

Nos. 25-2497, 26-1002

**In the United States Court of Appeals
for the Fourth Circuit**

E.K., *by and through parent and next friend Lindsey Keeley, et al.*,
Plaintiffs-Appellees
Cross-Appellants,

v.

DEPARTMENT OF DEFENSE EDUCATION ACTIVITY, *et al.*
Defendants-Appellants
Cross-Appellees.

On Appeal from the U.S. District Court for the Eastern District of Virginia
No. 1:25-cv-00637
Before Hon. Patricia Tolliver Giles, U. S. District Court Judge

**BRIEF OF AMICUS CURIAE NATIONAL ACADEMY OF EDUCATION
IN SUPPORT OF PLAINTIFFS-APPELLEES/CROSS-APPELLANTS**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(A), the National Academy of Education states that it does not have a parent corporation and that no publicly held corporation owns 10% or more of its stock.

CONSENT TO FILE

Pursuant to Federal Rule of Appellate Procedure 29(a)(2), all parties have consented to the filing of this amicus brief.

STATEMENT IN COMPLIANCE WITH RULE 29(A)(4)(E)

No party's counsel authored this brief in whole or part. No person contributed money intended to fund preparing or submitting the brief other than the National Academy of Education, its members, and its counsel.

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IDENTITY AND INTEREST OF THE AMICUS CURIAE

The National Academy of Education (NAEd) is a nonpartisan, nonprofit honorary organization that advances high-quality research to improve education policy and practice. NAEd is comprised of the nation's most reputable educational researchers who are elected based on their scholarship. NAEd undertakes interdisciplinary studies to analyze and synthesize the best available evidence on pressing educational issues and administers professional development programs to enhance the preparation of the next generation of researchers.

Given its members' expertise, NAEd is well-positioned to explain the legitimate pedagogical interests harmed by DoDEA's ideologically driven removal of books and curricula from its schools.

INTRODUCTION

At the end of World War II, when American soldiers returned from fighting fascism and tyranny overseas, President Truman issued a command to end racial segregation in the U.S. military.¹ Truman and several military leaders saw the segregation of U.S. troops as incompatible with the necessary cohesion of a successful fighting force and the ideals for which it fought. Despite opposition from within the military and in the larger society, the military “nevertheless became a testing ground for one of the biggest social experiments conducted in the history of the United States.”² Truman’s military integration plan included the integration of the all-White Department of Defense schools to provide Black military children the educational and other benefits of integrated education six years before the rest of the country was forced to do so pursuant to *Brown v. Board of Education*.³

Nearly 80 years later, these DoD schools, now part of the Department of Defense Education Activity (DoDEA), are charged by statute with ensuring that military dependents receive “an education of high quality.”⁴ According to DoDEA,

¹ Exec. Order No. 9981, 13 Fed. Reg. 4313 (July 26, 1948).

² Laura R. Kesler, *Serving with Integrity: The Rationale for the Repeal of “Don’t Ask, Don’t Tell” and Its Ban on Acknowledged Homosexuals in the Armed Forces*, 203 MIL. L. REV. 284, 357 (2010).

³ *Id.* at 358.

⁴ 20 U.S.C. § 921(b)(1).

its goal is to guarantee “all school-aged children of military families are provided a world-class education that prepares them for postsecondary education and/or career success and to be leading contributors in their communities as well as in our 21st century globalized society.”⁵ From the late 1940s until 2025, DoDEA schools were increasingly successful in fulfilling that goal. For decades, guided by a curriculum that was tightly aligned with the College and Career Ready Standards,⁶ DoDEA schools had a proven track record of providing a high-quality education to their racially and culturally diverse student population and closing racial achievement gaps.⁷

Following several 2025 Executive Orders issued by President Trump requiring federal agencies to cease promoting, advancing, or otherwise inculcating “divisive concepts,” defined as racism, sexism, “gender ideology,” or “equity ideology,” DoDEA extensively censored its curriculum, removing references to slavery, civil rights, race, ethnicity, immigration, diversity, sexual orientation, and gender identity. Furthermore, DoDEA banned nearly 600 books from its school libraries because they touched on these topics, thereby denying students access to

⁵ *DoWEA’s 75-Year History*, DoWEA, <https://www.dodea.edu/about/about-dodea/doweas-75-year-history>.

⁶ *Curriculum*, DoWEA, <https://www.dodea.edu/education/curriculum>.

⁷ *See infra* Sec. I.

important award-winning books as key educational resources. DoDEA also removed sections of the nationally adopted Advanced Placement (AP) Psychology class.

Irrefutable evidence from brain science, social science, and educational research explains why using this “divisive concepts” ban as the guiding principle in devising DoDEA curriculum and access to books and academic materials denies the children of those who protect our freedoms their First Amendment right to access information. Specifically, the research demonstrates that denying students the ability to learn about their own history and identity and how they intersect with an American history that includes slavery, a Civil Rights Movement, several waves of immigration, and debates about how human rights relate to sexual orientation and gender identities harms their development and academic success.⁸

This denial of basic historical information through curriculum censorship, book bans, and the removal of portions of a national AP course places DoDEA students at a severe disadvantage, according to peer-reviewed research findings on how people learn, the science of teaching reading, and college access. Unfortunately

