

April 14, 2025

Dear Elementary and Secondary Education Leaders,

On April 3, 2025, the U.S. Department of Education (ED) sent letters to State Commissioners overseeing K-12 State Education Agencies (SEAs) directing them to certify their compliance with Title VI of the Civil Rights Act of 1964 (Title VI) and *Students for Fair Admissions v. Harvard*, 600 U.S. 181 (2023), in order to receive federal financial assistance. This assurance form is just the latest effort by ED to chill schools' lawful efforts to address barriers to equal educational opportunities. The undersigned organizations have worked for decades to uphold the federal mandate to provide equal educational opportunities to all students, and to ensure robust enforcement of federal education and civil rights laws. We work to increase access to education for Black, Latino, Asian American, white, and Indigenous children; girls; children with disabilities; LGBTQ+ youth; and students with these intersecting identities. We are deeply concerned that ED's actions will lead schools to end programs that help ensure equal opportunity. We urge you to continue to invest in programs that lawfully advance diversity, equity, inclusion, and accessibility, and to issue guidance directing Local Education Agencies (LEAs) to do the same.

As you know, ED already requires SEAs to certify compliance with Title VI, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, and all recipients of federal financial assistance are prohibited from discriminating on the basis of race, color, or national origin. While ED's April 3, 2025, certification request threatens schools with False Claims Act liability, this new assurance form does not itself create new legal obligations for schools.

We understand that this new assurance form and its references to the Office for Civil Rights' (OCR) February 14th "Dear Colleague" letter and March 1st Frequently Asked Questions document raise concerns and sow confusion. However, OCR's "Dear Colleague Letter" cannot rewrite Title VI, other federal civil rights laws, or the U.S. Constitution. These documents from OCR dramatically misstates how Title VI applies. For example, the "Dear Colleague" letter baselessly claims that it would violate Title VI to use race-neutral approaches to eliminate obstacles that deny Black students and other students of color equal educational opportunities. Federal courts have recently rejected that unfounded theory, and the Supreme Court has refused to review those decisions further.¹ Additionally, OCR's "Dear Colleague" letter broadly asserts that "DEI" programs are generally legally suspect when in fact the opposite is true. Title VI, its regulations, and interpreting case law do not prohibit practices such as affinity groups that

¹ See, e.g., *Coalition for T.J. v. Fairfax County Sch. Bd.*, 68 F.4th 864, 891 (4th Cir. 2023), cert. denied, 218 L. Ed. 2d 71 (Feb. 20, 2024) ("[t]he Supreme Court has repeatedly blessed seeking to increase racial diversity in government programs through race-neutral means.") *Boston Parent Coalition for Academic Excellence Corporation v. School Committee for the City of Boston*, 89 F.4th 46, 61 (1st Cir. 2023), cert. denied, 145 S. Ct. 15 (2024) ("we find no reason to conclude that [SFFA] changed the law governing the constitutionality of facially neutral, valid secondary education admissions policies.").

coalesce around race or culture when they are open to all students.² These radical and inaccurate interpretations from OCR should not discourage lawful efforts to foster diverse, equitable, and inclusive educational environments. Schools can and should continue to engage in activities that support all students, including lawful efforts to reduce disparities, ensure equal opportunity, and promote an inclusive community. In fact, these efforts are often necessary to advance the goals of Title VI, which include removing barriers that deny students equal educational opportunities. Ending initiatives designed to ensure equal educational opportunities, or failing to intervene in response to unequal educational opportunities due to this directive, could itself be discriminatory in violation of Title VI's requirements.

At this critical moment, elementary and secondary schools must stand strong by your values and continue to comply with your legal obligations. Several state education officials have already publicly declined to complete the certification form or reaffirmed that they will remain committed to diversity, equity, inclusion, and accessibility consistent with federal law.³ Most importantly, you should not abandon your lawful efforts to support Black students and other students of color and should issue guidance to LEAs and their administrators and staff to stay the course. Embracing diversity, equity, inclusion, and accessibility fosters academic excellence, innovation, and a thriving school culture where all students feel valued and empowered. Efforts that advance equal access to educational opportunities can also help schools comply with their Title VI obligations by remedying unfair barriers that too often leave Black students and other students of color behind. Investing in these efforts ensures that every student, regardless of background, can succeed and contribute meaningfully to society. Staying true to your commitment to creating equal educational opportunities strengthens this country and its democracy.

