

Faculty Council Meeting
Wednesday, February 19, 12:45 – 2:00
Minutes

Faculty Reps Present

Jeffrey George (Chair)
Cliff Odle (Vice Chair)
Rosemary Millar
Kara Andersen
Dmitri Vorobiev
Chris Dorr
Anson Koch-Rein
Martha Golden
Bill Volz
Joe Lopina
Steven Lacosse
Christopher Bruhn
Joe Mills
Michael Dodds
Elizabeth Klaimon

Frazier Smith
Shahin Gorgani
Claire Fort
Jared Redick
Zak Stevenson
Clint Smith

Others Present

Kory P. Kelly
Katherine Johnson / UNCSA
Gregory Foreman
Elizabeth Davis
Kathryn McMillan
Dr. B. Afeni McNeely Cobham
Laurel Donley (she/her)
Brian Cole

1. Call to order: 12:45
2. Approval of minutes from 2/5 meeting
 - a. Motion: Vorobiev, Second: Volz. Approved without opposition
3. New Business
 - a. Temporary parking solution from Campus Police – Deputy Chief Foreman
 - i. Does it have a substrate that could be damaged? (Dodds)
 - ii. Possibly use half or a little less than half, would provide 200-300 parking spaces. (Dodds)
 - iii. Final decision should be made with student approval through Student Affairs (Dodds)
 - iv. Not the long-term possibility; important space for student fitness or campus master-planning (Cole)
 - v. Long-term solution for parking is along Chapel St; in the works, but has become much more expensive (\$2M) (Cole)
 - vi. Reach out to faculties for more feedback, route through CDC (meeting next week).
4. Old Business
 - a. Searches Task Force draft: distributing to faculties through reps for feedback
 - i. Goes to HR and Faculty Affairs at end of February
 - b. FED feedback: FC members fill out survey, to streamline conversation next time
 - c. Faculty manual changes

- i. Peer Review Committee (8.1.8) – motion from Steve Lacosse, second Dmitri, approved without opposition
 - 1. *In the case of a school/division not having enough members to populate the Peer Review Committee (PRC), the Office of Faculty Affairs will assist in identifying eligible faculty members from other schools/divisions who are serving on fewer than two peer review committees and will submit a list to each dean. The dean will have the authority to remove a faculty member from the compiled list due to other commitments unknown to Faculty Affairs.*
 - 2. *After receiving the dean's list, Faculty Affairs will forward the list to the chair(s) of the Peer Review Committee(s) needing additional members. (Peer Review Committee Chairs must be members of the candidate's school/division.) The Chairperson of the individual PRC will discuss possibilities with their fellow committee members and then reach out to their selected faculty member to ask the individual to serve. After the individual agrees to serve, they will be added to the Peer Committee Roster and Faculty Affairs will notify the dean of the school/division of the faculty member's agreement to serve.*
- ii. Standing committee minutes – motion from Jeff George, second Bill, approved without opposition
 - 1. *[Add a new section 7.3.0 gathering common requirements for standing committees]*
 - 2. *All standing committees must take minutes at every meeting. These minutes must be sent to the University Archivist at the end of each academic year.*
- iii. Syllabus language – motion from Jeff George on behalf of Elizabeth Davis.
 - 1. We will add the list of syllabus requirements and exemptions (addendum 1 below) to section 9.2.8, along with gathering all other syllabus mentions from other sections.
 - 2. *Amendment: motion from Elizabeth Klaimon to change “phone number” to “UNCSA phone number – faculty office or department/unit office.” Seconded by Golden, approved without opposition.*
 - 3. *Vote: Approved X, Opposed 2. Motion carries.*
- iv. Courses exempt from student evaluations – motion from Bill Volz; tabled to gather from other schools.
 - 1. *With the change in D&P production course from Practicum to Lab we need to add DEP 1000, ,5000, 6000, 7000, 8000 to the exclusion list for D&P.*
 - 2. Do other schools have changes?

5. Standing Committee Reports (**check video**)

a. Campus Development Committee – Dodds

- i. Third and final phase of upgrades to Gray building second floor are nearly completed.

