

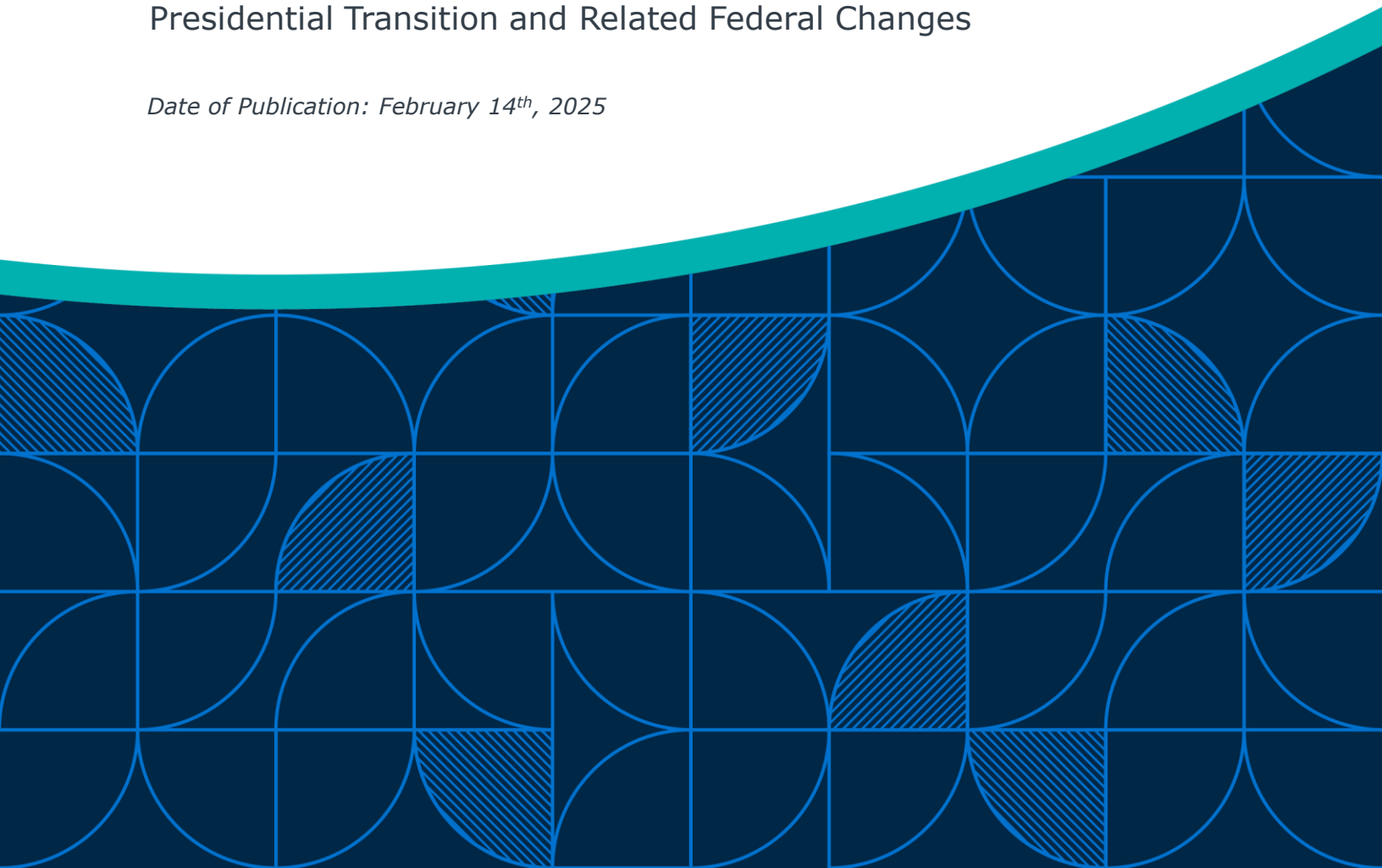


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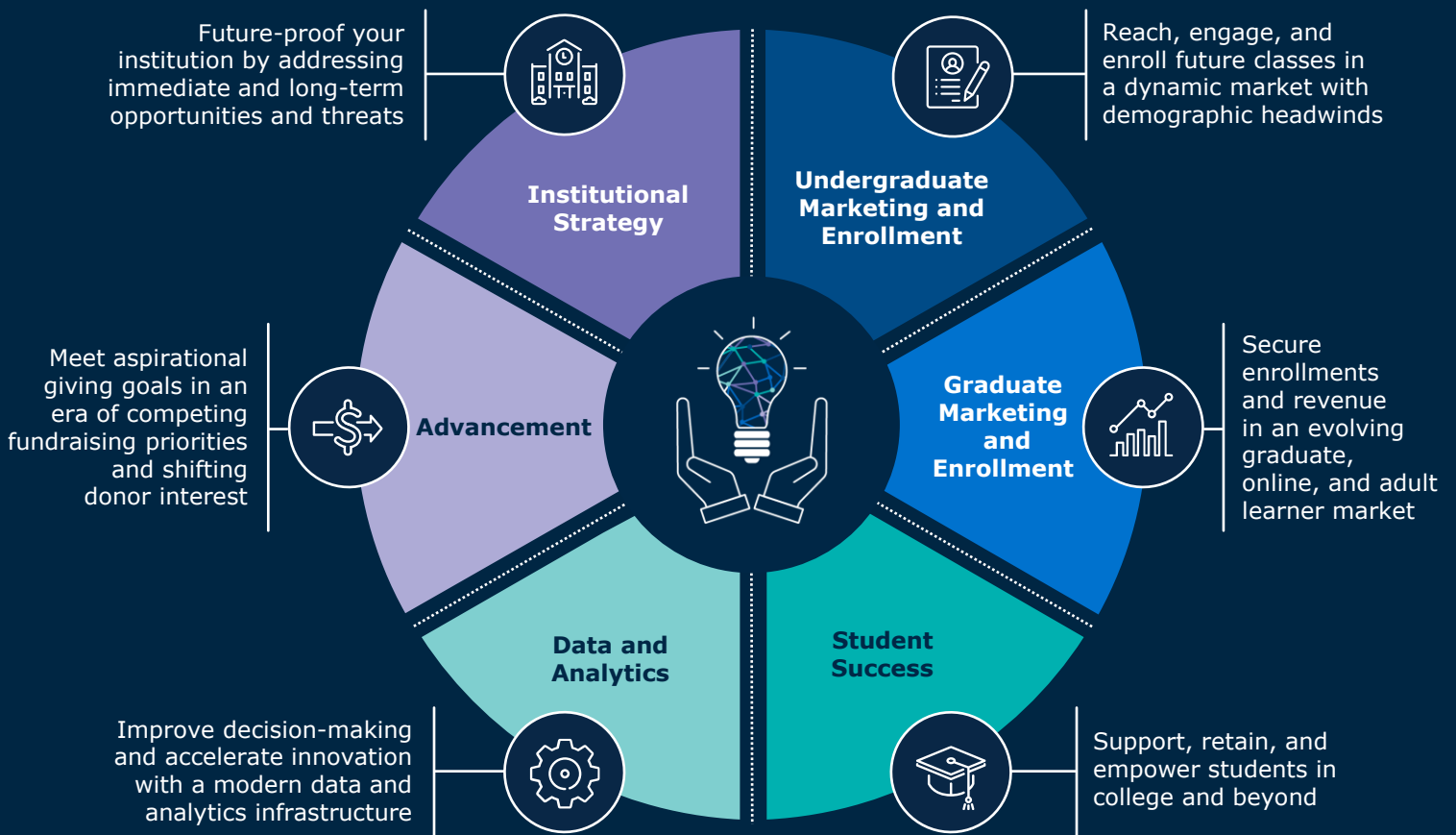
# **Federal Policy Primer and Discussion Guide: DEI and Civil Rights**

A Guide to Help Education Leaders Navigate the 2025  
Presidential Transition and Related Federal Changes

*Date of Publication: February 14<sup>th</sup>, 2025*



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# Higher Education's DEI and Civil Rights Crossroads

## Key Considerations For Navigating Federal Policy Shifts and Challenges

The complex and rapidly evolving landscape of federal policies and executive orders impacting Diversity, Equity, and Inclusion (DEI) and civil rights has created wide-spread uncertainty.

