



April 17, 2025

The Honorable Linda McMahon
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Concerns Regarding Federal Title VI Enforcement Actions and Free Speech, Academic Freedom, and Due Process

Dear Secretary McMahon,

For more than 25 years, the Foundation for Individual Rights and Expression (FIRE) has defended the free speech and due process rights of students and faculty at our nation's institutions of higher education. We are proudly nonpartisan. A look into our case history shows that FIRE consistently defends students and faculty from all parts of the political spectrum and without regard for the speaker's viewpoint. Our unyielding commitment to free speech, which mirrors that of our nation's First Amendment, requires no less.

We are writing to express our deep concern over federal actions that, while presented as intending to address legitimate concerns about campus anti-Semitism, bypass the statutory processes for enforcing Title VI and seek to strong-arm institutions into adopting a smorgasbord of policies unrelated to civil rights enforcement that infringe upon academic freedom, free speech, and due process rights.

For example, the federal government—without following the procedures mandated by Title VI's implementing regulations—cancelled \$400 million in federal contracts with Columbia University and \$2 billion in contracts with Harvard University. The government's initial demands to Columbia, which include making policy changes that restrict free speech and academic freedom, set a troubling precedent for federal engagement with higher education institutions.

Similarly, the April 11, 2025, letter to Harvard outlines even more extensive demands for restructuring institutional governance, admissions policies, and faculty hiring practices. While combating anti-Semitism and ensuring compliance with civil rights laws are imperative, the breadth and nature of these mandates, coupled with the ad hoc cancellation of \$2 billion in research funding, undermines institutional autonomy and the open exchange of ideas.

The administration has announced that other schools will be next. We urge you to correct course.

We have three primary concerns:

1. **Due Process is Being Circumvented:** Binding federal regulations establish procedures for investigating and addressing Title VI violations and are intended to help ensure fairness and transparency, while reducing the risk of bias and error. While FIRE would be the first to note that OCR's past enforcement of these regulations has been uneven and marred by political concerns, ignoring these regulations invites arbitrary enforcement and erodes trust in federal enforcement of anti-discrimination laws.
2. **Academic Freedom and Free Speech are at Risk:** Mandating that institutions adopt explicit definitions of anti-Semitism, while strongly suggesting they adopt a specific definition that is overbroad and viewpoint-discriminatory when applied in the campus context, suppresses legitimate academic discourse and inquiry, which are essential to the mission of higher education. The same is true for other demands to Harvard and Columbia that would require those schools to impose ideological criteria for admissions and hiring.
3. **Institutional Autonomy is Undermined:** Per federal regulations, the federal government's role must be first to advise and guide educational institutions to comply with federal anti-discrimination laws, reserving the use of coercive tools to require compliance through financial leverage only when those voluntary efforts prove fruitless. Even then, government requirements may not impinge on the legitimate exercise of academic freedom or on operational independence itself.

We urge the Department of Education to:

- Commit to using existing statutory processes for investigations and enforcement actions. Established procedures, conducted in good faith, protect against the risk of error, individual biases, and overreach. The use of unilateral contract cancellations as leverage for illegitimate demands is unlawful and, when paired with speech-restrictive demands, is unconstitutional.
- Clearly articulate to institutions the evidence in the Department's possession to justify ongoing investigations, allow them to meaningfully defend themselves on the merits of the complaints against them, and conduct investigations with maximum transparency so that the public may have confidence in the results.
- Ensure federal directives respect the autonomy of educational institutions and are implemented transparently and fairly. If OCR finds institutions noncompliant with

Title VI, resolution agreements must be tailored to address those violations. Federal anti-discrimination law is not a license for the government to impose unrelated policy preferences or to restrict free speech, academic freedom, or due process.

Our goal—and we hope your goal as well—is to foster vibrant academic environments, where free inquiry and free expression flourish. Perhaps more than any other organization, FIRE understands the substantial amount of work still to be done in this regard, having been founded specifically to work towards that goal. Achieving this end requires a carefully tailored approach that safeguards civil rights without encroaching upon the freedoms that make such environments possible.

We remind you that FIRE worked productively with the Department during the first Trump administration, offering advice and feedback on the Department’s historic promulgation of Title IX regulations that properly protected freedom of expression and due process on campus. Those rules were widely praised by individuals across the political spectrum for taking seriously the rights of both complainants and respondents in campus sexual misconduct proceedings. In short, those Title IX regulations largely struck the right balance.

It is in that spirit that we write today. The Department must ensure the new administration approaches Title VI enforcement in a considered, lawful manner so the Department may achieve its goals of addressing invidious discrimination, including anti-Semitism. We thank you for your attention to this matter, and hope for the opportunity to once again work collaboratively to uphold civil rights and ensure that free speech, academic freedom, and due process are all protected on our nation’s campuses.

Sincerely,

A handwritten signature in black ink that reads "Tyler Coward". The signature is written in a cursive, flowing style.

Tyler Coward
Lead Counsel, Government Affairs
Foundation for Individual Rights and Expression

cc:

Secretary Robert F. Kennedy Jr., Department of Health and Human Services
Sean R. Keveney, Acting General Counsel, Department of Health and Human Services
Thomas E. Wheeler, Acting General Counsel, Department of Education
Josh Gruenbaum, Commissioner of the Federal Acquisition Service, General Services Administration