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Federal Judge in New Hampshire Grants Preliminary Injunction Blocking Education Department's DEI Letter

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On April 24, 2025, a federal judge of the U.S. District Court for the District of New Hampshire largely blocked the U.S. Department of Education from cutting funding for schools that refuse to drop diversity, equity, and inclusion (DEI) programs.

Quick Hits

- A federal judge blocked the U.S. Department of Education's "Dear Colleague Letter" that threatened funding cuts for schools with DEI programs, protecting the plaintiff organizations.
- The court found the letter vague and a potential infringement of First Amendment rights due to its lack of clear compliance guidelines for schools.
- The judge noted that the risk of federal funding loss could harm institutions, leading to censorship of DEI discussions.

U.S. District Judge Landya McCafferty granted a preliminary injunction request from a teacher labor union and another educational organization to block the Education Department's recent "Dear Colleague Letter" (DCL), which directed schools to cease DEI programs. The injunction enjoins enforcement against the plaintiff organizations and institutions that employ or work with the plaintiffs.

Judge McCafferty found the groups—the National Education Association (NEA) and its New Hampshire affiliate, as well as the Center for Black Educator Development (CBED)—were likely to succeed on their claims that the DCL was vague, infringed their First Amendment rights, and violated the Administrative Procedure Act (APA).

The order is one of three federal court decisions issued on April 24, 2025, blocking the Trump administration's attempts to eliminate DEI in schools. A Maryland district judge preliminarily enjoined enforcement of the DCL and a requirement that schools certify their compliance with the policy. In addition, a federal judge of the U.S. District Court for the District of Columbia paused enforcement of the policy, ruling that the DEI policy provided "no clear 'boundaries of the forbidden areas' to guide

schools' compliance with the certification or to limit the Department's enforcement actions."

Education Department's "Dear Colleague Letter"

The DCL, issued on February 14, 2025, threatened schools with a loss of federal funding if they continued DEI programs, asserting that such programs were discriminatory and violated Title VI of the Civil Rights Act of 1964. The DCL advised educational institutions to "ensure that their policies and actions compl[ied] with existing civil rights law" and to "cease all reliance on third-party contractors" and proxies to "circumvent prohibitions on the use of race." The department then launched the "End DEI" online portal to enable parents, students, teachers, or others to report "discriminatory practices" at publicly funded K–12 schools as a way for the department to "identify potential areas for investigation."

On February 28, 2025, the department issued guidance, titled, "Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act" (FAQ document), clarifying the Education Department's interpretation of the Supreme Court of the United States' June 2023 decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College* (SFFA), which struck down certain race-conscious admissions policies in higher education.

On April 3, 2025, the Education Department directed states and school districts to certify their compliance with federal antidiscrimination obligations, and, specifically, that they did not have DEI programs that advantaged one person's race over another's as a condition of continuing to receive federal funding.

Decision of the U.S. District Court for the District of New Hampshire

Judge McCafferty's April 24, 2025, eighty-two–page decision found that the challengers were likely to succeed on their claims and were likely to suffer irreparable harm if the EO's requirements are not blocked. Thus, the judge granted a preliminary injunction prohibiting the Education Department from enforcing its DCL and FAQ document against the NEA, CBED, and entities with which they work or contract.

In so finding, the court rejected the Education Department's arguments that the DCL was unchallengeable because it did not have the force of law and merely provided the department's interpretation of the law. According to the decision, the department had argued that DCL "merely state[d] that schools may not use DEI programs as a cover to engage in racial discrimination or harassment."

Judge McCafferty rejected that argument, stating, "This argument ignores, however, that the 2025 Letter fails to give reasonable notice of the Department's understanding of how DEI programs unlawfully discriminate and the ways in which such programs could be operated to avoid running afoul of Title VI." The FAQ document only "exacerbate[d]" the vagueness, Judge McCafferty stated.

Judge McCafferty further found that the NEA and CBED "are likely to be successful in arguing that defendants are attempting to coerce third parties to punish or suppress disfavored speech."

"The loss of federal funding would cripple the operations of many educational institutions," Judge McCafferty stated. "Even the possibility of funding termination has been enough to lead many schools to censor their professors or eliminate all reference to 'diversity, equity, and inclusion' within the school."

Judge McCafferty added, “[W]hile defendants point out that, as a legal matter, Title VI does not permit the immediate termination of federal funding, there is evidence in this record that the [Education] Department is not adhering to these requirements.”

Scope of the Preliminary Injunction

The preliminary injunction is not nationwide but is tailored to provide relief to the plaintiffs and their members, ensuring that the Education Department cannot enforce the letter against institutions that employ or work with the plaintiffs.

Specifically, the preliminary injunction enjoins the department from enforcing or implementing the DCL and the FAQs, the End DEI Portal, and the April 3, 2025, certification requirement “against the plaintiffs, their members, and any entity that employs, contracts with, or works with one or more plaintiffs or one or more of plaintiffs’ members.”

Next Steps

The preliminary injunction is a significant legal victory for those challenging the Trump administration’s efforts to eliminate DEI programs in employment and education and in other contexts. However, the preliminary injunction is also limited to the parties and is likely to be appealed. At the same time, state attorneys general and state regulators have been issuing their own guidance to schools.

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