

Congress of the United States

Washington, DC 20515

February 27, 2025

The Honorable Denise Carter
Acting Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Craig Trainor
Acting Assistant Secretary for Civil Rights
U.S. Department of Education Office for Civil Rights
400 Maryland Avenue, SW
Washington, DC 20202

Dear Acting Secretary Carter and Acting Assistant Secretary Trainor:

We write in strong opposition to the February 14th Dear Colleague letter¹, which threatens to remove critical federal funding from preschools, K-12 schools, higher education institutions, state educational agencies, and other entities if they do not eliminate programs and activities related to diversity, equity, inclusion, and accessibility. We urge the Office for Civil Rights to rescind the letter immediately.

The Dear Colleague letter classifies affinity spaces as segregation, refers to the acknowledgement of structural racism as toxic indoctrination, and claims that diversity, equity, inclusion, and accessibility programs serve to discriminate against students and deny them the ability to fully participate in school. The letter argues that these examples all qualify as discrimination under Title VI of the Civil Rights Act of 1964 and the Equal Protection Clause of the U.S. Constitution and are grounds for terminating federal funding to schools. This is an unprecedented interpretation by the Office historically designed to protect, rather than threaten, civil rights.

The Dear Colleague letter is yet another example of the concerted movement to dismantle educational opportunities for the most marginalized students and deny all students the shared benefits of educational experiences that equip them with the skills to think critically about and thrive in our multiracial and diverse democracy.^{2,3,4,5,6} Schools' diversity, equity, inclusion, and accessibility initiatives simply aim to level the playing field and redress the ongoing harms of segregation and centuries of legal inequity, exclusion, and discrimination.⁷ The programs, curricula, and trainings being targeted by the Office for Civil Rights do not afford any unfair advantages to women and girls, students of color, LGBTQ+ students, students with disabilities, and/or immigrant students. In fact, infringing on these programs, curricula, and training potentially introduces First Amendment concerns such as those raised in ongoing successful court challenges to the Administration's Executive Orders attacking diversity, equity, inclusion, and accessibility.⁸

Moreover, contrary to what is stated in the Dear Colleague letter, *Students for Fair Admissions v. Harvard (SFFA)*⁹ does not hold that it is unlawful for schools to pursue diversity or speak to the legality of race-neutral programs.¹⁰ Even the majority in *SFFA* acknowledged that enhancing diversity is a commendable

¹ <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>

² <https://www.naacpldf.org/critical-race-theory-banned-books/>

³ <https://pen.org/report/americas-censored-classrooms-2024/>

⁴ <https://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/racial-reckoning-and-the-role-of-schooling-exploring-the-potential-of-integrated-classrooms-and-liberatory-pedagogies>

⁵ <https://www.propublica.org/article/departement-of-education-civil-rights-office-investigations>

⁶ <https://www.nea.org/resource-library/legal-and-pedagogical-case-culturally-responsive-and-racially-inclusive-public-education-all>

⁷ <https://www.naacpldf.org/education-department-anti-opportunity-letter-federal-funding/>

⁸ <https://law.justia.com/cases/federal/district-courts/maryland/mddce/1:2025cv00333/575287/44/>

⁹ https://www.supremecourt.gov/opinions/22pdf/20-1199_hgdj.pdf

¹⁰ <https://www.naacpldf.org/education-department-anti-opportunity-letter-federal-funding/>

goal.¹¹ The letter also claims that many efforts that do not consider race—such as efforts to remove standardized testing requirements—in fact involve the unlawful use of racial proxies. This statement directly contradicts legal precedent set forth by the decisions in *Boston Parent Coalition for Academic Excellence v. School Committee of the City of Boston*¹² and *Coalition for TJ v. Fairfax County School Board*.^{13,14,15}

We understand the Office for Civil Rights has given preschools, K-12 schools, colleges, universities, state educational agencies, and other federally-funded institutions two weeks to comply with the “guidance” in the Dear Colleague letter and will begin to assess compliance starting on March 1, 2025. However, the Office has not provided clear details for what schools and educational agencies can expect from these compliance assessments. For example, it is unclear if the Office for Civil Rights intends to place every educational institution and agency receiving federal funding under investigation beginning March 1, or if the Office will only investigate schools and agencies with formal complaints levied against them. Furthermore, the Dear Colleague letter says schools and state educational agencies must “cease all efforts to circumvent prohibitions on the use of race by relying on proxies or other indirect means to accomplish such ends.” The Office needs to clarify how this guidance will apply when these entities rely on proxies for race to maintain or increase school segregation, as can be the case when determining school district boundaries and school catchment areas.^{16,17}

We also remind the Office for Civil Rights of its obligation to follow proper procedures before taking any steps to revoke federal funding. The Office for Civil Rights must allow educational institutions and agencies the ability to 1) respond to allegations, 2) enter into a resolution agreement, and 3) dispute the complaint before court upon the Office for Civil Rights referring the case to the Department of Justice.¹⁸ In addition to rescinding the Dear Colleague letter, we urge you to inform schools and educational agencies of their right to due process before losing federal funding.