College and University leaders are striving to balance remaining compliant to federal and state directives related to DEI and Civil Rights while maintaining their commitment to fostering inclusive environments. They are also considering the long-term impact of compliance with these directives on enrollment, funding, reputation, and the well-being of students, faculty, and staff.

EAB is releasing a series of topic-focused policy primers and discussion guides to educate key stakeholders about the federal policy landscape and support higher education leaders in identifying next steps.

### This Primer Aims to Help Higher Education Leaders Unpack the Following Topics:



#### **What's Changed for Institutions Regarding Compliance with DEI Directives?**

How federal policy shifts impact campus DEI efforts



#### **What's Changed for Gender Identity Recognition and Protections?**

Changes in federal protections for and recognition of non-binary people



#### **What's Changed Regarding Campus Free Speech and Flashpoint Response?**

Considerations for campus speech and institutional responses to politically charged events



#### **How Has Federal Support for Underrepresented Student Groups Changed?**

How federal programs supporting historically underrepresented students have changed



#### **How Have Title IX Guidelines for Sexual Violence Response Changed?**

How Title IX changes have impacted the balance of due process and survivor protections



#### **What Hasn't Changed, Yet**

Where policies associated with the Trump Campaign stand today



*NOTE: This document is not to be construed as legal advice. The implications mentioned may vary between states and institutions. Information and analysis in this document is current as of the date of publication and is subject to change. Consult with legal counsel before taking responsive action.*

# Compliance with Federal DEI Directives

## Summary of Changes

### The Trump Administration Intends to Remove Federal Funds from Institutions That Promote 'Illegal DEI'

The new administration issued an executive order<sup>1</sup> in January 2025 targeting DEI preferences, mandates, policies, programs, and activities within federal contractors and private sector organizations. The order stated that any organization receiving a federal contract or grants, including higher education institutions, must eliminate DEI programs violating federal laws. The order also instructed the Attorney General (AG) and Secretary of Education to identify up to nine higher education institutions with endowments over \$1B for civil compliance investigations.

On February 14, 2025, the Trump administration issued a Dear Colleague Letter<sup>2</sup> (DCL) through The Department of Education (ED), expanding its interpretation of the 2023 SCOTUS ruling in *Students for Fair Admissions v. Harvard* (SFFA) to include race-conscious practices in hiring, financial aid, student life, and other areas. It also advises education institutions to stop using indirect methods or "proxies" to circumvent race-based prohibitions and directs them to cease using race-based criteria in all policies and practices by February 28, 2025, to avoid investigation and potential loss of federal funds.

### DEI Requirements Removed from Federal Grant Applications and Existing Projects; Scrutiny of DEI Language in Federally Funded Research Has Increased

The Trump administration ordered agencies to cut DEI-related grants "to the maximum extent allowed by law,"<sup>3</sup> prompting agencies like the National Science Foundation (NSF) to review thousands of grants for compliance.<sup>4</sup>

### DEI Resources Removed from the Department of Education Website

ED has removed over 200 web pages containing DEI resources, which were deemed as promoting "harmful ideological programs."<sup>5</sup>

## Recommendations

### *Conduct an Internal Review of Race-Based Practices Deemed 'Illegal' Under the Trump Administration's Interpretation*

The executive order lacks clarity on what constitutes "DEI preferences, mandates, policies, programs, and activities," and the recent DCL expands the scope of the SFFA ruling, likely leading to legal challenges.

Conduct an internal review to identify practices that may be deemed "illegal" under the administration's interpretation and assess potential funding and organizational impacts. Once complete, develop an implementation plan. Also consider outlining how, what, and when updates will be shared with the campus community.

