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Healthcare Alert

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HHS issues guidance on nondiscrimination to medical schools receiving federal funds

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The letter targets medical schools that have adopted race-conscious policies in admissions, hiring, and promotion decisions.



What's the impact?

- The letter advises medical schools to ensure compliance with federal civil rights laws, discontinue systems intended to advance race-based decision-making, and cease reliance on third parties that engage in prohibited uses of race.
- HHS will prioritize investigations of medical schools that use race as a component of admissions, hiring, or promotion decisions or that lack clear policies demonstrating compliance with *Students for Fair Admissions v. Harvard*.

The US Department of Health and Human Services (HHS) Office for Civil Rights issued a ["Dear Colleague" letter](#), "Re: Nondiscrimination Requirements for Medical Schools on the Basis of Race, Color, and National Origin pursuant to *Students for Fair Admissions, Inc. v. President &*

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Fellows of Harvard Coll., 600 U.S. 181 (2023),” on May 6, 2025, to “clarify and reaffirm existing legal requirements” regarding unlawful discrimination on the basis of race, color, or national origin that are applicable to “medical schools that receive federal financial assistance from HHS.” The letter also advises medical schools to take certain actions to ensure compliance with federal civil rights law and identifies practices by medical schools that HHS intends to prioritize investigating.

HHS is “concerned” that some medical schools have adopted “race-conscious policies” that racially discriminate against students, “including white, Jewish, and Asian students, including those from disadvantaged backgrounds or low-income families.” The letter defines “race-conscious policies” as those that “incorporate race-based criteria into training and discipline” and are implemented “under a broader umbrella of concepts known as ‘systemic and structural racism’ and ‘diversity, equity, and inclusion’ (DEI).”

Key points of HHS’s current interpretation of federal law

The letter “outlines HHS’[s] current interpretation of federal law,” which requires that medical school students are protected from discrimination on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964 (Title VI)², Section 1557 of the Affordable Care Act (Section 1557)³, the Equal Protection Clause of the United States Constitution at public institutions, “and other applicable authorities,” including the Supreme Court’s decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College (SFFA)*.⁴

Per the letter, under *SFFA*, medical school admissions programs that use race as a selection criterion violate the Equal Protection Clause’s prohibition on intentional discrimination, and by extension, Title VI, which prohibits discrimination on the basis of race, color, or national origin “under any program or activity receiving Federal financial assistance.” HHS interprets such discriminatory practices as also violating the Affordable Care Act, “[g]iven that Section 1557 incorporates Title VI.”⁵

According to HHS, this body of federal civil rights law “prohibits covered entities from relying on race or racial stereotypes in decisions pertaining to admissions, hiring, promotion, compensation, financial aid, scholarships, prizes, administrative support, discipline, housing, graduation ceremonies, and the like.”

² 42 U.S.C. § 2000d et seq.

³ 42 U.S.C. § 18116.

⁴ 600 U.S. 181 (2023).

⁵ 42 U.S.C. § 18116(a) (“Except as otherwise provided for in this title (or an amendment made by this title), an individual shall not, on the ground prohibited under title VI of the Civil Rights Act of 1964 ... be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance...”).

Additionally, “facially neutral” programs that “function as proxies for race-based decision-making” also violate federal law. The letter provides as an example that “medical institutions may not use application materials—such as personal statements, writing samples, or extracurricular activities—as a means to infer a student’s race and then apply differential treatment based on that inference.”

HHS’s guidance for medical schools

Per the letter, “[i]t appears that many medical schools may have yet to come into compliance with the Supreme Court’s decision in *SFFA*.” The letter also states that “[a]t a minimum, public-facing online materials from several medical schools raise questions about whether the principles set forth in *SFFA* have been fully integrated into current admissions policies.”

The letter advises all medical schools to take the following measures to ensure compliance with federal civil rights law: “(1) ensure that all policies, procedures, and practices are fully consistent with applicable federal civil rights laws; (2) discontinue the use of any criteria, tools, or processes that serve as substitutes for race or are intended to advance race-based decision-making; and (3) cease reliance on third-party contractors, clearinghouses, or data aggregators that engage in prohibited uses of race.”

Medical schools that receive federal financial assistance which are found to be out of compliance with federal civil rights law are “subject to investigation and measures to secure compliance” which, if unsuccessful, may affect continued eligibility for federal funding.

HHS will “prioritize” investigations of medical schools that: “(1) use race as part of their application or employment processes; (2) require prospective students, employees, or faculty to submit DEI or diversity statements in connection with hiring or promotion; or (3) lack clear policies demonstrating compliance with *SFFA*.”

Impact on medical schools’ policies and practices

The HHS letter was issued in temporal proximity to President Trump’s April 23, 2025, [executive order targeting accreditors that have DEI-based standards of accreditation](#) for institutions of higher education, including the Liaison Committee on Medical Education (LCME) and the Accreditation Council for Graduate Medical Education (ACGME).

While the letter does not have the force of law or create new legal standards, HHS has made clear that it intends to use its enforcement power to ensure that medical schools receiving federal financial assistance comply with federal civil rights laws, or else risk their continued eligibility for such funding.

Nixon Peabody's healthcare, graduate medical education, and higher education attorneys are prepared to address these particular concerns and to advise medical education and GME programs on making informed and calculated decisions when confronted with the uncertainty of the current higher education landscape.

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