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Hitting Pause on the ‘Dear Colleague’ Letter

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On February 14, the U.S. Department of Education’s Office for Civil Rights (OCR) issued guidance that departs from the U.S. Supreme Court’s explicit ruling in *Students for Fair Admissions v. Harvard* (SFFA) and attempts to widely expand the scope of that ruling to areas that are not within the jurisdiction of the department or OCR.

As higher-education leaders across the country take in the department’s letter, they are right to pause to take account of the court’s ruling in SFFA and limit any action related to the letter and its guidance accordingly.

As a legal and education scholar over the last 15 years, I have played a leading role in litigation on race-conscious admissions as counsel of record in “friend of the court” briefs filed before the U.S. Supreme Court. And I have examined the role of past guidance from OCR, which has historically served as a valuable resource for researchers, educators, and advocates.