



Connecticut Association of Boards of Education

Jody I Goeler, Senior Staff Associate for Policy Service

PRESENTS POLICY HIGHLIGHTS

March 4, 2025

Equity and Diversity

Following the Office for Civil Rights Dear Colleague Letter calling for eliminating race-conscious programming and policies, Friday night, a nine-page frequently asked questions (FAQ) document attempted to clarify and perhaps de-escalate its sweeping pronouncements. According to a news release, the [FAQ](#) would help institutions comply with Title VI of the Civil Rights Act of 1964, the equal protections clause of the Constitution, and the U.S. Supreme Court decision against race-conscious admissions, *Students for Fair Admissions vs. Harvard (SFFA)*.

According to Sara Weissman, reporting for *Inside Higher Ed*, “Some legal scholars argue that while the Dear Colleague letter was anything but clear- with its sweeping interpretation of the SFFA decision and its nebulous definition of DEI – the FAQ offers some much-needed insight and softens some of its harsher rhetoric. Others say that while the guidance is an improvement, it offers little solace as colleges continue to nix their DEI efforts.” (March 4, 2025)

By softening the language of the Dear Colleague letter and keeping more to legal principles, it indicates that the DEI label doesn’t automatically make a program in violation of civil rights law. The FAQ appears to align basic questions related to DEI activities and programs while laying out a traditional approach to assessing discriminatory practices and policies: Does a DEI activity or program create racial stereotyping? Does it create harassment? Does it create segregation? Does it create discriminatory actions? As a recent attorney in the Office for Civil Rights noted in response to the FAQ, “It’s at least now at a point where folks are speaking the same language. This is now in the realm of having disagreements on how specific case law is actually interpreted.” (Weissman, March 4, 2024)

The FAQ arrives at a time when school districts and other educational institutions receiving federal funds are left caught between efforts to support inclusionary practices and adopt policies that guide behaviors to enhance educational outcomes for all students against the threat of losing funding or being in violation of the law.

Following the presidential executive orders related to Diversity, Equity and Inclusion (DEI) initiatives across the country, the US Department of Education’s Office for Civil Rights (OCR) issued guidance on how it will interpret federal laws related to antidiscrimination. The Education Department’s Office for Civil Rights [Dear Colleague letter](#) told Pre-K to higher education leaders it was illegal to consider race in all aspects of student, academic, and campus life. The letter also gave them [two weeks to examine their programs](#) that could potentially face scrutiny.

The agency also launched an [“End DEI” hotline](#) last week to encourage the public to report school programs they believe are discriminatory. These publications and initiatives caused fear and anxiety among educators and boards of education.

The Connecticut Department of Education’s CSDE) February 27th letter to superintendents provides an important reminder for districts to update their Title IX policies referencing the presidential executive order entitled “Keeping Men Out of Women’s Sports,” Here, he directed the US Departments of Education and Justice to comply with a recent federal court decision vacating the August 2024 Title IX regulations, which extended Title IX coverage to transgender students. As such, Title IX regulations have reverted to the 2020 iteration, which does not include transgender-student protections.

(Link to CAGE’s Model Policy on [Title IX 2020](#))

In addition, CSDE is reviewing its January 2024 Guidance on Civil Rights Protections and Supports for Transgender or Gender-Diverse Students regarding the right of transgender athletes to access the locker rooms, shower facilities, and athletic teams of the gender with which they identify, as this language is no longer in alignment with Title IX. CSDE advises districts to consult with their legal counsel regarding this issue.

https://portal.ct.gov/-/media/sde/title-ix/transgender_guidance.pdf?la=en

This is a particularly challenging time for district leaders and boards of education, as they are constantly bombarded with new executive orders, further explanations related to those orders, and threats for non-compliance. In her Coaching Letter #211 “On Refusing to be Gaslit,” Isobel Stevenson notes, “Equity is not a separate strand of work. Equity is integral to excellence.” She further elaborates on the connection:

It is not possible to have excellence separate from equity—excellence that is experienced and demonstrated by some students and not others is incompatible with the definition of excellence. Likewise, realizing the vision for equity necessitates excellence—for all students. Logically, then, there is only one goal, and educators who think of equity as a separate body of work that applies only to some students in some situations fail to grasp that the only path to excellence for all is through equity.

She continues,

The path to excellence, and therefore equity, is in classrooms, where students spend most of their time. It entails reducing variation in instructional quality as well as reducing variation in how students experience instruction and school in general. Where there is variation, there is likely inequity, whether that variation lies in the curriculum adopted, how the curriculum is implemented, who gets access to grade level tasks, who is placed in low track classes, the quality of instruction enacted, the resources (both physical and human) a school or district has available, the belief in what students are capable of, who belongs, or any other number of possible factors.

Therefore, anyone who makes any claim to working on educational excellence has to also be working on equity. It’s not a separate thing. It is core to what we are trying to achieve. (February 28, 2025)

Jonathan Feingold, associate professor of law at Boston University Law School, believes that while OCR’s FAQ is “certainly a de-escalation” from the Dear Colleague letters, he believes they still intend to stoke “fear and anxiety among educators.” (Weissman, March 4, 2025)

These executive orders related to diversity, equity, and inclusion, as well as the order related to “ending indoctrination strategy,” are expected to undergo continuing legal developments and challenges. In the meantime, Shipman’s school attorneys advise that districts should focus on understanding and complying with *legal prohibitions against racial preferences* in response to OCR guidance.

They recommend that schools and school districts continue to review their existing policies—particularly those that highlight diversity, equity, and inclusion as goals or could be perceived as conditioning educational benefits or opportunities upon a student’s race or ethnicity—to ensure that they do not engage in any discriminatory practices. (Dori Pagé Antonetti, Jessica Ritter, Joseph Miller, CT School Law, February 24, 2025)

Another such legal development came on February 21, when the U.S. District Court for the District of Maryland issued a preliminary injunction that significantly impacts two of President Trump’s executive orders targeting DEI programs. The federal government has appealed the ruling.

According to Shipman attorney, Daniel A. Schwartz, while this ruling provides temporary relief for employers (districts for the purpose of this Highlight), this “injunction does not absolve employers from complying with existing anti-discrimination laws.” He continues, “Programs that discriminate based on protected characteristics may still create liability, regardless of whether they are implemented with good intentions to increase diversity.”

Consistent with attorneys Antonetti, Ritter, and Miller, Schwartz advises districts to be vigilant in ensuring “their programs comply with anti-discrimination laws, and be prepared to adapt as the legal landscape evolves. (*Federal Court Injunction Pauses Key Provisions of President Trump’s DEI Executive Orders*, Daniel A Schwartz, Partner, February 27, 2025)

CABE’s model policy [0523](#) on Diversity, Equity and Inclusion was initially drafted in January 2021 and recently reviewed. Its preceding narrative states that over the next decade, schools in Connecticut will become more diverse. Therefore, a better understanding of diversity is critical. Educational leaders understand that to be more effective in managing diversity and to capitalize on the diversity of the population, they need to be culturally competent in creating a school climate where all students, educators, staff, and parents are respected.

Every student deserves a respectful learning environment in which their diversity is valued and contributes to successful academic outcomes. Districts need to be committed to identifying and correcting practices and policies that perpetuate the achievement gap and institutional racism in all forms to provide all students with the opportunity to succeed. Learning and work environments are enriched and improved by diverse participants' contributions, perspectives, and presence.

Ensuring we work together to wade through these murky waters, your board legal counsel and CABE look forward to providing support.