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February 27, 2025

Craig Trainor
Acting Assistant Secretary for Civil Rights
United States Department of Education
400 Maryland Avenue SW
Washington, DC 20202

Dear Acting Assistant Secretary Trainor:

I write on behalf the Association of American Universities (AAU) and its members in response to the Department of Education's (Department) February 14, 2025, Dear Colleague Letter (DCL). The DCL states that its intent is to “provide clarity to the public regarding existing legal requirements” for colleges and universities under the Supreme Court’s 2023 decision in *Students for Fair Admissions v. Harvard (SFFA)*. We respectfully submit that, contrary to its stated purpose, the DCL has created significant confusion among our member institutions regarding their compliance responsibilities. We therefore urge the Department to withdraw the DCL and initiate a substantive consultation process with higher education stakeholders to ensure that our universities understand what is expected of them in this critical domain so that they may maintain their commitment to compliance with the law.

In *SFFA*, Chief Justice Roberts characterized the goals of the universities, including the goal of preparing students for an “increasingly pluralistic society,” as “commendable,” but concluded that these commendable goals could not legally be pursued through race-conscious admissions programs. Our member institutions have diligently implemented changes consistent with the Supreme Court's decision in *SFFA*, and they are committed to remaining in compliance with the law.

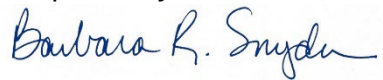
We find that the DCL's treatment of the *SFFA* decision has generated substantial uncertainty regarding institutional compliance with federal civil rights laws. On the one hand, the Department rightly states that the DCL “does not have the force and effect of law and does not bind the public or create new legal standards,” and asserts that the DCL “explains and reiterates existing legal requirements under Title VI of the Civil Rights Act of 1964, the Equal Protection Clause of the United States Constitution, and other relevant authorities.” On the other hand, elsewhere in the DCL the Department notes its intention to begin enforcement actions by the Office for Civil Rights (OCR) “based on the understanding embodied in this letter,” which appears to be a new interpretation of what is required by the *SFFA* decision. We are also concerned that the DCL indicates such enforcement would begin 14 days after publication, with potential sanctions including the loss of all federal funding—an outcome of extraordinary consequence to our institutions and the students they serve,

especially given the existing confusion generated on our campuses by the conflicting statements in the DCL.

For these reasons, we respectfully request that the Department rescind this DCL and work collaboratively with the higher education community to promulgate guidance that provides genuine clarity on compliance expectations. Our member institutions remain firmly committed to providing educational environments free from discrimination while fulfilling their vital educational missions.

We thank the Department for your attention to our concerns and look forward to working with you to address them.

Respectfully submitted,

A handwritten signature in blue ink that reads "Barbara R. Snyder". The signature is fluid and cursive, with the first name "Barbara" and last name "Snyder" clearly legible.

Barbara R. Snyder
President, Association of American Universities