

## MISSION-ADVANCING LEADERSHIP IN THE FACE OF FEDERAL OVERREACH

This issue of *The Essentials* is drawn from “[Wise Courage: A Framework for Higher Education Leadership in the Face of Federal Overreach](#),” a legal analysis and three-part framework for leadership in higher education published last month by the firm EducationCounsel. This legal analysis and framework equip leaders to advance access and opportunity for all students and faculty in legally sound ways, even amid federal overreach that seeks to bar the pursuit of diversity, equity, and inclusion (DEI).

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### Ground Risk Assessment in Mission, Law, and Context

Risk assessment is a comprehensive exercise, and legal risk is only one component. Good practice begins with consideration of an institution’s mission and the significance of a particular policy or program to the institution’s ability to preserve its foundational principles and achieve its educational goals in ways that fit its context.

Colleges and universities must, of course, satisfy clear law. However, the Trump Administration’s anti-DEI policy agenda is not equivalent to, and does not supersede, federal law that permits a wide array of actions by colleges and universities to advance their core missions.

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### Communicate Proactively to Increase Understanding

Colleges and universities must communicate with clarity about what they are doing (and not doing) to further their missions. This must also include explaining why and how. Effective, proactive communications must be understandable to a variety of audiences and cover what an institution is doing both independently and in collaboration with others.

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### Take Strongly Defensible, Mission-Advancing Actions

Colleges and universities should continue to take legally defensible actions to advance their missions, including with respect to diversity, equity and inclusion.

Consider the following kinds of DEI-advancing actions:

- Some actions are fully inclusive because they genuinely benefit everyone—for example, accessible pedagogy, strong mentoring, transparent pathways and opportunities, flexible academic and career options, and aligning admissions and financial aid timelines to support informed decisions. When such policies are available to all, regardless of race, they should not raise legal concerns. Also available are authentic neutral selection criteria, effective outreach for all, valuing a person’s competencies from lived experiences (including of race), and race as a program’s subject.
- Pausing an existing action or program may be necessary to assess changes to the legal landscape, but it’s important to avoid preemptive compliance with policies that may be at odds with the law and not to overreact when some changes are necessary.
- Colleges and universities must act—both individually and collectively—to defend the fundamental mission and priorities of higher education. While the threat of losing federal funding or tax-exempt status can make that defense difficult, institutions must push back when federal overreach threatens their mission, academic freedom, or the inclusion of all talent.