1. Photos from School of Dance and Fletcher Opera have been printed on canvas and placed all around the walkways.
 2. Quote from Martha Graham (often read by Rosemary Harris at UNCSA graduations)
 3. Wainscotting near Studios A and 298 as well as hooks for bags, shoes, clothes, etc.
 4. Golden: bathrooms on second floor of Gray need attention; Dodds promised to look into it (*note – this issue was resolved within 3 weeks!*)
- b. Educational Policies Committee – Lopina
 - i. Curriculum revisions approved by EPC are making their way through the approval process in the Provost’s Office.
 - ii. EPC will take up the process of defining “equivalent time” that determine credit hours for non-lecture classes, which is required for reaccreditation.
 - c. Faculty Development Committee – Millar
 - i. The deadline for Faculty Reassigned Time was extended as communicated to faculty, and applications are being reviewed by the committee.
 - d. Faculty Rank Committee – LaCosse, Volz
 - e. Faculty Welfare Committee – Koch-Rein
6. Condition 2 request from School of Music – Vorobiev
 - a. Banning students from practicing by restricting building access under condition 2 is counterproductive.
 - i. Redick – likewise for School of Dance
 - b. George – will raise this with the Chancellor, Provost, and Adverse Weather Committee. Good timing, as policies and procedures are being revised now.
 7. Faculty Assembly Report Recap
 - a. Summary of Faculty Assembly discussion and communication regarding DEI policy changes at the federal, state, and system level (addendum 2 below).
 8. Chancellor’s Report
 - a. Board of Governors
 - i. February 5 Memorandum from System Office (“Tripp memo”) – can distribute to full faculty (addendum 3 below)
 - ii. Dear Colleague Letter from Dept. of Education, February 14 – this is public and can be distributed (addendum 4 below)
 9. Adjourn: 2:02

Addendum 1: Syllabus Requirements & Exemptions

Syllabus Content Checklist

- ☐ One syllabus per course per course/section number for each career level
- ☐ One syllabus per course/section number

Required

Course Information

- ☐ Course title
- ☐ Course number and section
- ☐ Semester
- ☐ Year
- ☐ Credit hours
- ☐ Syllabus meeting time and place (as identified in Banner)
- ☐ Explanation of equivalent time for course (rehearsals, production, practices)

Faculty Information

- ☐ Faculty name(s)
- ☐ Faculty title
- ☐ Office location
- ☐ Time of office hours (min 5 hrs/wk, F2F and virtual)
- ☐ Phone number – is school phone acceptable?
- ☐ Faculty email address
- ☐ Other contact information (Calendly, Slack, Teams chat, etc.)

Course Materials

- ☐ Required materials to be purchased
- ☐ Supplemental materials

Course Content

- ☐ Program learning outcomes
- ☐ Course learning outcomes

- ☐ Course outline/ schedule (if tentative, faculty must state that the syllabus is subject to change with proper notification)
- ☐ Assessments
- ☐ Criteria and content of student performance evaluations

Policies

- ☐ Students with Disabilities statement matches the Faculty Manual
- ☐ Academic Integrity Policy statement matches the Faculty Manual
- ☐ Grading system
- ☐ Attendance policy
- ☐ Impact of attendance on grades
- ☐ Class Attendance, University -Related Absences and Major Exam Times Policy
- ☐ Instructor's course attendance policy adheres to school's attendance policy.
(Required for online/ hybrid only)
- ☐ Specific safety procedures for lab courses including documentation of injuries
- ☐ Student Privacy Statement: *Student privacy, including distance education students, is protected under state and federal regulations, including the FERPA Policy (link)*

Distance Education Courses

- ☐ Explanation of Netiquette policy for hybrid or online courses
- ☐ Library resources for hybrid or online courses
- ☐ Course resources for hybrid or online courses
- ☐ On-campus meeting requirements **or** any synchronous activity requirements
- ☐ How participation in online activities will be assessed and graded (e.g., participation in chat sessions, frequency of web access, postings, etc.)
- ☐ Whether (and how) the faculty member will track student online activities, for example, by maintaining a copy/log of online discussions and chat sessions, etc.
- ☐ All deadlines (due-dates and times) for postings, homework assignments, blogs, chats, etc.

- ☐ Office/contact hours, how often the faculty member will be online, and alternate communication options
- ☐ Safeguards as to how student work will be authenticated
- ☐ Technical competencies expected or required of the students
- ☐ Minimum computer hardware and system specifications, software requirements, and course website access requirements
- ☐ Whom to contact in case of technical problems
- ☐ Alternative procedures for submitting work in the event of technical problems
- ☐ Statement of potential charges related to identity verification: *Students enrolled in distance education (including hybrid) classes in which proctored exams are required are responsible for any charges, including for identity verification, levied by a remote location.*

Differentiated Rigor

- ☐ GR courses clearly and explicitly differentiate higher levels of course learning outcomes.
- ☐ GR courses have progressively complex assignments and assessments
- ☐ GR courses include familiarity of literature.
- ☐ GR courses include a higher level of professional practice and training experiences.
- ☐ Where GR and UG are in the same syllabus, different levels of learning, complexity of assignments, and level of professional practice and training is explicitly and clearly highlighted within the syllabus.

