



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING


GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: March 6, 2025

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Michael F. Rice, Ph.D. 
State Superintendent

SUBJECT: Follow-up Frequently Asked Questions Regarding the February 14 U.S. Department of Education Dear Colleague Letter and Diversity

On Saturday, March 1, the U.S. Department of Education released a nine-page [Frequently Asked Questions](#) (FAQ) document,¹ dated February 28, in follow-up to its previously released three-plus page [February 14 Dear Colleague](#) letter to the leaders of educational institutions - "preschool, elementary, secondary, and postsecondary educational institutions that receive federal financial assistance from the Department."² The acting assistant secretary of the Office of Civil Rights had stated his intent in the Dear Colleague letter "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)."³

The February 28 FAQ notes that it is "intended to anticipate and answer questions that may be raised in response to the *Dear Colleague Letter: Title VI of the Civil Rights Act in Light of Students for Fair Admissions v. Harvard* issued by the U.S. Department of Education's Office for Civil Rights (OCR) on February 14, 2025."

¹ U.S. Department of Education, Office for Civil Rights. (2025, February 28). *Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act*. <https://www.ed.gov/media/document/frequently-asked-questions-about-racial-preferences-and-stereotypes-under-title-vi-of-civil-rights-act-109530.pdf>.

² U.S. Department of Education, Office for Civil Rights. (2025, February 14). *Dear Colleague Letter on SFFA v. Harvard* (p. 1 n.1). <https://www.ed.gov/media/document/dear-colleague-letter-sffa-v-harvard-109506.pdf>.

³ U.S. Department of Education, 2025 (February 14), p. 1.

STATE BOARD OF EDUCATION

PAMELA PUGH – PRESIDENT • ELLEN COGEN LIPTON / TIFFANY D. TILLEY – CO-VICE PRESIDENTS
JUDITH PRITCHETT – SECRETARY • MARSHALL BULLOCK II – TREASURER
MITCHELL ROBINSON – NASBE DELEGATE • TOM MCMILLIN • NIKKI SNYDER

I encourage you to read the entire document carefully and to share it with your legal counsel, if you have not done so already. At the same time, I draw your attention to four discrete elements of the FAQ.

First, footnote three makes clear that, like the February 14 Dear Colleague letter before it, the FAQ is nonbinding:

The contents of this Q&A document do not have the force and effect of law and do not bind the public or impose new legal requirements; nor do they bind the Department of Education in the exercise of its discretionary enforcement authority. The purpose of this document is to provide clarity about existing law for the benefit of the public.

Second, in response to Question 6, the FAQ notes, "...to advantage members of one race in a competitive or zero-sum process is necessarily to disadvantage those of a different race. As the Court reasoned: 'College admissions are zero-sum, and a benefit provided to some applicants but not to others necessarily advantages the former at the expense of the latter.'" This response makes clear that the context for the February 14 letter is a zero-sum activity: elite college admissions. There is no reference to or assertion of the impermissibility of positive-sum activities in which one party's benefit can occur in concert with the benefit of another party (e.g., in the widening of a literary canon for all students). This point was made in the Michigan Department of Education (MDE) [memorandum to Michigan educators on February 27](#), just last week, a memorandum that included six such examples.⁴

Third, in response to Question 8, the FAQ indicates:

[S]chools with programs focused on interests in particular cultures, heritages, and areas of the world would not in and of themselves violate Title VI, assuming they are open to all students regardless of race. Nor would educational, cultural, or historical observances—such as Black History Month, International Holocaust Remembrance Day, or similar events—that celebrate or recognize historical events and contributions, and promote awareness, so long as they do not engage in racial exclusion or discrimination. However, schools must consider whether any school programming discourages members of all races from attending, either by excluding or discouraging students of a particular race or races, or by creating hostile environments based on race for students who do participate.⁵

⁴ Michigan Department of Education. (2025). *February 14 U.S. Department of Education Dear Colleague Letter and Diversity*. (pp. 3-4). <https://www.michigan.gov/mde/-/media/Project/Websites/mde/Memos/2025/02/USDE-Dear-Colleague-Letter-and-Diversity.pdf?rev=c6f0b51d85e3415baea6d5c882448ab3>

⁵ U.S. Department of Education, 2025 (February 28), p. 6.

This response helps to clarify the overbroad language from the February 14 Dear Colleague letter that, coupled with an executive order released on January 29,⁶ led many to believe that any cultural celebration, irrespective of whether it was for the benefit of the entire student body or not, could be considered impermissible given this elastic interpretation of Title VI of the Civil Rights Act of 1964. The February 28 FAQ responses to Questions 8 and 9 clarify that zero sum activities are prohibited and observances that celebrate or recognize historical events and contributions, and promote awareness—such as for Black History Month, Chinese New Year, and a host of other events—are indeed allowed as long as they do not engage in racial exclusion or create a hostile environment for students based on race. In determining whether a racially hostile environment exists, the “facts and circumstances of each case, including the nature of the educational institution, the age of the students, and the relationships of the individuals involved,” are considered.

Fourth and finally, in response to Question 9, the FAQ states:

[T]he Department of Education Organization Act, 20 U.S.C. § 3403(b), and the Elementary and Secondary Education Act, 20 U.S.C. § 7907(a), prohibit the Department from exercising control over the content of school curricula.

This point was also made in last week’s [February 27 guidance](#) from MDE to educators across the state.⁷ Not only is the U.S. Department of Education prohibited from dictating curricular or instructional content, but so too are all employees of the federal government.⁸

Final reflections and conclusions. The resources shared throughout this document and advice of your legal counsel are important when making decisions and educating your staff related to the educational rights of the children in your community and staff responsibilities. This memo is for informational purposes and should not be considered legal advice. School leaders are encouraged to promptly consult with district legal counsel, who should guide you on any specifics that you, your students, or your staff may encounter.

The Michigan Department of Civil Rights (MDCR) is a law enforcement agency that has jurisdiction over Michigan’s civil rights laws, most pertinently for this memo the

⁶ Trump, D. J. (2025). *Executive Order 14190: Ending Radical Indoctrination in K-12 Schooling*. 90 FR 8853. <https://www.federalregister.gov/documents/2025/02/03/2025-02232/ending-radical-indoctrination-in-k-12-schooling>.

⁷ Michigan Department of Education, 2025, pp. 5-6.

⁸ See 20 USC 7906a(a) and (b) (“No officer or employee of the Federal Government shall. . .”).

Elliott-Larsen Civil Rights Act (ELCRA). Article 4 of ELCRA provides civil rights protections in education based on religion, race, color, national origin, sex, sexual orientation, or gender identity or expression.⁹ MDCR may investigate complaints in education based on allegations of unlawful discrimination when individuals are not provided “the full use or benefit of an educational institution, its services, activities or programs.” Furthermore, if an individual is excluded or unlawfully discriminated against and is treated differently or denied educational opportunities due to protected classes listed above, MDCR may investigate the allegations.

Pre-K-12 programs that promote diversity representing all children, regardless of race, and inclusion of all children, regardless of race, do not inherently harm particular groups of children and are not de facto violations of Title VI of the Civil Rights Act of 1964. To suggest otherwise is to undermine the very statute whose enforcement is the subject of this discussion.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Departments

⁹ MCL 37.2402(a).