*Guidance forthcoming:* In the coming months (within 120 days from the date of the executive order), the Trump administration will issue further guidance about implementation requirements. The DCL also stated it would release further legal guidance 'in due course'<sup>2</sup>.

### *Develop a Strategic Communication Plan*

To address confusion and uncertainty, develop a strategic communication plan that shares known information consistently. Consider hosting town halls or forums to discuss impacts and explore solutions, fostering open dialogue and aligning stakeholders in navigating these changes.

**EAB Resource:** [EAB's Flashpoints Communications Playbook](#)

### *Tap Into Alternative External DEI Guidance*

Organizations like EAB and professional associations such as NADOHE<sup>6</sup> offer resources and expertise to help navigate these changes.

## Strategic Question

What steps can we take to strike the right balance between mitigating potential risks in the DEI and civil rights space without taking unnecessary steps that may negatively impact our campus community?

# Gender Identity Recognition and Protections

## Summary of Changes

### The Federal Government Now Recognizes Only Two Biological Sexes (Male and Female)

In January 2025, the new administration issued an executive order<sup>7</sup> defining biological sex as male or female, based on immutable characteristics at conception.

This reverses previous policies that recognized gender identity as distinct from biological sex and instructs federal agencies to enforce laws accordingly.

Additionally, there may be a change in reporting options on federal forms, the use of gender-neutral or nonbinary markers (e.g., "X" designations) may no longer be recognized in federal education databases.

### Protections for Transgender Students Have Been Reduced

A federal judge invalidated the Biden administration's 2024 Title IX rule that extended protections to transgender students.

The 2020 Title IX regulations have introduced new compliance requirements<sup>9</sup>, narrowing the definition of sex and removing federal mandates for accommodations like restroom access and athletic participation for transgender students.

### The NCAA Updated Its Participation policy<sup>10</sup>, Restricting Competition in Women's Sports to Athletes Assigned Female at Birth

While athletes assigned male at birth can still practice with women's teams, they are no longer eligible to compete in women's competitions. The order also empowers federal agencies to withdraw funding from institutions that do not comply. This shift marks a significant reversal from previous efforts to expand protections for transgender students under the previous Title IX rule.

## Recommendations

### *Communicate About Support for Non-Binary Students, Faculty, and Staff*

The loss of expanded protections and recognition may heighten mental health needs in an already vulnerable population<sup>8</sup>, emphasizing the need for specialized care and inclusive environments.

### *Engage in a tabletop exercise to prepare for further compliance-related events or impacts*

Institutions maintaining gender-inclusive policies, such as gender-inclusive housing, intimate spaces (such as restrooms and locker rooms), or pronoun policies, may face challenges if these are deemed non-compliant with federal regulations. There is no automatic indication in the current executive order of OCR investigations or loss of federal funding but discussing strategy in the event of increased scrutiny or an investigation can bolster preparedness.

### *Adjust Policies and Procedures, Update Trainings, and Inform the Campus Community*

After updating institutional materials, communicate these changes clearly to students, faculty, and staff, emphasizing ongoing support services available for impacted students.

Title IX trainings will likely need to be reinstated given the extent of these changes.

**See guidance from the ED [here](#).**

### *Communicate Intention to Maintain Inclusion While Ensuring Compliance*

To support student-athletes amid policy changes, provide clear communication to coaching staff and students about new regulations, available support services, and the institution's continued commitment to its values. Proactive engagement can help mitigate negative impacts and foster an inclusive environment.

## Strategic Question

What can we do to increase visibility into and support for students who may be disproportionately affected by these changes? See *Optimize BIT/CARE Teams on page 10*

# Campus Free Speech and Flashpoint Response

## Summary of Changes

### Federal Agencies Have Increased Scrutiny of Campus Anti-Semitism

On January 29, 2025, President Trump issued an executive order<sup>11</sup> intensifying federal scrutiny of colleges and universities regarding anti-Semitic incidents. The order requires federal agencies to report all court cases and complaints related to anti-Semitism on college and university campuses since October 7, 2023, and identify civil and criminal authorities that can be used to combat anti-Semitism.