Recommended

Transparent Communication with Students

- ☐ Adverse Weather Policy
- ☐ Title IX/ Sexual Harassment/ Sexual Assault Policies and Procedures
- ☐ Student Grievance and Complaints Policies and Procedures
- ☐ Appropriate School/ Division Policies and Procedures or a link to School/ Division Handbook
- ☐ Counseling information: contacts/link, UWill info

- ☐ Help Desk information (hours, location, contact information)
- ☐ Statement on classroom audio and/or visual recording policy

Addendum 2: Summary of Faculty Assembly Communication Regarding DEI Policy Changes

Addendum 3: February 5 Memorandum (“Tripp Memo”)

Addendum 4: Dear Colleague Letter from Department of Education, February 14

Faculty Assembly Brief Updates from the Jan. 24, 2025, Faculty Assembly Meeting

The link to the DRAFT of Faculty Assembly Meeting Minutes below is for informational purposes only – the minutes will be approved at the next Faculty Assembly meeting, Feb. 21, 2025. Within the meeting minutes are the Chair’s Report Slides (Wade Maki) with links.

https://uncg-my.sharepoint.com/:w:/g/personal/w_maki_uncg_edu/EV_yUocYGd9FgUYOvDx5p-UBQtPUTD0W7UvGz-PrwBW5LQ?e=WJSq4g

Note: NC General Assembly is now convened in the “long” session: Dr. David English (Senior Vice President for Academic Affairs, CAO for UNC System) has noted that this is the busiest time for the State Legislature, and you will see about a “thousand ideas” but “but only a handful will cross the finish line.”

- UNC System is finalizing redlines (code revisions) to Chapter 6 (Academic Freedom and Tenure) of the UNC Code, and section 400.1. [R] (Academic Program Review) of the UNC Policy Manual; all campuses were invited to provide feedback. All feedback due Feb. 11. Faculty Assembly Executive Committee have reviewed current feedback and wrote Five (5) shared (holistic) recommendations (details within Maki’s Chair Report Slides). ***Of note: Redlines from Chapter 6 (The Code) which impact UNCSA:*** These redlines are found at the very end of the document: “**2Because of the unique character and mission of the University of North Carolina School of the Arts and of the North Carolina School of Science and Mathematics, the requirement that the institution adopt tenure policies will be satisfied at those institutions by an employment system based on renewable appointments, which system need not provide for the traditional faculty ranks. Wherever the phrase “tenure policies and regulations” is used in this chapter, it shall mean, for the University of North Carolina School of the Arts and for the North Carolina School of Science and Mathematics, the faculty employment policies of those schools. Wherever the phrase “tenured faculty” is used in this chapter and in the Policies of the Board of Governors, it shall mean, for those schools, a faculty member holding a fixed-term appointment.**”

- Changes and Executive Orders at the Federal Level will likely impact Higher Education - this is an ongoing situation. David English is monitoring concerns and potential impact.

- Federal DEI Executive Orders will likely impact grants and funding for faculty applying for funds at the federal level (see links within Maki’s slides).


- Cybersecurity continues to be an active threat within Higher Education. The UNC System takes this threat very seriously, and a presentation on Cyber Security was given at the last Assembly meeting (details and slides within the FA DRAFT Minutes).

-Task Force Updates from Rob Tabor (Micro-credentials) and Daphne Cooper (Leadership).

-Discussion around the Draft Policy regarding “Policy on Campus Gatherings and Related Student Conduct: UNC Policy 700.4.4.

- System is gathering information through a short survey regarding the individual AI Policies at each institution. (note: Faculty Council might consider inviting our AI Task Force to come to Council and discuss policies and related ideas within this area).

To: Chancellors

From: Andrew Tripp 
UNC System Senior Vice President for Legal Affairs & General Counsel

Date: February 5, 2025

Subject: Memorandum Regarding Federal Contracting Compliance

On January 21, 2025, President Trump issued an executive order entitled [Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#) (the “Jan. 21 EO”). This memorandum pertains to complying with that executive order and is being transmitted to each of you at the direction of President Peter Hans pursuant to his authority under [Chapter 116](#) of the North Carolina General Statutes.