⁸ Linda Darling-Hammond et al., *Implications for educational practice of the science of learning and development*, 24 APPLIED DEVELOPMENTAL SCI. 97, 97-98 (2020); NAT’L ACADS. SCIS., ENG’G, & MED., HOW PEOPLE LEARN II: LEARNERS, CONTEXTS, AND CULTURES 1-10 (2018); David Osher et al., *Drivers of Human Development: How Relationships and Context Shape Learning and Development*, 24 APPL. DEV. SCI. 6, 6 (2020); Mary Helen Immordino-Yang & Antonio Damasio, *We Feel, Therefore We Learn: The Relevance of Affective and Social Neuroscience to Education*, 1 MIND, BRAIN, & EDUC. 3, 3 (2007).

for these students, the conclusions presented here cannot be seriously disputed, and the consequences of the DoDEA policies will cause academic, developmental, and emotional damage to its students – damage that no mitigating factors can ameliorate. Research evidence makes clear that these recent DoDEA actions to deny their students’ rights to access critical information and differing views about the history of the country their parents defend. Such actions will undermine the agency’s proven track record of successful integration and high achievement for all – basically, what the U.S. Supreme Court envisioned in *Brown*.

ARGUMENT

The research findings supporting this argument are organized into four sections.

First, a brief overview of the history of and research on DoDEA schools demonstrates that prior to the 2025 Executive Orders, they succeeded in providing a high-quality, world-class education to the children of military servicemembers and staff. This pre-2025 world-class education was built upon an inclusive curriculum, which included nearly 600 recently banned books, was aligned with rigorous College and Career Ready Standards, and was producing significantly higher academic outcomes for all students while successfully reducing achievement gaps between students of different racial and ethnic backgrounds.

Second, these once-inclusive DoDEA policies have been validated by research on how children learn and best practices for structuring curriculum to optimize student success. This evidence concludes that learning is cultural, and curricula and books that connect to students' own life experiences and teach them about others provide the best cognitive support for students to grasp complex concepts. The research demonstrates that students taught inclusive curricula develop academic confidence, emotional resilience, and the skills and empathy to navigate socioeconomic and cultural differences, contributing to their success in higher education, the workforce (including the military), and civic life. Censoring curricula, on the other hand, harms students' development, denying them access to cultural content that resonates with their own lives by building a critical cognitive bridge between curriculum and their experiences that supports learning. Students in schools where race and gender are taboo topics lack opportunities to deliberate on complex issues and engage with different perspectives, experiences critical to success in culturally diverse institutions, including higher education and the military. This learning theory is at the heart of the College and Career Ready Standards DoDEA uses to hold its schools accountable.

Third, it is impossible for teachers to provide students with an inclusive curriculum when they lack access to books that include a wide variety of characters, experiences, and viewpoints. Such readings are essential to broadening students'

understanding of the world and themselves. Many of the nearly 600 books now banned in DoDEA schools are major book award winners that have been critical to exposing students to experiences and viewpoints different from their own, fostering empathy, a broader understanding of the world, and preparation for a global society. The most advanced research on reading demonstrates that students who lack books that relate to their own lives will falter when translating phonics instruction into reading comprehension, which is the focus of the standardized reading tests by which students and schools are measured.

Finally, DoDEA's elimination of sections of its high schools' AP Psychology courses harms the children of servicepeople and staff when they apply to college. Removing sections of this standardized curriculum places DoDEA students at a severe disadvantage in taking the AP Psychology exam, a national test based upon the full content of the AP course. Given that AP exams play a central role in college admissions and advanced placement in college courses, DoDEA's actions directly impair its students' college applications and ability to earn college credit via high school coursework.

These four empirical areas of research underscore how and why the actions of DoDEA authorities to censor and constrict their schools' curriculum and learning materials, including books, create irreversible educational harm to their students while violating their First Amendment rights.

I. DoDEA Schools Had a Track Record of Success Prior to 2025

DoDEA now serves approximately 67,000 children in more than 161 pre-K-12th grade schools in seven U.S. states, Guam, Puerto Rico, and 11 foreign countries. Still exemplars of the racial integration that has made our military successful, these DoDEA schools serve a student body that represents the racial and ethnic makeup of our servicepeople and is similar to that of the overall public school population: 41% White; 26% Hispanic/Latino; 14% Multiracial; 10% Black/African American; 6% Asian; 2% Hawaiian/Pacific Islander; and less than 1% Native American overall.⁹

Most of the individual DoDEA schools reflect this significant racial and ethnic diversity of the military communities.¹⁰ Moreover, their voluntary integrative measures, which included the goal of providing equal educational opportunities to all students, have been exemplary. Several studies comparing academic outcomes in DoDEA schools have found that students in these schools have higher reading and math scores on the National Assessment of Educational Progress (NAEP) than students of the same racial, ethnic and socio-economic backgrounds in public schools. DoDEA schools consistently outperform regular public schools on NAEP

⁹ *Excellence in Education for Every Student, Every Day, Everywhere*, DoDEA, <https://dodea.widen.net/s/hnzlgvtmvq/dodea-by-the-numbers>.

¹⁰ *Id.*

4th and 8th grade math and reading tests.¹¹ These findings hold true even when adjusting for the education levels of DoDEA students' parents, usually a key variable in predicting student achievement.¹²

These student outcome comparisons have been consistent over several decades, with one large-scale study making these comparisons at the national *and* state levels. This study found that DoDEA student test scores – whether the national NAEP exams or state-level exams – are always in the top half, and usually in the top 10%, when compared to state-wide and district-level public school data.¹³

As the research cited in the sections below will clarify, these impressive DoDEA academic outcomes pre-2025 cannot be divorced from its students' access to books, lessons and assignments on complex issues of race, ethnicity and gender within a 21st-Century curriculum that supported all students in meeting the College and Career Ready Standards. Based on undisputed evidence on how children learn, we know that the high achievement of DoDEA students across race, ethnicity, and

¹¹ Kenneth K. Wong, *Public school systems can learn a lot from the Department of Defense Education Activity*, BROOKINGS (July 15, 2024), <https://www.brookings.edu/articles/public-school-systems-can-learn-a-lot-from-the-department-of-defense-education-activity/>.