### International Students Participating in Activism May Face Deportation

On January 29, 2025, President Trump signed an executive order<sup>12</sup> laying the groundwork to embark on the deportation of international students involved in pro-Palestinian protests.

This order targets foreign students who participate, or participated, in demonstrations deemed supportive of Hamas by the Trump administration, with the administration threatening to revoke their student visas; "To all the resident aliens who joined in the pro-jihadist protests, we put you on notice: come 2025, we will find you, and we will deport you. I will also quickly cancel the student visas of all Hamas sympathizers on college campuses, which have been infested with radicalism like never before."<sup>13</sup>

While the order aims to combat perceived anti-Semitism on campuses, critics argue<sup>14</sup> it infringes on free speech.

## Recommendations

### *Prepare for Increased Federal Oversight Regarding Campus Anti-Semitism*

Proactively assemble all campus court cases and complaints related to anti-Semitism since October 7, 2023, into a centralized location. Review policies, reporting mechanisms, and response protocols while ensuring clear communication of anti-discrimination commitments.

### *Ensure International Students Understand the New Potential Risks of Political Activism*

Many students may not be aware that participation in certain protests could now jeopardize their visa status, leading to possible deportation. It is also unclear at this time if previous participation in student protests deemed 'pro-jihadist' could result in a loss of student visa.

Notify international students and frontline staff who work with international students of this development in federal policy and communicate legal resources to help students navigate these new risks.

### *Further information forthcoming:*

According to the order, agency and department leaders will have 60 days to outline plans to combat antisemitism on college campuses.

## Strategic Question

How can we bolster our preparedness for potential flashpoints now so that, in high-pressure, emotionally charged moments, they do not consume as much time and focus that could be dedicated to other strategic priorities?

# Federal Support for Underrepresented Student Groups

## Summary of Changes

### **Federal Support for Initiatives Supporting Underrepresented Student Groups Has Been Eliminated via Executive Order**

In January 2025, President Trump issued an executive order<sup>15</sup> rescinding several initiatives aimed at advancing educational equity for Hispanic, Native American, and Black students. While this does not directly cut funding, it eliminates federal support structures and coordination efforts that could lead to reduced resources over time.

*Specific executive orders repealed: White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity for Hispanics, Through Hispanic-Serving Institutions, for Native Americans and Strengthening Tribal Colleges and Universities, for Black Americans, and Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.*

### **Federal Agencies Are No Longer Required to Release Annual Equity Action Plans, Weakening Incentives for Investment.**

The ED released an Equity Action Plan in February of 2024,<sup>17</sup> which included the following initiatives among others: simplifying the FAFSA form, working to double the maximum Pell grant by 2029, strengthening federal support for HBCUs, leading the raise the bar: attaining college excellence & equity initiative, protecting students from low-value postsecondary programs.

That action plan has since been rescinded and equity action plans are no longer required.

## Recommendations

### *Begin to Explore Alternative Funding Sources for Equity-Focused Initiatives*

The administration's focus on "patriotic education"<sup>16</sup> and efforts to restrict discussions of race and gender in schools suggest a broader shift away from supporting initiatives that address systemic inequalities and promote inclusivity for marginalized groups, including LGBTQ+ students and students of color.

Consider coordinating with colleagues, such as your advancement team, to begin identifying opportunities to leverage donor interest in equity-focused efforts

### *Stay Informed to Identify Opportunities to Better Support Students Through Changes in Federal Support*

As federal agencies shift away from required equity action plans, university leaders can stay informed about changes in student support programs to proactively adapt and advocate for resources that ensure continued access and success for all students.

## Strategic Question

In anticipation of the loss of federal support for existing campus initiatives, how might we leverage the current climate to explore alternative funding sources and sources of support? (such as donors)

# Title IX Guidelines for Sexual Violence Response

## Summary of Changes

### A Shift Back to the 2020 Title IX Rule Is Required

Biden issued new Title IX regulations in April 2024 which went into effect August 1, 2024, that revoked much of Trump's Title IX revisions, but on Jan 9, 2025, a federal judge struck down Bidens Title IX regulations declaring them unconstitutional nationwide.

