

Department of Education Enforcement of a “Balance of Perspectives” as a Condition of Federal Funding

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In August 2019, the U.S. Department of Education threatened to terminate federal funding for programs of the Consortium for Middle East Studies, operated jointly by Duke University and the University of North Carolina, because they allegedly failed to comply with requirements of Title VI of the Higher Education Act of 1965, in part because of a lack of “balance of perspectives.” Although the dispute was subsequently resolved, DOE’s actions, and its rationale for them, pose a continuing threat to principles of academic freedom that the Supreme Court has long recognized as part of the Free Speech Clause of the First Amendment.