¹² Prudence L. Carter, *Opportunity Gaps: In and Out of School Factors*, (PowerPoint presentation presented at the University of Virginia, Oct. 16, 2023).

¹³ Richard K. Wright, *Review of Dep't of Defense Education Activity (DODEA) Schools*, INSTITUTE FOR DEFENSE ANALYSES, Oct. 2020, at III-20-21.

gender is in large measure *because* they were learning about the history of race, ethnicity, and gender prior to the 2025 Executive Orders.¹⁴ As the next finding demonstrates, inclusive curricula ensure that all students see themselves and their experiences reflected in their lessons and assignments, an opportunity to learn that is only augmented in racially diverse schools in which students learn from one another. The removal of a diverse curriculum from schools that continue to serve a diverse student population sends an inconsistent message about the value of diversity – e.g. that it is helpful when servicemembers are putting their lives on the line but not valued in what is read and valued in DoDEA schools. Such divisive policies could easily undermine the strength of our military from within.

II. Inclusive Curricula and Pedagogical Practices Produce Measurable Academic, Social, and Emotional Development.

Research unequivocally demonstrates that people learn by connecting new information and knowledge to their prior experiences and understandings.¹⁵ In fact, developmental psychology, neuroscience, and education research have all shown that children’s ability to learn depends on whether instruction connects with

¹⁴ See NAT’L ACADS. SCIS., ENG’G, & MED., *supra* note 8 at 1-10; Nida Denson et al., *Racial Diversity Matters: The Impact of Diversity- Related Student Engagement and Institutional Context*, 50 AM. EDUC. RSCH. J. 322, 343-44 (2009); Mary Helen Immordino-Yang & Antonio Damasio, *supra* note 8 at 6-9.

¹⁵ NAT’L ACADS. SCIS., ENG’G, & MED., *supra* note 8 at 49-55.

something they already know. Children do not leave their identities at the classroom door. They bring their emotions, backgrounds, and experiences with them, which shape how information is processed, remembered, and applied.¹⁶

Contemporary research in epistemic cognition confirms that learning is not simply the absorption of new information, but a process of actively connecting new material to pre-existing knowledge structures and beliefs. Students' epistemic beliefs about the certainty, complexity, and justification of knowledge shape how they interpret evidence, grapple with divergent views, regulate their learning, and integrate new ideas.¹⁷ Thus, an inclusive curriculum is effective not only because it validates identity, but because it also fosters deliberation, making learning deeper and more durable.

Meanwhile, suppressing students' opportunities to connect new content with their cultural and experiential knowledge disrupts the very processes by which students derive meaning and evaluate information, stunting cognitive, social, and

¹⁶ Diana E. Hess *et al.*, *THE POLITICAL CLASSROOM: EVIDENCE AND ETHICS IN DEMOCRATIC EDUCATION* 45–82 (2014); Joseph Kahne *et al.*, *Different Pedagogy, Different Politics: High School Learning Opportunities and Youth Political Engagements*, 34 *POL. PSYCH.* 419, 419 (2013); Linda Darling-Hammond *et al.*, *supra* note 8 at 97-98; *NAT'L ACADS. SCIS., ENG'G, & MED.*, *supra* note 8 at 55-56; David Osher *et al.*, *supra* note 8 at 7-8.

¹⁷ Clark A. Chinn *et al.*, *Expanding the dimensions of epistemic cognition: Arguments from philosophy and psychology*, 46 *EDUC. PSYCH.*, 141, 141-143 (2011).

emotional development. This is especially troubling for children of American servicemen and women, whose parents may be away for extended periods of time in high-risk circumstances to defend our country and are often forced to move frequently and with little notice. These children need the most academic, social, and emotional support from their schools.

The evidence is clear: inclusive curricula that foster discussions of race, sex, culture, and complex histories reflect students' identities and cultural contexts, optimizes educational outcomes, improves well-being, and prepares young people for the responsibilities of citizenship.¹⁸

A. Inclusive Curricula Strengthen Academic Achievement and Engagement

Inclusive curricula cultivate motivation and persistence by connecting classroom learning to students' lived experiences. Curriculum that is inclusive of different perspectives and experiences directly enables teachers to motivate students and foster higher-order thinking.¹⁹

¹⁸ NAT'L ACADS. SCIS., ENG'G, & MED, *supra* note 8 at 124-131; SCIENCE OF LEARNING AND DEVELOPMENT ALLIANCE, HOW THE SCIENCE OF LEARNING AND DEVELOPMENT CAN TRANSFORM EDUCATION: INITIAL FINDINGS 8-9 (2019); Thomas Dee & Emily Penner, *The causal effects of cultural relevance: Evidence from an ethnic studies curriculum*, 54 AM. EDUC. RSCH. J. 127, 130-135 (2017).

¹⁹ Hess et al., *supra* note 16 at 70-81; Kahne et al., *supra* note 16 at 421-422.

