

The U.S. Department of Education Issues Dear Colleague Letter Regarding Title VI Compliance

February 16, 2025

On February 14, 2025, the U.S. Department of Education Office for Civil Rights (“OCR”) issued a [Dear Colleague Letter](#) (“DCL”) clarifying the obligations of educational institutions pursuant to Title VI of the Civil Rights Act of 1964. The DCL focuses on institutional obligations following the Supreme Court of the United States’ 2023 decision in [Students for Fair Admissions v. Harvard \(SFFA\)](#)[i].

The DCL directs that the Supreme Court’s ruling in *SFFA* – which held that race conscious admission practices are impermissible – “applies more broadly,” and also prohibits educational institutions that receive federal financial assistance from: “using race in decisions pertaining to admissions, hiring, promotion, compensation, financial aid, scholarships, prizes, administrative support, discipline, housing, graduation ceremonies, and all other aspects of student, academic and campus life.”

OCR puts forth a “simple” test in the DCL: “If an educational institution treats a person of one race differently than it treats another person because of that person’s race, the educational institution violates the law.”

OCR also warns that race neutral programs that are “motivated by racial considerations” are equally impermissible. Specifically, the DCL states that an institution violates the law when it utilizes “non-racial information as a proxy for race” and makes a decision based on that information.

Throughout the DCL, OCR references several practices that it would consider to be a violation of Title VI, these include, but are not limited to:

1. Using “students’ personal essays, writing samples, participation in extracurriculars, or other cues as a means of determining or predicting a student’s race and favoring or disfavoring such students”;
2. Eliminating standardized testing “to achieve a desired racial balance or to increase racial diversity”;
3. DEI programs which “preference certain racial groups and teach students that certain racial groups bear unique moral burdens that others do not.”

Enforcement action consistent with the interpretation of Title VI detailed in the DCL will begin “no later than 14 days” from the release date, or on or about March 1, 2025. The DCL closed by advising institutions to do the following:

1. Ensure that their policies and actions comply with existing civil rights law;

2. Cease all efforts to circumvent prohibitions on the use of race by relying on proxies or other indirect means to accomplish such ends; and
3. Cease all reliance on third-party contractors, clearinghouses, or aggregators that are being used by institutions in an effort to circumvent prohibited uses of race.

Institutions that are found to be in violation risk potential loss of federal funding.

The DCL is a preliminary statement confirming OCR's intent to enforce the Administration's current policy objectives. This DCL follows President Trump's January 21, 2025 Executive Order titled "[Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#)" which directed the U.S. Department of Justice and U.S. Department of Education to issue, within 120 days, joint guidance on how institutions of higher education are required to comply with *SFFA*. As this DCL was issued solely by OCR and itself referenced that "[a]dditional legal guidance will follow in due course," it is likely that more "specific" guidance may be released in the next several months.

Should you have any questions about the impact of the DCL or recent Executive Orders on your institution's policies and practices, please contact Jennifer McLaughlin (jmclaughlin@cullenllp.com), Dina Vespia (dvespia@cullenllp.com), Deirdre Mitacek (dmitacek@cullenllp.com), or Nicole Donatich (ndonatich@cullenllp.com).

This advisory provides a brief overview of the most significant changes in the law and does not constitute legal advice. Nothing herein creates an attorney-client relationship between the sender and recipient.

Footnote

[i] *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023).

Practices

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