Understanding the February 14, 2025 Dear Colleague Letter from the Office for Civil Rights Regarding Title VI and Race Discrimination in Schools

The Education Rights Institute (ERI) shares this brief document to assist district leaders in K-12 schools in understanding the Dear Colleague Letter issued by the U.S. Department of Education's Office for Civil Rights (OCR) on February 14, 2025. For a more complete analysis of these complex issues, we encourage you to watch the Brookings Institution's webinar: *What Do Education Leaders Need to Know about the Department of Education's New Guidance on Race and Civil Rights?*

What is a Dear Colleague Letter?

Federal agencies author "Dear Colleague" letters to signal or give notice about how the agency interprets existing law. As the letter itself states, a Dear Colleague letter "does not have the force and effect of law and does not bind the public or create new legal standards."

How Does Title VI Apply to Districts?

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, class, or national origin at any institution that receives federal funds. This prohibition applies broadly to all the programs and activities of such institutions, including but not limited to:

Academic Programs	Admissions	Athletics	Classroom Assignment	Discipline
Employment	Financial Aid	Grading	Guidance Counseling	Housing
Physical Education	Recreation	Recruitment	Student Treatment & Services	Vocational Education

For more information on Title VI, see *Title VI for K-12 District Leaders* and *Preventing and Remedying Race, Color, and National Origin Discrimination in Schools: A Primer on Title VI of the Civil Rights Act of 1964*.

What did the *Students for Fair Admissions v. Harvard* (SFFA) case decide?

In *SFFA*, the United States Supreme Court decided that considering an individual student's race when determining admission to a selective higher education institution, sometimes called affirmative action, violates the Equal Protection Clause of the U.S. Constitution.

How does the Dear Colleague Letter Differ from Existing Civil Rights Law?

The Dear Colleague letter attempts to broaden the applicability of *SFFA* and reinterpret existing civil rights protections and thus violates its own terms in trying to "create new legal standards." For example, consider the table on the back page that compares the Dear Colleague letter and existing civil rights law.

Dear Colleague Letter	Existing Civil Rights Law
"[R]ace-based decision-making, no matter the form, remains impermissible."	An action that considers race violates Title VI only if it intentionally discriminates or results in unlawful disparate impact discrimination. [1]
"[E]ducational institutions may neither separate or segregate students based on race."	The OCR FAQ explains that programs that focus on particular cultures as well as historical and educational observances remain permissible if they are open and inviting to all students and do not create a hostile environment.
"Federal law thus prohibits covered entities 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."	*SFFA* affirmed that for selective admissions "nothing in this opinion should be construed as prohibiting universities from considering an applicant's discussion of how race affected his or her life, be it through discrimination, inspiration, or otherwise." [2] *SFFA* did not address these other areas of educational institutions.
"It would, for instance, be unlawful for an educational institution to eliminate standardized testing to achieve a desired racial balance or to increase racial diversity."	The Supreme Court has repeatedly reaffirmed that those who want to pursue a permissible race-related goal must give "serious, good faith consideration of workable race-neutral alternatives."[3] The Supreme Court has not stated that the described change would be unlawful and rejected the opportunity to review a case that upheld such an action.[4]
The letter criticizes "diversity, equity, and inclusion" of being discriminatory and "smuggling racial stereotypes and explicit race-consciousness into everyday training, programming, and discipline."	Many efforts to increase the diversity of schools and make them more equitable and inclusive spaces are lawful under Title VI. Such efforts can challenge stereotypes. A district should assess how its policies or practices affects students of different races as it reviews whether they impose a disparate impact that violates Title VI.
"Institutions that fail to comply with federal civil rights law may, consistent with applicable law, face potential loss of federal funding."	Applicable federal law and policy requires a lengthy process in order for OCR to revoke federal funds. This process is discussed in ERI's Title VI Primer.

What are the Next Steps for School Districts?

- District legal counsel should use this opportunity to review district and school policies and practices to ensure that they comply with Title VI, rather than the misinterpretations of Title VI in the Dear Colleague letter. Districts should avoid overreacting to the Dear Colleague letter.
- District legal counsel should provide clear explanations to district employees of what Title VI permits and prohibits. ERI provides short videos and reports to increase understanding of Title VI.
- Follow the legal challenge that has been filed against the enforcement of the Dear Colleague letter.[5]
- OCR may attempt to enforce the Dear Colleague letter's interpretation of Title VI. Targeted enforcement may occur, but the longstanding underfunding of OCR along with recent staffing cuts will greatly limit OCR's enforcement capacity.
- Districts should respond to any OCR inquiry and reaffirm applicable Title VI law, if necessary, in court.

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[1] See *Title VI for K-12 District Leaders* for a succinct summary of disparate treatment and disparate impact prohibitions in Title VI.
[2] Students for Fair Admissions, Inc. v. President & Fellows of Harvard College, 600 U.S. 181, 230 (2023).
[3] Parents Involved in Community Schools v. Seattle, 551 U.S. 701, 704 (2007) (majority opinion of Chief Justice Roberts) (quoting Grutter v. Bollinger, 539 U.S. 306, 339 (2003)).
[4] For example, in 2023, the United States Supreme Court declined to review the decision in Coalition for TJ v. Fairfax County School Board, 68 F.4th 864 (4th Cir. 2023), in which the United States Court of Appeals for the Fourth Circuit upheld the constitutionality of the Fairfax County School Board's decision to change its policy for admission to Thomas Jefferson High School for Science and Technology to increase diversity.
[5] American Federation of Teachers et al. v. U.S. Department of Education was filed in the United States District Court for the District of Maryland on February 25, 2025.