Students are more likely to develop stronger academic identities, invest in academic tasks, and build academic perseverance when they understand how course material is relevant and connected to their experiences and those of their families and communities, even when learning about communities, time periods, or cultures that are vastly different from their own. This motivation is proven to fuel stronger engagement in learning activities and a greater sense of belonging in schools, thereby enhancing self-efficacy and academic identities and outcomes as students relate to some of the perspectives presented in the curriculum and build bridges from them to their prior experiences. When affirmed in their own identities, students can see commonalities across difference.²⁰

Conversely, censorship disproportionately affects marginalized youth by denying them a sense of belonging in school and robust opportunities to learn, leading to disengagement and academic decline.²¹ When the curriculum excludes or distorts the complexity of our multicultural history, which students may well hear

²⁰ James A. Banks, *Diversity, Group Identity, and Citizenship Educ. In a Global Age*, 37 *Educ. Researcher* 129, 134-35 (2008); Julio Cammarota et al., *A critically compassionate intellectualism for Chicana/o students*, 14 *HANDBOOK SOCIAL JUSTICE EDUCATION* 16, 16 (2009).

²¹ Jan Gray & Gary Partington, *Attendance and non-attendance at school*, in *REFORM AND RESISTANCE IN ABORIGINAL EDUCATION* 133, 146-149 (2012); Ray Barnhardt & Angayuqaq Oscar Kawagley, *Indigenous knowledge systems and Alaska Native ways of knowing*, 36 *ANTHROPOLOGY EDUC. Q.* 8, 20-21 (2005).

about outside of school, students are more likely to disengage, underperform, feel alienated, and drop out of school.²² Silencing or erasing cultural knowledge communicates to students that their communities are not valued as worthy of study while others are.²³ This lack of validation erodes trust in schooling institutions and denies students the opportunity to learn about themselves and others, tacitly signaling who worth knowing about, and undermining academic engagement, identity development, and social and civic cohesion.²⁴

Furthermore, the College and Career Ready Standards, adopted by DoDEA prior to these Executive Orders, recognize the value of schooling that helps students retain cultural competencies, connect familial stories to school discussions, and supports them in learning about the history and culture of others to function and

²² Priyanka Agarwal & Tesha Sengupta-Irving, *Integrating power to advance the study of connective and productive disciplinary engagement in mathematics and science*, 37 COGNITION INSTRUCTION 349, 361-62 (2019); Na'ilah Suad Nasir & Victoria Hand, *From the court to the classroom: Opportunities for engagement, learning, and identity in basketball and classroom mathematics*, 17 J. LEARNING SCI. 143, 174-77 (2008); Thomas M. Philip et al., *Becoming Racially Literate About Data and Data-Literate About Race*, 34 COGNITION & INSTRUCTION 361, 382-84 (2016).

²³ Christine E. Sleeter, *THE ACADEMIC AND SOCIAL VALUE OF ETHNIC STUDIES: A RESEARCH REVIEW* 20 (2011); David Osher et al., *supra note 8* at 23-24.

²⁴ DeLeon L. Gray et. al, *Black and Belonging at School: A Case Study for Interpersonal, Instructional, and Institutional Opportunity Structures*, 53 EDUC. PSYCH. 97, 99-102 (2018); Janet Mooney & Rhonda Craven, *A case study: Introducing and teaching core Aboriginal studies*, AUSTRALIAN ASS'N RSCH. EDUC. 9-11 (2005).

succeed in society.²⁵ Exclusion of critical perspectives and experiences from curriculum limits identity development and restricts opportunities for *all* students to learn across differences and deliberate on issues from varied perspectives.²⁶

Finally, one of the most thoroughly researched areas of inclusive school curricula is ethnic studies programs in secondary schools. Findings from this research are robust: Ethnic studies courses consistently improve student engagement, agency, and achievement.²⁷ In San Francisco, students randomly assigned to ethnic studies courses showed significant gains in attendance, GPA, and credits earned, and were more likely to graduate.²⁸ In Tucson, ethnic studies curriculum was associated with higher standardized test scores, improved graduation rates, and stronger student engagement.²⁹ These results confirm that inclusive

²⁵ Ying Lee, *Indigenous Knowledge Construction and Experiential Learning of Taiwanese Aborigines*, 2 INT'L EDUC. STUD. 155, 158-60 (2009).

²⁶ James A. Banks, *MULTICULTURAL EDUCATION: ISSUES AND PERSPECTIVES* 268-276 (10th ed. 2020).

²⁷ Sleeter, *supra* note 23 at 9-16.

²⁸ Dee & Penner, *supra* note 18 at 129; Sade Bonilla et al., *Ethnic studies increases longer-run academic engagement and attainment*, 58 AM. EDUC. RSCH. J. 1, 5-8 (2021).

²⁹ Nolan L. Cabrera et al., *Missing the (Student Achievement) Forest for All the (Political) Trees: Empiricism and the Mexican American Studies Controversy in Tucson*, 51 AM. EDUC. RSCH. J. 1084, 1106-07 (2014); Allyson Tintiango-Cubales et al., *Toward an ethnic studies pedagogy: Implications for K-12 schools from the research*, 47 URBAN REV. 104, 116-17 (2015).

curricula are consequential in improving students' academic success and engagement.