On January 31, the OCR released a letter<sup>18</sup> clarifying the 2024 Title IX rule has been invalidated, and stating their commitment to enforcing the 2020 Title IX rule effective immediately.

*The vacatur of the 2024 Title IX regulations means no change for institutions in the 26 states where the regulation was subject to injunction<sup>19</sup>. However, institutions not in those 26 states should revert to compliance with the 2020 Title IX rules.*

### Protections for Those Accused of Sexual Assault Have Been Expanded

The 2020 regulations<sup>9</sup> require live hearings with cross-examination, which allows for more direct questioning of accusers and witnesses by the accused or their representatives.

Additionally, the 2020 rule allowed institutions to use either a "preponderance of the evidence" or "clear and convincing" standard for determining guilt, providing more flexibility in handling cases.

## Recommendations

### *Revise Training, Procedures, and Documents to Align with the 2020 Title IX Rule*

The 2020 rule requires institutions to reinstate live hearings with cross-examination as part of their grievance processes, which may necessitate additional resources and training for staff involved in these hearings. Furthermore, schools must ensure they are using one of the approved standards of evidence consistently across all cases, which could impact how investigations are conducted and resolved.

Communicate these changes to the campus community, emphasizing ongoing support services available for survivors of sexual assault despite the rollback in federal protections.

It is likely that revised Title IX trainings will need to be reinstated given the extent of these changes.

NOTE: Open Title IX investigations initiated under the 2024 Title IX rule should be immediately reoriented to comport fully with the requirements of the 2020 Title IX rule.

### *Prioritize Mental Health Supports for Survivors of Sexual Assault*

The shift back to the 2020 guidelines might increase support needs among survivors of sexual assault. The requirement for live hearings with cross-examination could potentially retraumatize victims, making it crucial for institutions to provide robust support services to help survivors cope with the process. This includes ensuring access to counseling, advocacy services, and other forms of support to mitigate the impact of these procedures on survivors.

## Strategic Question

How can we maintain trust in our campus grievance processes amid shifting federal requirements and heightened scrutiny?



# What Hasn't Changed, Yet

## Summary of Proposed Changes

### Financial Consequences for Institutions Restricting Conservative Speakers

President Trump has previously suggested reviewing the tax-exempt status of nonprofit colleges and universities that restrict conservative speakers<sup>20</sup>, potentially cutting off federal funding. However, this threat has not been formalized into policy, and any such actions would likely face legal challenges related to free speech and academic freedom.

### Changes to Accreditation Standards to Limit DEI Oversight

The new administration has proposed adjustments to regional accrediting organizations<sup>21</sup> to reduce or eliminate DEI-related standards.

### Removal of Minority Serving Institution (MSI) Designations and Funding

The Trump administration's stance on "illegal DEI" and proposals from conservative think tanks<sup>23</sup> have raised questions<sup>24</sup> about the MSI designation and funding. However significant legislative or executive actions are necessary for these changes to occur, and the Trump administration has not directly stated intention to remove MSI designations or funding.

In fact, an ED spokesperson emphasized that the administration "strongly supports HBCUs and MSIs," and confirmed that funds under these grant programs would continue uninterrupted, but efforts would be made to align these programs with the administrations priorities<sup>25</sup>. This aligns with Trump's previous actions signaling support for MSIs during his first term<sup>26</sup>. It remains unclear what specific steps will be taken to align MSI programs with the Trump administration's priorities.

## Recommendations

### *Review Free Speech Policies and Prepare for Controversial Speakers*

Assess campus free speech policies to align with legal standards and institutional values. Establish clear guidelines on speaker invitations, protests, and event security to prevent disruptions and minimize legal risks.

**EAB Resources:** EAB [Free Speech Policy Audit](#) and [Controversial Speaker Template](#)

### *No Action Required at This Time*

Altering accreditation agencies is unlikely due to the ED's negotiated rulemaking process<sup>22</sup>, which requires congressional action. However, more targeted changes, such as restricting accreditors from enforcing DEI standards, are more feasible. Current proposals primarily involve removing existing requirements rather than imposing new ones.