The practices prohibited by the Jan. 21 EO are largely addressed by the Board of Governors’ adoption of [Section 300.8.5](#) of the UNC Policy Manual, *Equality Within the University of North Carolina* (the “Equality Policy”), as well as the University’s August 2023 [directives](#) regarding implementation of the United States Supreme Court’s 2023 decision in [Students for Fair Admissions, Inc. v. President and Fellows of Harvard College](#).

The [Equality Policy](#) reaffirms the University’s commitment and duty to abide by federal and state law prohibiting discrimination and upholds the University’s commitment to institutional neutrality, academic freedom, and freedom of expression.

The Jan. 21 EO directs multiple actions by federal agencies.¹ Most notably for purposes of higher education, the Jan. 21 EO imposes additional requirements on federal agencies seeking to contract with third parties, including institutions of higher education, as well as those parties’ subcontractors.

The University of North Carolina is synonymous with cutting edge federal research. University budgetary figures demonstrate this point. University institutions received approximately \$1.4B in federal research dollars pursuant to contracts and grants in FY 2023–24, constituting approximately 62% of all University research funds, and approximately 13% of the University’s annual budget. The University also received over \$600M in federal dollars in the form of student aid and other funding.

Entities operating under one or more contracts with a federal agency (including subcontractors) now have several new requirements under Section 3 of the Jan. 21 EO. First, an institution wishing to contract with the federal government will be required to agree, as a condition of the contract, that “it does not operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws. . . .” (Jan. 21 EO, Sec. 3). Interpretation of what

¹ On January 20, 2025, President Trump issued a separate executive order entitled [Ending Radical and Wasteful Government DEI Programs and Preferencing](#) that focuses mainly on hiring and employment practices within the executive branch. While the two orders address related objectives, it is the Jan. 21 EO that directly affects federal contracting practices and is the subject of this memorandum.

constitutes compliance with these requirements will largely be left to the federal agencies with which the University seeks to contract.

Second, certification as to compliance is now a requirement for all contracting entities. The Jan. 21 EO signals that those institutions continuing to operate programs deemed noncompliant by the federal government risk ineligibility for additional federal contracts and grants—or worse—costly enforcement actions initiated by federal agencies pursuant to the federal government’s commitment to “compliance in all respects with all applicable Federal anti-discrimination laws [which] is material to the government’s payment decisions. . . .”(Jan. 21 EO, Sec. 3).² Here, too, the interpretation of what “programs promoting DEI” may violate any “applicable Federal anti-discrimination laws” will first fall to federal agencies, leaving contracting partners only the chance to react. Similarly, the terms “contractor” and “subcontractor” are not defined in the Jan. 21 EO, thus leaving the interpretation of these terms largely to federal agencies. (Jan. 21 EO, Sec. 3).

Mandatory curricular and program requirements on prohibited topics discussed in the Jan. 21 EO may prevent the very certification now required of federal contractors. Moreover, even with a compliance certification made in good faith by an institution, such curricular and program requirements might still be deemed noncompliant by a federal agency and trigger the consequences described by the Jan. 21 EO. Finally, mandatory curricular and program requirements involve other University personnel in addition to the faculty members who teach the coursework itself. This raises additional concerns about potential noncompliance in that such employees might be viewed by a federal agency as being required by the institution to engage in work which may violate the Jan. 21 EO. Even though some form of additional federal guidance is expected, and the law in this area remains unsettled, the risk of jeopardizing over \$1.4B in critical federal research funding is simply too great to defer action.

Accordingly, effective immediately, all general education requirements and major-specific requirements mandating completion of course credits related to diversity, equity, and inclusion, or any other topic identified in Section VII of the [Equality Policy](#) are suspended.³ Inclusion of these and other synonymous general education requirements may contradict the Jan. 21 EO directive to “[e]xcise references to DEI and DEIA principles, *under whatever name they may appear.*” (Jan. 21 EO, Sec. 3)(emphasis added). DEI requirements of the same substance, but identified by a different name, could further jeopardize federal funding.

A chancellor may approve, in writing, a tailored waiver of this suspension for individual major-specific requirements but no such waiver of any general education requirement is available. The major-specific curricular or program requirement for which the waiver is sought

² The Jan. 21 EO references the definition of “material” in the False Claims Act, [31 U.S. Code § 3729\(b\)\(4\)](#), which provides that “the term ‘material’ means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.”