B. Inclusive Curricula Build Critical Consciousness, Resiliency, and Emotional Wellbeing

Inclusive curricula also foster critical psychosocial skills that support students' social and emotional development and adult success. Most notably, research demonstrates that cultivating students' critical consciousness, *i.e.*, understanding of societal inequality and challenges, results in a variety of positive outcomes.³⁰

Curricula and pedagogy that integrate discussion of social structures, history, and identity support the type of complex thinking that leads to critical consciousness, which not only leads to improved academic achievement, enhanced career development,³¹ and greater occupational attainment in adulthood,³² but also

³⁰ Greg Wiggan & Marcia J. Watson-Vandiver, *Pedagogy of empowerment: Student perspectives on critical multicultural education at a high-performing African American school*, 22 RACE ETHNICITY & EDUC. 767, 783 (2019).

³¹ Matthew A. Diemer, *Pathways to Occupational Attainment Among Poor Youth of Color*, 37 THE COUNSELING PSYCH. 6, 32 (2009); Ellen Hawley McWhirter & Benedict T. McWhirter, *Critical consciousness and vocational development among Latina/o high school youth: Initial development and testing of a measure*, 24 J. CAREER ASSESSMENT 543, 553-55 (2016).

³² Diemer, *supra* note 32 at 32; Luke Rapa et al., *Critical action as a pathway to social mobility among marginalized youth*, 54 DEV. PSYCH. 127, 136 (2018).

enhances students' ability to adapt emotionally, socially, and behaviorally to their environment.³³ Young people see and experience social inequality every day, and must grapple with complex, emotionally relevant ideas. When learning about historical factors that have shaped their communities and lives, students actively utilize brain systems involved in attention, executive control, cognition, self-awareness, narrative, memory, emotion, motivation, and other mental processes.³⁴ Evidence suggests that such active neurological engagement with important social and civic ideas grows teens' brain structure and function over time.³⁵ These positive effects are seen across grade levels, stages of development, and racial and ethnic identities, with the strongest impact on historically marginalized students.³⁶

Relatedly, inclusive curricula that foster critical consciousness build students' resilience, or positive adaptation within the context of significant adversity. Resilience is a necessary skill for individuals to persist, thrive, and contribute to

³³ Matthew A. Diemer et al., *Critical consciousness: A developmental approach to addressing marginalization and oppression*, 10 *Child DEV. PERSP.* 216, 218-19 (2016).

³⁴ Rodrigo Riveros et al., *Sages and Seekers: The development of diverse adolescents' transcendent thinking and purpose through an intergenerational storytelling program*, 19 *J. POSITIVE PSYCH.* 849, 850 (2023).

³⁵ *Id.*

³⁶ Marisol Diaz, *Developing a critical consciousness with elementary students as a catalyst for academic success*, 15 *ASS'N MEXICAN AM. EDUCATORS J.* 89, 107-8 (2021).

democratic society as active, responsible, and empowered citizens.³⁷ Experts in developmental psychology, education, and sociology agree that students build resilience by learning to engage with challenges under supportive conditions.³⁸ This is especially important for children of military servicepeople whose lives and places of residence are constantly changing based upon decisions outside their control.

Furthermore, when schools affirm and leverage students' cultural identities in their classroom practices (*e.g.*, integrating texts, histories, or problem-solving approaches that reflect students' cultural backgrounds) while fostering cross-group learning about other people's experiences (*e.g.*, reading texts from racially and ethnically diverse authors and perspectives), all students demonstrate significant positive outcomes in academic motivation, engagement, and achievement³⁹ as well

³⁷ Suniya S. Luthar, et al., *The construct of resilience: A critical evaluation and guidelines for future work*, 71 CHILD DEV. 543, 544-48 (2003); Margaret Beale Spencer, *Phenomenology and ecological systems theory: Development of diverse groups*, in HANDBOOK OF CHILD PSYCH. 887 (William Damon et al. eds., 6th ed. 2006).

³⁸ Ann S. Masten & Andrew J. Barnes, *Resilience in Children: Developmental Perspectives*, 5 CHILDREN 98, 98 (2018); Jean E. Brooks, *Strengthening resilience in children and youths: Maximizing opportunities through the schools*, 28 CHILD. & SCH. 69, 71-72 (2006).

³⁹ Tabbye Chavous et al., *Gender matters too: The influences of school racial discrimination and racial identity on academic engagement outcomes among African American adolescents*, 44 DEV. PSYCH. 637, 652 (2008); Kristia A. Wantchekon & Adrianna J. Umaña-Taylor., *Relating profiles of ethnic-racial*

as greater self-efficacy, emotional regulation, and sense of belonging.⁴⁰ At the same time, restricted, censored curricula inhibit students' academic, social, and emotional development, leaving young people ill-prepared for a diverse society and more susceptible to the current adolescent mental health crisis.

Restricting curriculum to avoid discussion of race, sex, culture, or history does not create “neutral” classrooms. Instead, it deprives children of the tools they need to learn about our complex society most effectively by hearing and understanding other viewpoints that help them navigate the world they inhabit. Research shows that by mid-childhood, children are aware of negative stereotypes about their social groups, and that awareness creates stress and heightened vigilance that can divert cognitive resources away from learning.⁴¹

identity process and content to the academic and psychological adjustment of Black and Latinx adolescents, 50 J. YOUTH & ADOLESCENCE 1333, 1333 (2021).

⁴⁰ Christy Byrd & Tabbye Chavous, *Racial identity, school racial climate, and school intrinsic motivation among African American youth: The importance of person-context congruence*, 21 J. RSCH. ADOLESCENCE 849, 851 (2011); Tabbye Chavous et al., *Advancing a science of learning and development that can promote dignity-affirming educational environments: Some considerations for the field*, 47 REV. RSCH. EDUC. 116, 124-25 (2023).

