

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**DONALD FALLS, JILL HARPER,
Dr. ROBERT CASSANELLO, STEPHANIE
NICOLE JAMIESON, as next of friend of RMJ,
Dr. TAMMY L. HODO,**

Plaintiffs,

vs.

Case No.: 4:22-cv-00166

RON DESANTIS, in his official capacity as Governor of Florida; **RICHARD CORCORAN**, in his official capacity as Commissioner of the Florida State Board of Education; **TOM GRADY, BEN GIBSON, MONESIA BROWN, MARVA JOHNSON, RYAN PETTY, JOE YORK**, in their official capacities as members of the Florida State Board of Education; **BRIAN LAMB, TIMOTHY M. CERIO, AUBREY EDGE, PATRICIA FROST, EDWARD HADDOCK, H. WAYNE HUIZENGA, JR., NATASSIA JANVIER, KEN JONES, DARLENE LUCCIO JORDAN, ALAN LEVINE, CHARLES H. LYDECKER, STEVEN M. SCOTT, WILLIAM SELF, ERIC SILAGY, KENT STERMON**, in their official capacities as members of the Florida Board of Governors of the State University System; and **ASHLEY MOODY**, in her official capacity as Florida's Attorney General,

Defendants.

**BRIEF OF DIVISION 15 OF THE AMERICAN PSYCHOLOGICAL
ASSOCIATION AS AMICUS CURIAE IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

CORPORATE DISCLOSURE STATEMENT

Division 15 of the American Psychological Society (APA), the Division of Educational Psychology, is a semi-autonomous organization within the American Psychological Association, which is a 501(c)(3) non-profit corporation with the mission to promote the advancement, communication, and application of psychological science and knowledge to benefit society and improve lives. Because APA is not a publicly traded company, no publicly owned corporation owns 10% or more of stocks of APA.

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INTRODUCTION

Substantial research in educational psychology makes clear that explicitly teaching students about racism and diversity has manifold benefits for students and that omitting such teaching through a purportedly colorblind approach hurts student outcomes. Division 15 of the American Psychological Association, consisting of leading experts and researchers in educational psychology, submits this amicus brief to underscore Plaintiffs’ assertion that the provisions of Florida’s Stop W.O.K.E. Act that “ensure students learn only a white-washed version of history . . . that ignore[s] systemic problems in our society that create racial injustices” will cause irreparable injury to these students. Pls.’ Mot. for Prelim. Inj., ECF 4 at 15. Studies show that omission of instruction about race and racism is harmful to K-20 students’ academic success, their engagement with school, their acceptance of people from other backgrounds, and ultimately, their future ability to function as productive citizens in a multi-racial, inclusive democracy.

Interests of Amicus

APA Division 15, the Educational Psychology Division of the American Psychological Association, includes the following purposes in its mission statement: “to expand psychological knowledge and theory relevant to education, to extend the application of psychological knowledge and services to all aspects of education, [and] to further the development of psychological theory through the

study of educational processes.”¹ APA Division 15 offers its expertise to this Court on the impact of Florida’s Stop W.O.K.E. Act using research studies from the field of educational psychology.

The American Psychological Association, of which Division 15 is a subpart, has adopted resolutions that underscore Division 15’s interest in the issues posed by the Florida bill. Among these, the APA has adopted a resolution recognizing that racism is systemic and acknowledging that “to overcome and eliminate the pervasive harms of racism, it is essential to directly confront oppression using a culturally-centered and strengths-based approach to achieve psychological liberation, promote empowerment, and influence social reality through cultural and humanistic change.”²

Specifically in the field of education, the APA has made the following findings:

- Previously unexamined ethnocentric curricular and co-curricular activities need to be carefully reviewed and addressed for the perpetuation of systemically racist beliefs in education policies; [and]
- The climate for diversity in higher education and graduate psychology programs can encourage or suppress underrepresented racial and ethnic

¹ American Psychological Association Division 15 website, <https://apadiv15.org/>. This brief is submitted by Division 15 of the American Psychological Association, and does not necessarily represent the position of the American Psychological Association or any of its other Divisions or subunits.