### *Monitor, assess the potential impact of proposed changes, and consider contingency planning*

Conduct a review of how these changes might affect your institution, focusing on financial, operational, and strategic implications. Consider developing contingency plans to address potential disruptions, including identifying alternative sources of funding and support.

### *If appropriate, consider advocating for outcomes that align with institutional values and mission.*

This could involve engaging with policymakers, participating in public comment periods, collaborating with other institutions to amplify the message, or empowering faculty and staff to voice their concerns through these channels.

## Strategic Question

What policies, guidelines, and values will we adhere to when navigating issues related to supporting underrepresented student groups throughout the duration of Trump's second term?

## Discussion Questions and EAB Resources

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As you review this policy primer and consider the implications of recent DEI and civil rights changes, use the following discussion questions to inform your institution's next steps. We suggest engaging your cabinet, along with key stakeholders such as the Vice President for Student Affairs, Legal Counsel, and Chief Advancement Officer.

### **6 Strategic Questions Every Team Should Be Discussing Right Now**

- When is pre-emptive decision making the right answer, and when might it be harmful to pull back supports in advance of a legal mandate to do so? *Sample considerations: impact on students, conflicting state and federal mandates and pressures, potential backlash from alumni, donors, students, parents etc.*
- What can we do to increase visibility into and support for students who may be disproportionately affected by these changes? *See optimize BIT/CARE teams below.*
- How can we bolster our preparedness for potential flashpoints now so that, in high-pressure, emotionally charged moments, they do not consume as much time and focus that could be dedicated to other priorities?
- In anticipation of the loss of federal support for existing campus initiatives, how might we leverage the current climate to explore alternative funding sources and sources of support, such as donors or state legislators?
- How can we maintain trust in our campus grievance processes amid shifting federal requirements and heightened scrutiny?
- What policies, guidelines, and values will we adhere to when navigating issues related to supporting underrepresented student groups throughout the duration of Trump's second term?

### **EAB Resources to Support Next Steps**

- **Align Free Speech Policies and Prepare for Controversial Speakers:** Conduct a thorough audit of free speech guidelines to ensure they align with current federal guidance, ensuring compliance and consistency. Consider using [EAB's Free Speech Policy Audit](#) to audit existing free speech policies. Use [EAB's Controversial Speaker Template](#) to plan for controversial speakers.
- **Establish Mechanisms for Proactive Campus Climate Management:** Create a system for monitoring emerging flashpoints and campus climate developments, and leverage [proactive communication strategies](#) to address potential concerns related to DEI and civil rights changes, preemptively mitigating campus tensions. Refer to [EAB's Higher Education Crises and Flashpoints Resource Center](#) for additional resources such as a Flashpoint Risk Registrar Template and Flashpoint Communications Checklist.
- **Optimize BIT/CARE Teams:** Use [EAB's BIT/CARE Team Assessment](#) to conduct a comprehensive audit of your Behavioral Intervention Team (BIT) and/or CARE team to identify opportunities for optimization and ensure these teams are well-equipped to support students effectively amidst the evolving landscape.
- **Schedule a EAB Facilitated Scenario Planning Workshop:** to learn more about EAB's scenario planning workshop contact your strategic leader or email [policy@hello.eab.com](mailto:policy@hello.eab.com)

### **EAB's Federal Policy Navigation Services**

To help education leaders make informed strategic decisions amid a rapidly shifting policy landscape, EAB's Federal Policy Navigation Services offers a unique suite of resources and support. This includes **policy primers, an implementation probability index, scenario planning exercises, workshops, and peer position pulse checks.**

To **learn more** about EAB's Federal Policy Navigation Services please contact your EAB Strategic Leader, Account Manager, or email [policy@hello.eab.com](mailto:policy@hello.eab.com)

# Endnotes

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## *Gender Identity Recognition and Protections*

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## *What Hasn't Changed, Yet*

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