⁴¹ Frances E. Aboud, *The developmental psychology of racial prejudice*, 30 TRANSCULTURAL PSYCHIATRIC RSCH. REV. 229, 231-233 (1993); Phyllis A. Katz, *Development of Children's Racial Awareness and Intergroup Attitudes* in CURRENT TOPICS IN EARLY CHILDHOOD EDUCATION (1981); Markus Appel & Nicole Kronberger, *Stereotypes and the Achievement Gap: Stereotype Threat Prior to Test Taking*, 24 EDUC. PSYCH. REV. 609, 613-14 (2012); Clark McKown et al., *The*

C. Inclusive Curricula Prepare Students for Civic Life in a Multicultural Democracy

Similar to the research on critical consciousness noted above, inclusive curricula help students develop collective responses to societal issues, laying the foundation for civic identity and engagement,⁴² which enhances students' political knowledge, prosocial behavior, social responsibility, and future participation in democratic life.⁴³

Decades of research show that students exposed to curricula that provide opportunities to engage with diverse perspectives on complex societal issues are better prepared and more likely to be active participants in democracy.⁴⁴ They demonstrate stronger civic engagement, more complex thinking, and a greater ability

Development and Consequences of Stereotype Consciousness in Middle Childhood, 74 CHILD DEV. 498, 498 (2003).

⁴² Michael Watts, *Citizenship education revisited: Policy, participation and problems*, 14 PEDAGOGY, CULTURE & SOC'Y 83, 94-95 (2006); Andrea Finlay et al., *Civic engagement during the transition to adulthood: Developmental opportunities and social policies at a critical juncture*, in HANDBOOK OF RESEARCH ON CIVIC ENGAGEMENT IN YOUTH 295-97 (2010).

⁴³ Daniel Hart et al., *High school community service as a predictor of adult voting and volunteering*, 44 AM. EDUC. RES. J. 197, 212-16 (2007); Heinz Reinders & James Youniss, *School-based required community service and civic development in adolescents*, 10 APPLIED DEVELOPMENTAL SCI. 2, 9-10 (2006).

⁴⁴ Hess et al., *supra* note 16 at 70-81.

to consider multiple perspectives.⁴⁵ Additionally, classrooms that deliberately engage students in structured controversy deepen civic knowledge, cultivate more complex political reasoning, and prepare young people for democratic debate.⁴⁶

Students who are exposed to readings on different racial/ethnic groups and engage in intergroup dialogues with diverse peers are more likely to vote in state and federal elections⁴⁷ due to their engagement in complex thinking, development of cultural awareness, and greater interest in social issues and addressing inequality.⁴⁸

⁴⁵ Nicholas A. Bowman, *Promoting participation in a diverse democracy: A meta-analysis of college diversity experiences and civic engagement*, 81 REV. EDUC. RSCH. 29, 49-50 (2011); Nida Denson & Mitchell J. Change, *Racial Diversity Matters: The Impact of Diversity-Related Student Engagement and Institutional Context*, 46 AM. EDUC. RSCH. J. 322, 344-347 (2009); Patricia Gurin et al., *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 HARV. EDUC. REV. 330, 358-60 (2002).

⁴⁶ Hess et al., *supra* note 16 at 70-81; David E. Campbell, *Voice in the classroom: How an open classroom climate fosters political engagement among adolescents*, 30 POL. BEHAVIOR 437, 450-51 (2008); Kahne, *supra* note 16 at 421 ; Judith Torney-Purta, *The School's Role in Developing Civic Engagement: A Study of Adolescents in Twenty-Eight Countries*, 6 APPLIED DEV. SCIENCE 203, 210-11 (2002).

⁴⁷ Sylvia Hurtado, *The next generation of diversity and intergroup relations research*, 61 J. SOC. ISS. 595, 600-606 (2005).

⁴⁸ Patricia Gurin et al., *DIALOGUE ACROSS DIFFERENCE: PRACTICE, THEORY, AND RESEARCH ON INTERGROUP DIALOGUE* 328-54 (2013); Biren A. Nagda et al., *Fostering meaningful racial engagement through intergroup dialogues*, 6 GROUP PROCESSES & INTERGROUP RELATIONS 111, 126 (2003); Biren A. Nagda et al., *Mix it up: Crossing social boundaries as a pathway to youth civic engagement*, 95 NAT'L CIVIC REV. 47, 54-55 (2006).

Inclusive curricula also increase students' interest and participation in community service,⁴⁹ including food distribution and childcare, which contributes to community well-being and a stronger democracy. A meta-review of 44 studies found that youth who participate in community service gain confidence; recognize commonalities across groups; and are more likely to vote, volunteer, and reflect on moral and political questions.⁵⁰ Meta-analyses of students who take diversity-related courses find they exhibit greater intellectual engagement, complex thinking, and capacity to understand multiple perspectives, which foster cognitive development and long-lasting civic engagement.⁵¹ Narrowing curriculum limits the development of critical and independent thought—skills necessary for navigating rising

⁴⁹ Elan C. Hope & Robert J. Jagers, *The role of sociopolitical attitudes and civic education in the civic engagement of black youth*, 24 J. RSCH. ADOLESCENCE 460, 466 (2014); Richard M. Lerner, LIBERTY: THRIVING AND CIVIC ENGAGEMENT AMONG AMERICA'S YOUTH 109-142 (Jim Brace-Thompson et al. eds. 2017).

