

NATIONAL
ACADEMIES

Sciences
Engineering
Medicine

The National Landscape on DEI Issues: Emerging Lessons and Strategic Directions

Art Coleman

Founding Partner, EducationCounsel

January 22, 2025

ROUNDTABLE ON

BLACK MEN &
BLACK WOMEN



IN SCIENCE, ENGINEERING, & MEDICINE



The National Landscape

The SFFA Decision

- **Prohibits consideration of racial status in admissions** when advancing educational benefits of diversity among recipients of federal funds and public actors (Title VI; EPC)
- **Permits consideration of individual's racial experience, goals & interests** that advance diversity-related mission aims
- **Clear implications beyond admissions**

Federal Landscape

- **Cases re aid, scholarships & other ed program designs**
- **Efforts to extend SFFA beyond legitimate reach.**
- **Application of 42. U.S.C. Section 1981 ban on race-based contracting to policies among private non-profits that are non-recipients of federal funds.** See, e.g., Fearless Fund (11th Circuit, 2024)

State Law Landscape

- **Range of restrictions on DEI policies and programs among public institutions of higher education**
- Some prohibitions challenge the ability of students to share complete information re their racial experience, goals and interests.
- Some prohibitions seek to ban DEI, race, gender content—likely violating 1st Amendment

Federal Legal Landscape: Actionable Guidance



Mission



Racial
Status



Qualities
Relevant to
Race-related
Experience+



Race as
Subject
Matter



Race-
Neutral and
Inclusive
Policies

The Big 6: Prospective Trump Administration Anti-DEI Actions in Higher Education

General
Programmatic
Conditions

Civil Rights
Laws: Titles
VI, IX & VII

Accreditation

Funding,
Research &
Data

DACA and
Immigration

Tax Policy

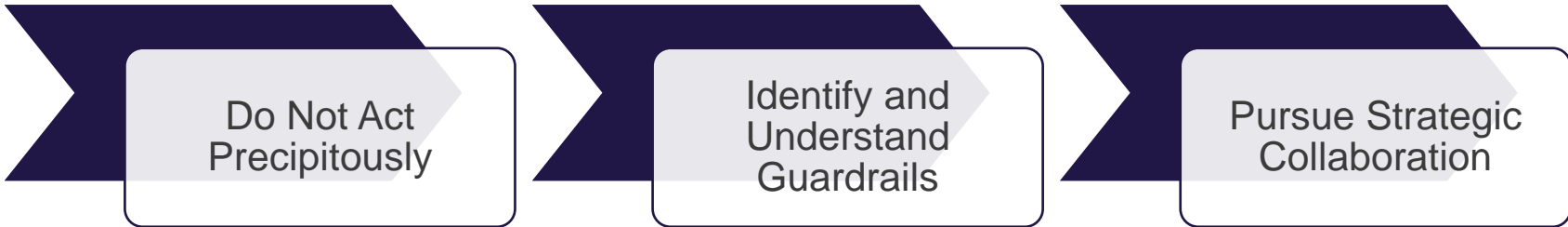
Key Strategic Directions



Administration
Action

Guardrails

Advocacy



Do Not Act
Precipitously

Identify and
Understand
Guardrails

Pursue Strategic
Collaboration

A Framework for Action

