Council of
Regional Accrediting Commissions

February 24, 2025

Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202
Sent Via: OCR@ed.gov

To Whom It May Concern:

On behalf of the Council of Regional Accrediting Commissions (C-RAC), we appreciate the opportunity to provide feedback on the United States Department of Education's Dear Colleague Letter (DCL), dated February 14, 2025. Our agencies have also encouraged institutional representatives to submit comments in response to the DCL's feedback request.

C-RAC's seven federally recognized institutional accrediting commissions are responsible for accrediting almost 2,800 postsecondary, degree-granting colleges and universities in the United States. These include over 1,500 public, 1,100 private non-profits, and nearly 100 private for-profit institutions. Accrediting commissions are private, nonprofit organizations and provide oversight and accountability of diverse institutions, including faith-based institutions, historically Black colleges and universities (HBCU), other minority-serving institutions (MSI), community colleges, research universities, and tribal colleges, among others.

C-RAC members include the Accrediting Commission for Community and Junior Colleges (ACCJC), Higher Learning Commission (HLC), Middle States Commission on Higher Education (MSCHE), New England Commission of Higher Education (NECHE), Northwest Commission on Colleges and Universities (NCCU), Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), and WASC Senior College and University Commission (WSCUC).

Our comments will center around the work that our institutions have done to comply with applicable federal law, including but not limited to areas outlined in the DCL, Title VI, the Equal Protection Clause, United States Supreme Court decisions, and other federal civil rights and constitutional law principles. In fact, each of us requires that institutions comply with all applicable laws.

In the DCL, the Department's position is that the *Students for Fair Admissions v. Harvard (SFFA)* decision of the United States Supreme Court applies more broadly than solely admissions decisions and includes wide-ranging aspects of all institutional operations such as hiring, promotion, compensation, financial aid, scholarships, prizes, administrative support, discipline, housing, graduation ceremonies, and all other aspects of student, academic, and campus life. We would suggest that the Department's interpretation of SFFA is overly broad and expansive, a concern shared among legal experts. The United States Supreme Court clearly identified the only question being answered in its decision as one specific to admissions: "In these cases we

consider whether the ***admissions systems*** used by Harvard College and the University of North Carolina ... are lawful under the Equal Protection Clause of the Fourteenth Amendment." *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023) (emphasis added).

The SFFA decision was issued by the United States Supreme Court in 2023. Since that time, we expect that the institutions we accredit have been making any necessary adjustments to comply with the SFFA decision and the United States Supreme Court's interpretation of federal statutory law, a role solely within the purview of the judicial branch of government. The SFFA decision stands on its own, and institutions have acted accordingly to ensure compliance with all admissions practices, which is the limited scope of the SFFA decision.

The DCL does not provide meaningful guidance as to how to comply with the terms or conditions included within the DCL. The expectations for institutional actions or the methods through which institutions are expected to comply with these broad reaching requirements are unclear. While the Department reminds those impacted of the limited authority and scope of a DCL, noting that "[t]his guidance does not have the force and effect of law and does not bind the public or create new legal standards," the DCL threatens the potential loss of federal funding as one potential outcome of non-compliance. Institutions certainly have an interest in ensuring they do not violate any applicable laws, while also ensuring that they, and their students, have continued access to federal funds.

The fourteen (14) day timeline referenced in the DCL is unreasonable, especially knowing that institutions are awaiting the additional legal guidance the DCL promises is forthcoming in due course. While institutions have been complying with federal civil rights laws and implementing the SFFA admissions decision, institutions could not have anticipated the Department's expansive reading of the SFFA decision. To provide only 14 days for a complete overhaul of all institutional programs, operations, and contractual arrangements with third-party providers makes compliance impossible. Even if the Department continues to promulgate this broad interpretation of SFFA and federal civil rights law, it would be necessary to provide a reasonable period of time to institutions before initiating an OCR investigation requiring immediate compliance and loss of federal funding.

We appreciate the opportunity to collaborate with the Department to ensure our institutions not only meet baseline quality assurance standards and legal requirements but exceed accreditor expectations. Our goal is to continually enhance student success, provide lasting value, and contribute to educational excellence.

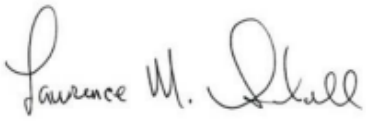
Please contact the Chair of C-RAC, Dr. Heather Perfetti, if we can provide any further information. Thank you for your consideration of our feedback.

Sincerely,

Dr. Heather F. Perfetti
C-RAC Chair
President, Middles States Commission on Higher Education (MSCHE)

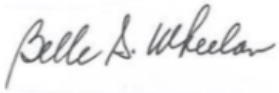
Dr. Mac Powell
C-RAC Vice-Chair
President, Accrediting Commission for Community and Junior Colleges (ACCJC)

Dr. Barbara Gellman-Danley, President
Higher Learning Commission (HLC)



Dr. Lawrence M. Schall, President
New England Commission of Higher Education (NECHE)

Dr. Jeff Fox, Interim President
Northwest Commission on Colleges and Universities (NWCCU)



Dr. Belle Wheelan, President
Southern Association of Colleges and Schools Commission on Colleges (SACSCOC)

Dr. Christopher N. Oberg, Interim President
WASC Senior College and University Commission (WSCUC)