⁵⁰ Hart, *supra* note 43 at 212-16; Edward Metz & James Younis, *Longitudinal gains in civic development through school-based required service*, 26 POL. PSYCH., 413, 430-31 (2005).

⁵¹ Nicholas Denson, *Do Curricular and Cocurricular Diversity Activities Influence Racial Bias? A Meta-Analysis*, 79 REV. EDUC. RSCH. 805, 823-25 (2009); Gurin et al., *supra* note 45 at 358-60; Nicholas A. Bowman, *College Diversity Experiences and Cognitive Development: A Meta-Analysis*, 80 REV. EDUC. RSCH. 4, 22-23 (2013); Bowman, *supra* note 45 at 49-50.

misinformation, political polarization, and declining trust in democratic institutions.⁵²

DoDEA's curricular censorship denies students opportunities to evaluate contemporary social and political challenges and practice democratic dialogue, leaving them less prepared to confront disagreement and polarization in civic life,⁵³ thereby weakening democracy itself.

D. Inclusive Curricula Strengthen Social Cohesion Across Groups

Finally, research demonstrates that children taught about racism and injustice develop more positive views of peers from different racial groups and stronger pride in their own identities.⁵⁴ This finding resonates with the larger goal of our military to develop cohesion across differences. Reviews of school-based interventions confirm that programs explicitly addressing race and intergroup dynamics increase

⁵² Linda Darling-Hammond et al., *Educating the Whole Child: Improving School Climate to Support Student Success*, LEARNING POL. INST. (Sept. 2018); NAT'L ACADS. SCIS., ENG'G, & MED., *supra* note 8 at 124-31; David Osher et al., THE SCIENCE OF LEARNING AND DEVELOPMENT: A SYNTHESIS 1-2 (2019); COREY SAVAGE & SAKI IKOMA, ACCESS TO CIVICS CONTENT AND EVIDENCE-BASED INSTRUCTIONAL APPROACHES IN U.S. SCHOOLS 20-22 (2023).

⁵³ Hess et al., *supra* note 16 at 43.

⁵⁴ Frances E. Aboud et al., *Exploring and Evaluating School-Based Interventions to Reduce Prejudice in Prejudiced Children*, 55 J. SOC. ISSUES 767, 782-84 (1999).

students' commitment to fairness and reduce bias and foster inclusive environments.⁵⁵

Far from dividing students, inclusive curricula and pedagogical strategies that foster deliberation and perspective-taking build the kinds of classrooms where young people learn to live and work together across differences. Such instruction fosters empathy, belonging, and cooperation across groups.⁵⁶ Students of all backgrounds who have these classroom experiences are better prepared to navigate global workplaces and society as adults. Conversely, documented harm results when curricula are narrowed and educators are not allowed to teach students that race and gender have played a role in our history. In fact, children in these so-called colorblind classrooms are less likely to recognize even overt discrimination, thus perpetuating inequities.⁵⁷ Creating cohesion across differences is what has made the U.S. military so strong and successful; the schools that serve the children of those military members should not work against that cohesion.

⁵⁵ Frances E. Aboud et al., *Interventions to Reduce Prejudice and Enhance Inclusion and Respect for Ethnic Differences in Early Childhood: A Systematic Review*, 23 DEV. REV. 307, 331-34 (2012); Rebecca S. Bigler & Lynn S. Liben, *Developmental Intergroup Theory: Explaining and Reducing Children's Social Stereotyping and Prejudice*, 16 CURRENT DIRECTIONS PSYCH. SCI. 162, 165-66 (2007).

⁵⁶ DeLeon L. Gray et al., *supra* note 24 at 99-102.

⁵⁷ Evan P. Apfelbaum et al., *Learning (Not) to Talk About Race: When Older Children Underperform in Social Categories*, 44 DEV. PSYCH. 1513, 1516-17 (2010).

III. Harms of Book Banning on Teaching Children to Read

Censoring curriculum means also excluding texts from students' reading assignments and the school library. The DoDEA book bans limit students' opportunities to read and are antithetical to the recent increased focus on reading instruction in schools, especially the full scope of the Science of Reading research. Indeed, research on best practices for teaching reading, including brain science and child development evidence demonstrates that, in addition to phonics and decoding words, students need opportunities to make meaning as they read. As a World Bank report on best practices for teaching reading argues, "Learning to read is one of the most studied of all human intellectual activities, and we now understand much about how the human brain learns to read."⁵⁸

This robust body of research emphasizes an interactive process in which even early readers draw on both lower-level processes like phonetics and higher-level processes such as syntactics and semantics or meaning-making as they read.⁵⁹ Limited access to complete texts that build experiential bridges to their own experiences and culture deprives children of encounters with complex ideas and different perspectives that not only bolster their reading comprehension and provide

⁵⁸ WORLD BANK GROUP, HOW CHILDREN LEARN TO READ: TOWARD EVIDENCE-ALIGNED LESSON PLANNING 9 (2022).