³ This review and suspension accord with the duty of chancellors pursuant to [Section 502D](#) of Chapter V of *The Code, Relation of the Chancellor to the Constituent Institution*. Authorization and approval of all matters of curriculum, degree requirements, instructional standards, and grading criteria rests ultimately with the respective chancellor, upon solicitation of advice of the faculty. The chancellor’s decision is final and supersedes that of an advisory institutional body or committee. This duty of chancellors parallels their charge under [Section 400.1](#) of the UNC Policy Manual, *Policy on Academic Program Planning*, to “regularly review their institution’s academic programming to ensure the maintenance of a sound and balanced educational program that is consistent with the functions and mission of the institution.”

must be substantially related to its specific major, and any waivers must be approved and signed, in writing, by the institution's chancellor, which responsibility shall not be delegated. All waiver requests for major-specific requirements approved by a chancellor shall be reported to the Board of Governors' Committee on Educational Planning, Policies, and Programming at its next regularly scheduled meeting following approval.

During the suspension, the suspended curricular or program requirement shall be deemed converted immediately into a general elective requirement. Any student presently enrolled in a Spring 2025 course to satisfy a suspended curricular or program requirement may elect either to remain enrolled in the course or to withdraw from that course without penalty, and such withdrawal shall be deemed a course withdrawal with extenuating circumstances under [Section 400.1.5\[R\]](#) of the UNC Policy Manual, *Regulation Related to Fostering Undergraduate Student Success*. In all events, no student's graduation shall be delayed or deferred for failure to satisfy a suspended curricular or program requirement described in this memorandum; provided, however, the student must still satisfy the minimum credit hour requirements established by [Section 400.1.5\[R\]](#). All University enrollment processes going forward—whether for a summer, fall, spring, or any other, academic semester—shall comply with this memorandum.

The foregoing suspension applies to *mandatory* curricular and program requirements. It shall not affect the ability of a constituent institution to continue to offer any course teaching the concepts in the suspended curricular or program requirement, so long as no student is *compelled* to enroll in such a course as part of a mandatory requirement at the institutional, college, or department level (or other similarly named unit); nor shall the foregoing suspension impair the academic freedom of faculty within the University of North Carolina to pursue teaching, research, and service, or of our students to pursue the coursework of their choosing. Section 7 of the Jan. 21 EO reinforces these points.

During the suspension, provosts will work using existing curricular and program development processes to implement long-term solutions for complying with the Jan. 21 EO, with the understanding that the chancellor serves as the final decision-maker upon advice received from these processes.

Today's action makes certain that the University can continue to certify its compliance with federal anti-discrimination laws without concern that the now-suspended curricular and program requirements may violate the Jan. 21 EO, or any subsequent directives from the federal executive branch on this topic.

The University of North Carolina leaves its indelible mark on the world through the great work of its doctors, scientists, professors, and researchers tackling seemingly insoluble problems in the fields of science, chemistry, research, and medicine, among others. Indeed, right now—at this very hour—there are thousands of researchers in the University working to improve the health and wellbeing of everyday North Carolinians and people across the globe. Today's action ensures that their work will continue unabated in an emerging regulatory landscape.

Chancellors are directed to implement this memorandum immediately. Legal questions may be directed to me, and questions regarding academic matters may be directed to Dr. David English.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

THE ACTING ASSISTANT SECRETARY

February 14, 2025

Dear Colleague:

Discrimination on the basis of race, color, or national origin is illegal and morally reprehensible. Accordingly, I write to clarify and reaffirm the nondiscrimination obligations of schools and other entities that receive federal financial assistance from the United States Department of Education (Department).¹ This letter explains and reiterates existing legal requirements under Title VI of the Civil Rights Act of 1964,² the Equal Protection Clause of the United States Constitution, and other relevant authorities.³

In recent years, American educational institutions have discriminated against students on the basis of race, including white and Asian students, many of whom come from disadvantaged backgrounds and low-income families. These institutions' embrace of pervasive and repugnant race-based preferences and other forms of racial discrimination have emanated throughout every facet of academia. For example, colleges, universities, and K-12 schools have routinely used race as a factor in admissions, financial aid, hiring, training, and other institutional programming. In a shameful echo of a darker period in this country's history, many American schools and universities even encourage segregation by race at graduation ceremonies and in dormitories and other facilities.

¹ Throughout this letter, "school" is used generally to refer to preschool, elementary, secondary, and postsecondary educational institutions that receive federal financial assistance from the Department.

