



February 25, 2025

Craig Trainor
Acting Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Ave SW
Washington, DC 20202

Dear Acting Assistant Secretary Trainor:

On behalf of the undersigned higher education associations, I write in response to the Department of Education's (Department) Feb. 14, 2025, Dear Colleague Letter (DCL). The stated purpose of the DCL is to "provide clarity to the public regarding existing legal requirements" for colleges and universities under the Supreme Court's 2023 decision in *Students for Fair Admissions v. Harvard (SFFA)*, and more broadly under Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the U.S. Constitution.¹ Unfortunately, the DCL's ambiguous language has only led to confusion on campuses about their compliance responsibilities. Therefore, we respectfully request that the Department rescind the DCL and engage with the higher education community to ensure a clear understanding of their legal obligations in this area.

The Department should encourage inclusive and welcoming educational environments for all students, regardless of race or ethnicity or any other factors. Indeed, Chief Justice Roberts' Supreme Court majority opinion in the *SFFA* case acknowledged that diversity-related goals in higher education are both "commendable" and "plainly worthy."² Over the last two years, our colleges and universities have worked hard to assess and modify, as appropriate, policies and practices in light of the decision in the *SFFA* case and applicable civil rights laws.

The Department's DCL asserts that diversity, equity, and inclusion (DEI) efforts and initiatives on campus are broadly discriminatory. However one defines DEI—and DEI is a concept that means different things to different parties—it is worth noting that the range of activities that are commonly associated with DEI are not, in and of themselves, illegal. While such programs

¹ Office for Civil Rights. (2025, February 14.) *Dear Colleague Letter Regarding Students for Fair Admissions v. Harvard*. U.S. Department of Education. <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

² *Students for Fair Admissions v. President & Fellows of Harvard College*, 600 U.S. 181 (2023). https://www.supremecourt.gov/opinions/22pdf/20-1199_hgdj.pdf.

must be carried out in a manner consistent with SFFA and the panoply of longstanding federal civil rights statutes, efforts to build inclusive and diverse campus communities are neither discriminatory nor illegal. Unfortunately, the DCL's reference to "DEI programs" does not provide any clarity to institutions about their obligations under the law or how previously legal programs designed to support students now could be in violation of the law. The DCL also omits any reference to long-standing First Amendment protections accorded to higher education institutions and individual faculty, inviting further confusion.

The Department correctly states the DCL "does not have the force and effect of law and does not bind the public or create new legal standards."³ That said, this clarification is at odds with language elsewhere in the DCL explicitly threatening enforcement actions by the Office for Civil Rights (OCR) stemming from the Department's reinterpretation of existing legal requirements, beginning just 14 days after the DCL's publication, with potential sanctions including the loss of all federal funding. It is unreasonable for the Department to require institutions to appropriately respond to this extremely broad reinterpretation of federal law in a mere two weeks and in the absence of necessary guidance.

For these reasons, we respectfully request that the Department rescind this DCL and work to promulgate guidance that reflects existing law. In order to support students and combat discrimination, OCR ought to engage relevant stakeholders in a consultative manner to ensure that institutions of higher education are in compliance with their legal obligations under Title VI and federal nondiscrimination law. We look forward to working with the Department in ensuring quality postsecondary education for all students in this and other efforts.

Sincerely,



Ted Mitchell
President

On behalf of:

AccessLex Institute
Achieving the Dream
ACPA-College Student Educators International
American Association of Colleges and Universities
American Association of Colleges for Teacher Education
American Association of Colleges of Nursing

³ Office for Civil Rights. (2025, February 14.) *Dear Colleague Letter Regarding Students for Fair Admissions v. Harvard*. U.S. Department of Education. <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

American Association of Colleges of Pharmacy
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American Association of University Professors
American Association of Veterinary Medical Colleges
American College Health Association
American Council on Education
American Dental Education Association
American Physical Therapy Association
American Psychological Association
APPA: Leadership in Educational Facilities
Association for Institutional Research
Association for the Study of Higher Education
Association of Accredited Naturopathic Medical Colleges
Association of American Law Schools
Association of American Medical Colleges
Association of Catholic Colleges and Universities
Association of Chiropractic Colleges
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Research Libraries
Association of Schools Advancing Health Professions
Association of Schools and Programs of Public Health
Association of University Programs in Health Administration
Association on Higher Education and Disability
Campus Compact
Coalition of Urban and Metropolitan Universities
COGR
College and University Professional Association for Human Resources
Council for Advancement and Support of Education
Council for Higher Education Accreditation
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
Council on Social Work Education
EDUCAUSE
Great Lakes Colleges Association
Higher Education Loan Coalition
Higher Learning Commission
Hispanic Association of Colleges and Universities
Middle States Commission on Higher Education
NAFSA: Association of International Educators

NASH - National Association of Higher Education Systems
NASPA - Student Affairs Administrators in Higher Education
National Association for College Admission Counseling
National Association of College and University Business Officers
National Association of Colleges and Employers
National Association of Diversity Officers in Higher Education
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
National Council of University Research Administrators
Northwest Commission on Colleges and Universities.
PA Education Association
Phi Beta Kappa Society
Southern Association of Colleges and Schools Commission on Colleges
State Higher Education Executive Officers Association
Thurgood Marshall College Fund
UNCF
UPCEA
WASC Senior College and University Commission