² LDF and our partner organizations have published resources that clarify the application of Title VI to school activities. *See, e.g.*, Letter from LDF, et. al. to U.S. Dep't of Educ. Office of Civil Rights Acting Assistant Secretary Craig Trainor (Mar. 17, 2025), <https://www.naacpldf.org/wp-content/uploads/National-Sign-On-Letter-RE-ED-OCR-DCL-and-FAQ65.pdf>; LDF, SETTING THE RECORD STRAIGHT: THE U.S. DEPARTMENT OF EDUCATION'S ANTI-OPPORTUNITY "DEAR COLLEAGUE LETTER" (Feb. 21, 2025), <https://www.naacpldf.org/wp-content/uploads/2025-02-21-ED-OCR-Fact-Sheet-1.pdf>; Letter from the Lawyers' Committee for Civil Rights Under Law to Educators RE: Critical Points on Title VI and Response to the Department of Education, Office of Civil Rights February 14, 2025 Dear Colleague letter and February 28, 2025 "Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act (Mar. 24, 2025), <https://www.lawyerscommittee.org/wp-content/uploads/2025/03/Response-to-Feb.-14-ED-Guidance-and-FAQs-FINAL.pdf>; Letter from the Sikh Coalition to Sikh Parents and Students, Educators, School Officials, and Others Whom It May Concern (Mar. 25, 2025), <https://www.sikhcoalition.org/wp-content/uploads/2025/03/2025.03.25-Dear-Colleague-Sikh-Inclusive-Ed.pdf>; Sikh Coalition, One-Pager on Dear Colleague Letter, <https://www.sikhcoalition.org/wp-content/uploads/2025/03/2025.03.25-Dear-Colleague-Sikh-Inclusive-Ed-SUMMARY.pdf>.

³ *See, e.g.*, New York State Educ. Dep't, Letter to U.S. Dep't of Ed. (Apr. 4, 2025), <https://tinyurl.com/2xnypbbh>; Minnesota Dep't of Educ., Letter to U.S. Dep't of Educ. (Apr. 7, 2025), <https://tinyurl.com/chy6wfnr>; Vermont Agency of Educ., Joint Statement from Secretary of Educ. Zoie Saunders and Attorney General Charity Clark, (Apr. 7, 2025), <https://tinyurl.com/3hp3w5jv>; Washington Office of Superintendent of Public Instruction, State of State Superintendent (Apr. 8, 2025), <https://tinyurl.com/ynzrw4ht>; Pennsylvania Dep't of Educ., Letter to U.S. Dep't of Educ. (Apr. 9, 2025), <https://tinyurl.com/3w2xwur8>; Illinois State Board of Educ., Letter to U.S. Dep't of Educ. (Apr. 9, 2025), <https://tinyurl.com/245bmac7>; Wisconsin Dep't of Public Instruction, Letter to U.S. Dep't of Educ. (Apr. 9, 2025), <https://tinyurl.com/37xf9tw>; <https://tinyurl.com/5cv5e2fb>; Colorado Dep't of Educ., Letter to Local Educ. Agency Leaders (Apr. 9, 2025), <https://tinyurl.com/3n49x25u>; Oregon Dep't of Educ., Letter to U.S. Dep't of Educ. (Apr. 10, 2025), <https://tinyurl.com/46wbznk3>; Michigan Dep't of Educ., Letter U.S. Dep't of Educ. (Apr. 10, 2025), <https://tinyurl.com/4rvnb4c4>; and California Dep't of Educ. and California State Board of Educ., Letter to U.S. Dep't of Educ. (Apr. 11, 2025), <https://tinyurl.com/bddf2xup>.

We urge you to continue to support school communities and educational environments that ensure equal opportunities for all students.

Sincerely,

NAACP Legal Defense and Educational Fund, Inc.
Advancement Project
The Advocacy Institute
Advocates for Children of New York
African American Policy Forum
AFT
Alliance to Reclaim Our Schools
American Association of University Women (AAUW)
American Atheists
American Civil Liberties Union
American Humanist Association
Arab American Anti-Discrimination Committee
Asian Americans Advancing Justice | AAJC
Brown's Promise
Clearinghouse on Women's Issues
Disability Rights Education and Defense Fund (DREDF)
Diverse Charter Schools Coalition
EdTrust
Education Reform Now
Educators for Excellence
Equal Justice Society
Feminist Majority Foundation
Georgia Educators for Equity and Justice Inc.
Honesty for Ohio Education
IDARE LLC
InnovateEDU
Japanese American Citizens League
Kids First Chicago
LatinoJustice--PRLDEF
Lawyers' Committee for Civil Rights Under Law
The Leadership Conference for Civil and Human Rights
Legal Aid Justice Center
NAACP
National Black Justice Coalition (NBJC)
National Black Justice Coalition (NBJC) National Center for Learning Disabilities
National Center for Youth Law
National Parents Union
National Urban League
National Women's Law Center
Poverty & Race Research Action Council (PRRAC)
Public Advocacy for Kids (PAK)
Public Advocates, Inc.
Public Justice
Public Justice Center
The Sikh Coalition

Southern Poverty Law Center
State Wide Education Organizing Committee