² Title VI provides that: "No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 42 U.S.C. § 2000d, *et seq.*; 34 C.F.R. § 100, *et seq.*

³ This document provides significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). This guidance does not have the force and effect of law and does not bind the public or create new legal standards. This document is designed to provide clarity to the public regarding existing legal requirements under Title VI, the Equal Protection Clause, and other federal civil rights and constitutional law principles. If you are interested in commenting on this guidance, please email your comment to OCR@ed.gov or write to the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202. For further information about the Department's guidance processes, please visit the Department's webpage [here](https://www.ed.gov/ocr).

Educational institutions have toxically indoctrinated students with the false premise that the United States is built upon “systemic and structural racism” and advanced discriminatory policies and practices. Proponents of these discriminatory practices have attempted to further justify them—particularly during the last four years—under the banner of “diversity, equity, and inclusion” (“DEI”), smuggling racial stereotypes and explicit race-consciousness into everyday training, programming, and discipline.

But under any banner, discrimination on the basis of race, color, or national origin is, has been, and will continue to be illegal.

The Supreme Court’s 2023 decision in *Students for Fair Admissions v. Harvard*⁴ (*SFFA*), which clarified that the use of racial preferences in college admissions is unlawful, sets forth a framework for evaluating the use of race by state actors and entities covered by Title VI. The Court explained that “[c]lassifying and assigning students based on their race” is lawful only if it satisfies “strict scrutiny,” which means that any use of race must be narrowly tailored—that is, “necessary”—to achieve a compelling interest.⁵ To date, the Supreme Court has recognized only two interests as compelling in the context of race-based action: (1) “remediating specific, identified instances of past discrimination that violated the Constitution or a statute”; and (2) “avoiding imminent and serious risks to human safety in prisons, such as a race riot.”⁶ Nebulous concepts like racial balancing and diversity are not compelling interests. As the Court explained in *SFFA*, “an individual’s race may never be used against him” and “may not operate as a stereotype” in governmental decision-making.⁷

Although *SFFA* addressed admissions decisions, the Supreme Court’s holding applies more broadly. At its core, the test is simple: 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. 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. Put simply, educational institutions may neither separate or segregate students based on race, nor distribute benefits or burdens based on race.

Although some programs may appear neutral on their face, a closer look reveals that they are, in fact, motivated by racial considerations.⁸ And race-based decision-making, no matter the form, remains impermissible. For example, a school may not use students’ personal essays, writing samples, participation in extracurriculars, or other cues as a

⁴ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023).

⁵ *Id.* at 207.

⁶ *Ibid.*

⁷ *Id.* at 218.

⁸ *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265 (1977).

means of determining or predicting a student's race and favoring or disfavoring such students.⁹

Relying on non-racial information as a proxy for race, and making decisions based on that information, violates the law. That is true whether the proxies are used to grant preferences on an individual basis or a systematic one. 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.

Other programs discriminate in less direct, but equally insidious, ways. DEI programs, for example, frequently preference certain racial groups and teach students that certain racial groups bear unique moral burdens that others do not. Such programs stigmatize students who belong to particular racial groups based on crude racial stereotypes. Consequently, they deny students the ability to participate fully in the life of a school.

The Department will no longer tolerate the overt and covert racial discrimination that has become widespread in this Nation's educational institutions. The law is clear: treating students differently on the basis of race to achieve nebulous goals such as diversity, racial balancing, social justice, or equity is illegal under controlling Supreme Court precedent.

All students are entitled to a school environment free from discrimination. The Department is committed to ensuring those principles are a reality.

This letter provides notice of the Department's existing interpretation of federal law. Additional legal guidance will follow in due course. The Department will vigorously enforce the law on equal terms as to all preschool, elementary, secondary, and postsecondary educational institutions, as well as state educational agencies, that receive financial assistance.

The Department intends to take appropriate measures to assess compliance with the applicable statutes and regulations based on the understanding embodied in this letter beginning no later than 14 days from today's date, including antidiscrimination requirements that are a condition of receiving federal funding.

All educational institutions are advised to: (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.

⁹ *Students for Fair Admissions*, 600 U.S. at 230 (“[U]niversities may not simply establish through application essays or other means the regime we hold unlawful today.”).

Institutions that fail to comply with federal civil rights law may, consistent with applicable law, face potential loss of federal funding.

Anyone who believes that a covered entity has unlawfully discriminated may file a complaint with OCR. Information about filing a complaint with OCR, including a link to the online complaint form, is available [here](#).

Thank you in advance for your commitment to providing our Nation's students with an educational environment that is free of race, color, or national origin discrimination.

Sincerely,

/s/

Craig Trainor
Acting Assistant Secretary for Civil Rights
United States Department of Education