENT AGAINST STUDENTS AT EDUCATIONAL INSTITUTIONS; INVESTIGATIVE GUIDANCE (3/10/1994)**



**When responding to harassment, a school must take immediate and appropriate action to investigate or otherwise determine what occurred. The specific steps in a school's investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. In all cases, however, the inquiry should be prompt, thorough, and impartial.**

**If an investigation reveals that discriminatory harassment has occurred, a school must take prompt and effective steps reasonably calculated to end the harassment, eliminate any hostile environment and its effects, and prevent the harassment from recurring. These duties are a school's responsibility even if the misconduct also is covered by an anti-bullying policy and regardless of whether a student has complained, asked the school to take action, or identified the harassment as a form of discrimination. Appropriate steps to end harassment may include separation of the parties, counseling, and other measures. Appropriate steps to end harassment may include**



**Complaint No 01-  
222002**

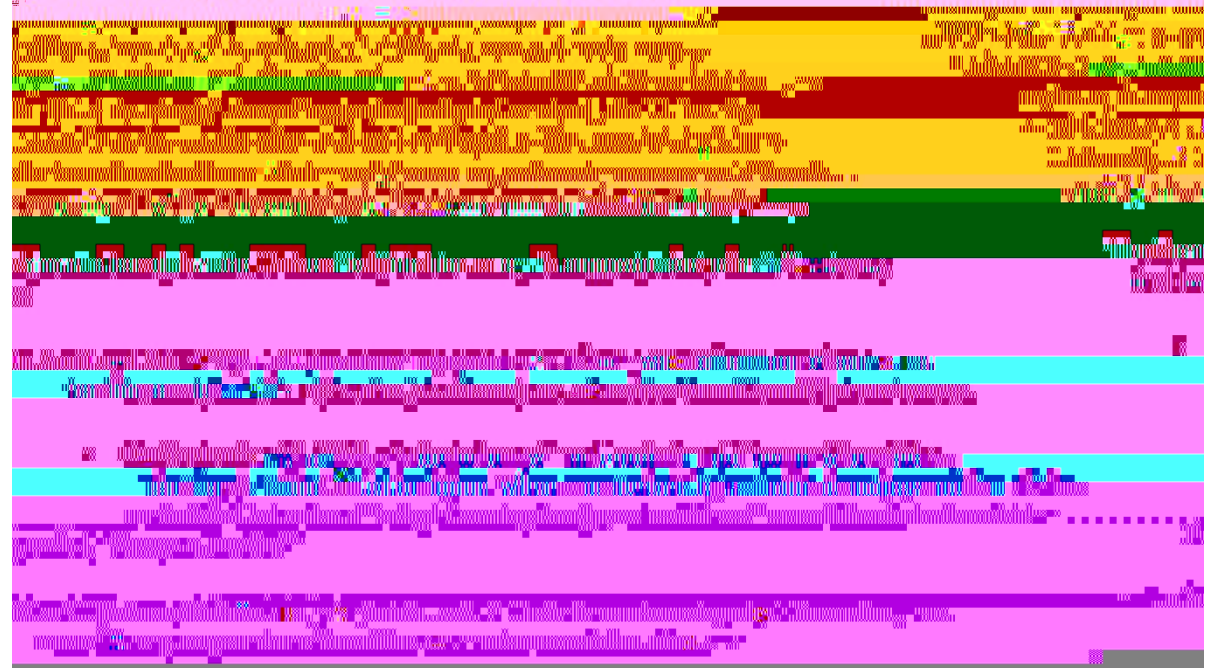
**The University of  
Vermont and State  
Agricultural College**

**April 3, 2023**

**Summary of Evidence Obtained**

UVM is located in Burlington, Vermont and enrolls 11,326 undergraduate and 1,395 graduate students. The University houses more than 5,800 students on campus. UVM Hillel is an affiliate organization of the University with a mission "to enrich the lives of Jewish

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**<https://www2.ed.gov/about/offices/list/ocr/docs/investigations/mre/01222002a.pdf>**