⁵⁹ Gail Boldt & Patricia Enciso, *Lessons from the Field on the Science of Reading: An Introduction*, 55 BANK STREET OCCASIONAL PAPER SERIES 3, 9 (2026).

opportunities to engage with challenging story structures but also engage children in meaningful reflection on worlds larger or different from their own.”⁶⁰ Over time, these limitations can slow literacy growth by stunting reading comprehension, dampening curiosity, and diminishing the pleasure and personal connections that children need to pursue a wider range of genres and topics.⁶¹

One significant study asked children themselves how they learn to read. From the mouths of babes, the children explained that reading is about encounters that include explicit reading instruction, but also the way reading is sculpted by “community, relationships, bodies, materials, and feelings even more.”⁶² This research highlights that the lack of access to books that serve as “mirrors” to students’ lives and experiences slows the development of reading comprehension and literacy skills.⁶³

In fact, many scholars of reading and literacy emphasize the importance of students seeing themselves and others in what they read to become truly fluent and

⁶⁰ *Id.* at 9.

⁶¹ *Id.* at 12.

⁶² CRISTINA VALENCIA MAZZANATI ET AL., ‘IT WAS HARD, BUT IT WORKED:’ CHILDREN’S THEORIES OF LEARNING TO READ 16 (Apr. 2026).

⁶³ *Id.* at 4.

literate.⁶⁴ Citing the National Academy of Science, Engineering and Medicine (2018) report, which demonstrates “the social, cultural, and biological impact of cognitive learning processes” when focusing on how children learn to read, Tierney and Pearson (2024) underscore that “an entire body of research” demonstrates the “many social, cultural, and contextual dimensions of reading and writing that are foundational to promoting reading development, including word reading.”⁶⁵

The large body of research on reading is clear that access to books written by a wide range of authors with different life experiences and challenges is critical to teaching a racially and ethnically diverse student population, such as in DoDEA schools, to read. Hence, the reading research is unequivocal that well-stocked school and classroom libraries with books that present multiple viewpoints and experiences are critical to supporting students’ reading comprehension. The banning of nearly 600 books within the DoDEA system will harm students’ ability to learn to read and deny them their First Amendment right to access information from viewpoints both similar and different from their own.

⁶⁴ See, e.g., H. Richard Milner IV, *Disrupting Racism and Whiteness in Researching a Science of Reading*, 55 *READING RESEARCH QUARTERLY* 249, 249 (2020).

⁶⁵ Robert J. Tierney & P. David Pearson, *Executive Summary*, *FACT-CHECKING THE SCIENCE OF READING* 17 (2024).

IV. DoDEA Students Require Equal Access to AP Curriculum to Perform Well on Exams

DoDEA's actions to arbitrarily remove portions of the College Board's approved AP Psychology curriculum will harm DoDEA students: it will impact their admissions to colleges and universities as well as their ability to garner college credit based on the exam scores.

Through the AP Program, the College Board provides high school curricula and corresponding examinations to award high school students college credit. Originally used primarily to award college course credit, AP test scores are now also used extensively by selective public and private universities in admissions decisions.⁶⁶

A survey of deans of admissions from 264 colleges and universities found that the primary rationale for reliance on AP scores was to identify highly qualified students.⁶⁷ DoDEA's arbitrary decision to ban a portion of the AP Psychology curriculum harms DoDEA students. In addition to not having access to the standardized materials provided to students throughout the country, it is reasonable

⁶⁶ Suneal Kolluri, *Advanced Placement: The Dual Challenge of Equal Access and Effectiveness*, 88 REV. OF EDUC. RSCH. 671, 684 (2018).

⁶⁷ Saul Geiser, *The Role of Advanced Placement and Honors Courses in College Admissions*, in EXPANDING OPPORTUNITY IN HIGHER EDUCATION 75, 76 (Patricia Gandara et al. eds. 2006).

to anticipate that their AP Psychology exam scores will be negatively impacted. Thus, when universities compare DoDEA student scores with other students throughout the country, they will be disadvantaged. Moreover, some DoDEA students may choose not to take the AP course or the AP exam because of the diminished curriculum – further impacting their competitiveness when compared to peers.

Additionally, AP classes allow for credits at most colleges, allowing students to gain access to more advanced classes, spend less money, and possibly graduate earlier. Colleges, however, do not simply require completion of the course and exam, they require a particular score on the exam. DoDEA students will be at a disadvantage in earning this score based on DoDEA's decision to arbitrarily remove portions of the curriculum, content that the students will be tested on when taking the AP Psychology exam.

The AP Psychology curriculum was recommended by the American Psychological Association.⁶⁸ DoDEA, based on no pedagogical reasoning, has chosen to interpret several short executive orders in a manner that denies students

⁶⁸ *AP Psychology Course and Exam Description*, COLLEGE BOARD, <https://apcentral.collegeboard.org/media/pdf/ap-psychology-course-and-exam-description.pdf>.

access to information recommended by the American Psychological Association, inconsistent with the rest of the country and harmful to their future educational goals.

CONCLUSION

The research evidence is clear: the actions of DoDEA to censor its schools' curriculum, ban books from its schools' libraries, and cut whole sections of its AP Psychology courses will cause irreparable harm to the First Amendment rights and educational opportunities of students whose families are making the ultimate sacrifice for our nation and will eviscerate an educational system that was once an exemplar of high-quality, racially integrated schools to serve our military families.

Dated: June 3, 2026

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Fed. R. App. Proc. 29(a)(5) and Fed. R. App. Proc. 32(a)(7) because this brief contains 6,457 words, according to the word processing software, Microsoft Word, which was used to prepare the brief, excluding parts of the brief exempted by Fed. R. App. Proc. 32(f).

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Dated: June 3, 2026

/s/ Mark Rosenbaum
Mark Rosenbaum

CERTIFICATE OF SERVICE

I certify that on June 3, 2026, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the Court's CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: June 3, 2026

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