

Via Email

March 10, 2025

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Dr. Ebony Speakes-Hall, LISW-S
President

J. Bennett Guess
Executive Director

Dear Dr. Langell and Dr. Faison:

We understand that the administration of Northeast Ohio Medical University (NEOMED) has recently undertaken efforts to comply with the United States Department of Education's February 14, 2025 "Dear Colleague" letter and associated guidance regarding the treatment of race in university activities. Under the auspices of compliance with that federal guidance, however, NEOMED is making a disturbing overcorrection.

Specifically, at his February 24, 2025 university update address, Dr. Langell confirmed that NEOMED will deny university funding to any student organization whose mission pertains to race, unless those organizations agree to revise their governing documents to eliminate references to race. Moreover, Dr. Langell stated his understanding that NEOMED was forbidden from funding any activities related to Black History Month, and presumably similar observances.

These measures are not required by federal law, even as expressed in the Dear Colleague letter. We urge NEOMED to reconsider them immediately, as they risk infringement on students' First Amendment rights.

Critically, there is no indication that these student groups discriminate on the basis of race. On the contrary, to take one example, the Asian Pacific American Medical Students Association (APAMSA) Chapter Constitution states that it "will not deny membership on the basis of race, color, [etc.]" APAMSA's membership is organized around a subject matter or viewpoint, not race. According to its constitution, it "shall consist of students and faculty who are affiliated with NEOMED and who are interested in issues related to

Asian Pacific Americans and health care.”¹ Its stated purposes include “[t]o be a resource for information on matters related to Asian Pacific Americans,” to “provide a forum for discussion of issues concerning Asian Pacific Americans in health care,” and to “promote cultural awareness among all students, faculty, staff, and community.”² None of these constitute prohibited discrimination.

Even the Dear Colleague letter—vague and legally infirm though it may be³—does not go nearly so far as to demand that universities deny funding to such groups. Citing the Supreme Court’s decision in *Students for Fair Admissions v. Harvard*, the letter demands that universities refrain from “treat[ing] a person of one race differently than it treats another person because of that person’s race[.]” Unlawful discrimination under *SFFA* may include allocation or denial of certain university resources on the basis of the recipient’s race, but it does not include mere allocation of resources to a student group with a race-focused perspective or viewpoint. Moreover, nothing about *SFFA* requires that a university refrain from historical or cultural observances that pertain to race.

Indeed, as the Department of Education has since clarified on both points:

[S]chools with programs focused on interests in particular cultures, heritages, and areas of the world would not in and of themselves violate Title VI, assuming they are open to all students regardless of race. Nor would educational, cultural, or historical observances—such as Black History Month, International Holocaust Remembrance Day, or similar events—that celebrate or recognize historical events and contributions, and promote awareness, so long as they do not engage in racial exclusion or discrimination.⁴

Finally, it is worth noting that even if the federal government *had* demanded that NEOMED withhold recognition of student groups like APAMSA, such a demand would almost certainly be unconstitutional. “Among the rights protected by the First Amendment is the right of individuals to associate to further their personal beliefs ... There can be no doubt that denial of official recognition, without justification, to college organizations burdens or abridges that associational right.” *Healy v. James*, 408 U.S. 169, 181 (1972); *see also, e.g., Rosenberger v. Rector &*

¹ APAMSA Chapter Constitution, Art. IV; *see also, e.g.,* AAPI Chapter Constitution, Art. II (“[M]embership ... shall be available to medical students and residents who have demonstrated a serious interest in the objectives of the organization ... Membership shall not be discriminated against because of race”).

² APAMSA Chapter Constitution, Art. II.

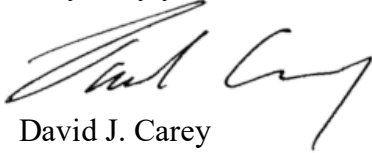
³ *See Nat’l Educ. Ass’n v. U.S. Dep’t of Educ.*, Case No. 1:25-cv-0091 (D.N.H.) (challenge to the letter’s guidance under the First Amendment, Fifth Amendment, and Administrative Procedure Act).

⁴ United States Dep’t of Educ. Office for Civil Rights, *Frequently Asked Questions About Racial Preferences and Stereotypes Under Title VI of the Civil Rights Act* (Feb. 28, 2025), available at <https://www.ed.gov/media/document/frequently-asked-questions-about-racial-preferences-and-stereotypes-under-title-vi-of-civil-rights-act-109530.pdf>.

Visitors of Univ. of Va., 515 U.S. 819 (1995) (finding unconstitutional a public university's decision to deny funding to a student organization's publication based on its content).

Again, we urge NEOMED to stand down from its newly announced course of action with regard to student groups and cultural observances that pertain to race.

Very truly yours,

A handwritten signature in black ink, appearing to read "David J. Carey". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

David J. Carey
Deputy Legal Director