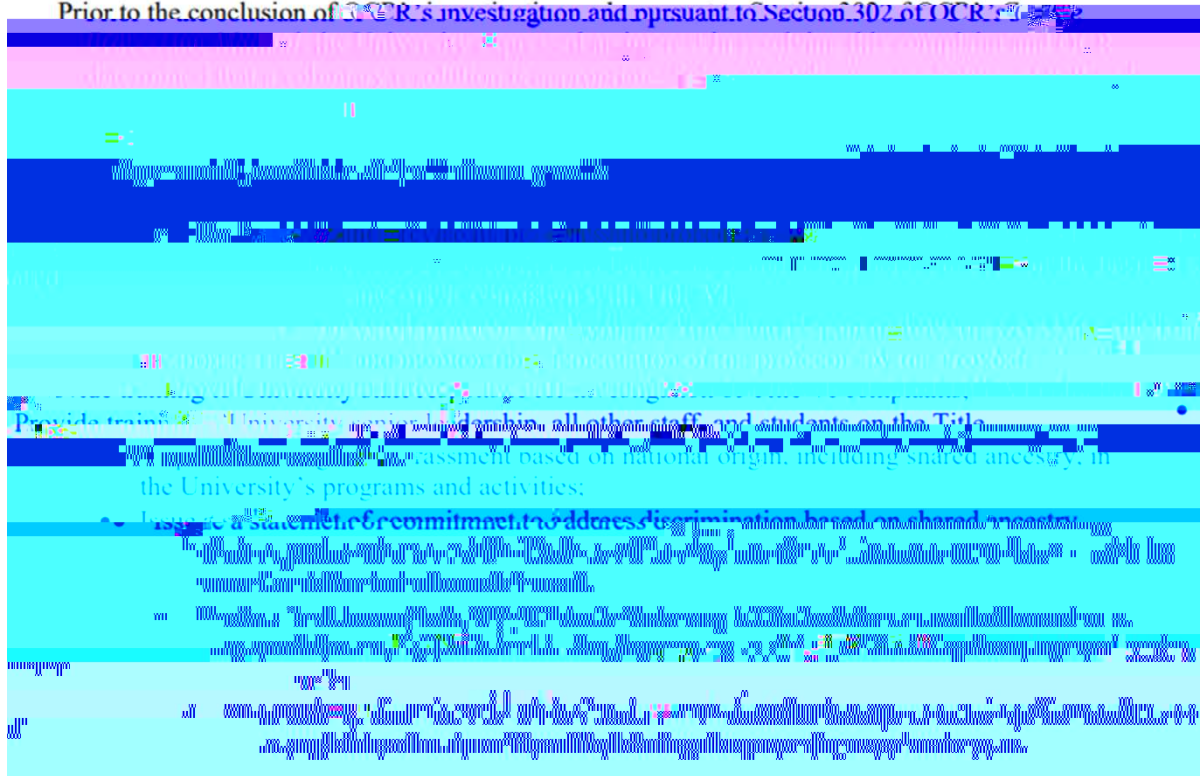
# Complaint No 01-22 2002

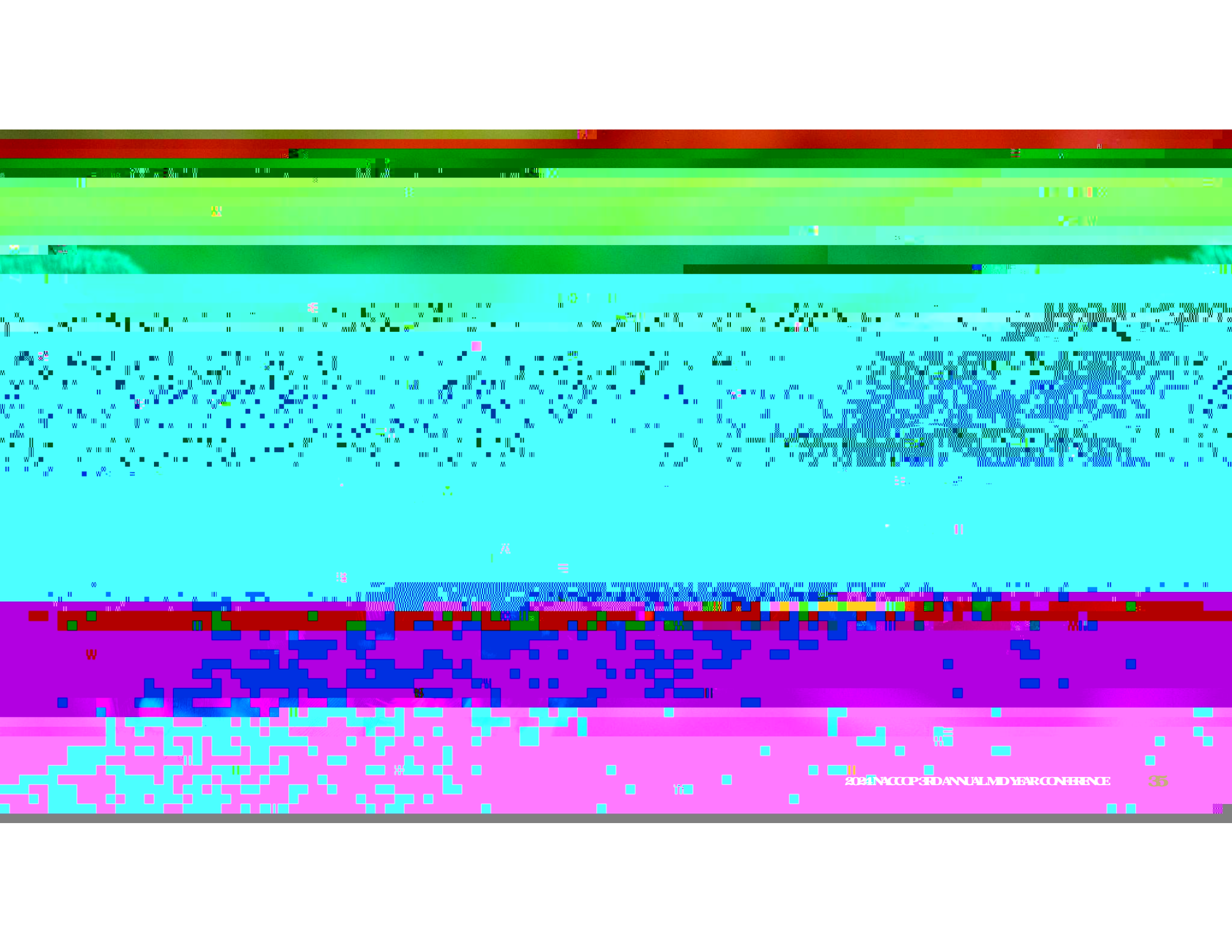
## The University of Vermont and State Agricultural College

April 3, 2023

### Conclusion

Prior to the conclusion of OCR's investigation and pursuant to Section 302.61 of OCR's





1. Select the “Click Here to Evaluate” button in “My Schedule”



2. Or, visit <https://www.surveymonkey.com/r/NACCOFMDYear2024> to evaluate this session