Again, we remain deeply concerned about the guidance in the Dear Colleague letter and urge the Department of Education’s Office for Civil Rights to immediately rescind the letter. Addressing systemic discrimination through diversity, equity, inclusion, and accessibility initiatives improves the educational experience for everyone and is vital to the future success of our nation. We appreciate your prompt attention to this matter.

Sincerely,



Summer L. Lee
Member of Congress

¹¹ https://www.supremecourt.gov/opinions/22pdf/20-1199_hgdj.pdf

¹² <https://law.justia.com/cases/federal/appellate-courts/ca1/21-1303/21-1303-2023-12-19.html>

¹³ <https://law.justia.com/cases/federal/appellate-courts/ca4/22-1280/22-1280-2023-05-23.html>

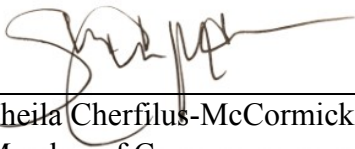
¹⁴ <https://educationcivilrights.com/blog/f/regulation-by-intimidation-ocrs-title-vi-dear-colleague-letter>

¹⁵ <https://www.chronicle.com/article/hitting-pause-on-the-dear-colleague-letter>

¹⁶ <https://harvardlawreview.org/print/vol-134/monopolizing-whiteness/>

¹⁷ <https://www.urban.org/research/publication/dividing-lines-racially-unequal-school-boundaries-us-public-school-systems>

¹⁸ <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/ocrcpm.pdf>



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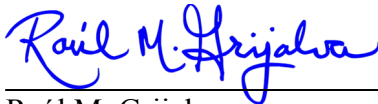
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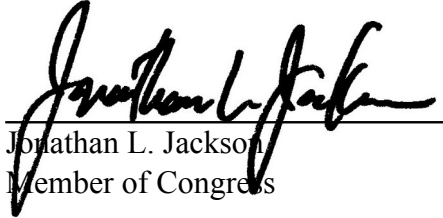
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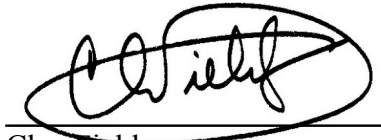
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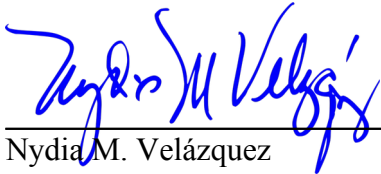
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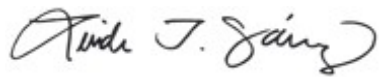
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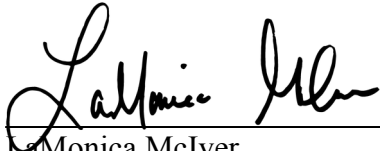
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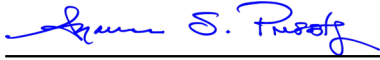
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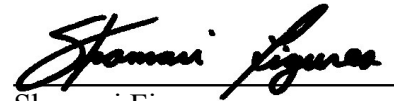
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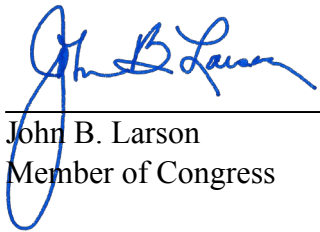
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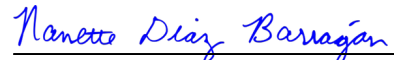
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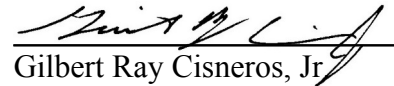
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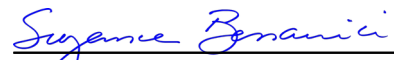
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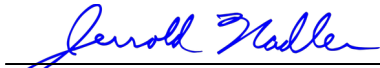
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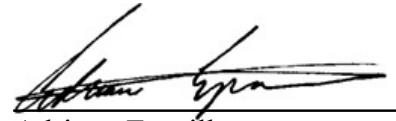
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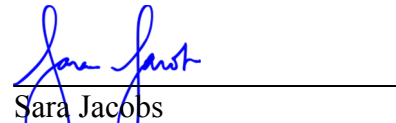
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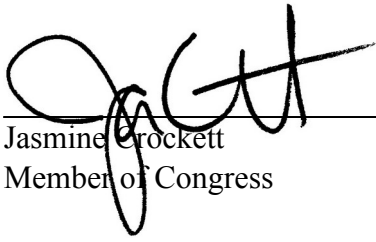
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