² *APA Resolution on Harnessing Psychology to Combat Racism: Adopting a Uniform Definition and Understanding*, American Psychological Association (Feb. 2021), <https://www.apa.org/about/policy/resolution-combat-racism.pdf>.

group participation; in education, students of color are subjected to more negative racial experiences, and their racial and ethnic backgrounds are often portrayed in a stereotypical and demeaning fashion.³

Consequently, the APA has endorsed a resolution that “reaffirms its commitment to combating every level of racism throughout the education system, from pre-K through postsecondary education and lifelong learning, for its devastating effects on the academic, physical, psychological, and economic well-being of people and communities of color.”⁴ The APA has further committed to “advocat[ing] for rigorous education policy in order to create equity across learning environments that will positively impact students of color and the larger society, fostering educational attainment . . . , complemented with population-specific policies to redress the history of violence and inequity disenfranchising [communities of color].”⁵ The APA has further resolved that it “affirms the importance of teaching the history of racism in the U.S. and will continue to provide resources to support the teaching of this history to prepare all students to think critically about identity, community, and civics, fostering both educational success and solidarity to build a more just future.”⁶

³ *Role of Psychology and the American Psychological Association in Dismantling Systemic Racism Against People of Color in the United States*, at 2-3 (Oct. 2021), <https://www.apa.org/about/policy/dismantling-systemic-racism>.

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.*

Given the APA’s mission and commitments to combating racism in education, advocating for education policy that creates equity, and ensuring that the history of racism is taught so that students can think critically and develop into engaged citizens, Florida HB 7 squarely implicates the goals of APA Division 15. Thus, Division 15 seeks to offer insights from research on educational psychology indicating the potential harms and missed opportunities the bill would trigger.

ARGUMENT

I. The Stop W.O.K.E. Act Chills Speech and Harms Students and Educators.

Florida’s HB 7, touted by the Governor as the “Stop Wrongs to Our Kids and Employees (W.O.K.E.) Act,” formally named the Individual Freedom Act, uses vague and overbroad language that chills speech, resulting in censorship in schools and classrooms across Florida. §1000.05(4)(a-b), Fla. Stat. (2022). The Act deprives students in K-12 schools and public colleges and universities of information that is crucial for building the analytical skills to thrive in a heterogeneous community. The Act also severely impinges on teachers’ and professors’ academic freedom, leaving them with an impossible choice: avoid particular viewpoints related to race or sex in assigned readings or in classroom discussions that they know are important for students’ healthy development, or speak about those topics and risk charges of discrimination that may jeopardize their employment. For example, the University of Florida has put out guidance

cautioning its faculty against expressing their opinions in class on issues of race and sex and urging them to present a variety of viewpoints on these topics—causing some faculty to fear they will not be able to endorse or support a theory that has compelling evidence and scholarly consensus, but must instead “both-sides” these topics—at the risk of substantial loss of future funding to the university.⁷ School districts have canceled events that touch on civil rights because of concerns about running afoul of state restrictions on the schools’ discussions of racism.⁸ And a state representative sought to have a school principal fired after she expressed opposition to the bill.⁹ Amici Learning for Justice and Florida Freedom to Read Project note other examples of HB 7’s chilling effect, including, for example, in Orange County, which proposed eliminating culturally responsive resources from the curriculum in response to the bill.

These injuries result directly from the Act’s vague and overbroad language, which can be interpreted to restrict speech that should be permissible under the

⁷ Colleen Flaherty, *Mixed Message*, Inside Higher Ed (May 9, 2022), <https://www.insidehighered.com/news/2022/05/09/uf-seems-endorse-new-state-anti-crt-law>.

⁸ Marc Caputo & Teaganne Finn, *Florida school district cancels professor’s civil rights lecture over critical race theory concerns*, NBC News (Jan. 24, 2022), <https://www.nbcnews.com/politics/politics-news/florida-school-district-cancels-professors-civil-rights-lecture-critic-rcna13183>.

⁹ James Call, *Florida teachers, school staff caught by ‘gotcha police’ as DeSantis culture wars heat up*, Tallahassee Democrat (May 12, 2022), <https://www.tallahassee.com/story/news/politics/2022/05/12/florida-teachers-dont-say-gay-desantis-woke-social-media-firing/9702285002/>.

First Amendment. It defines discrimination to include “subjecting any student . . . to instruction that espouses, promotes, advances, inculcates, or compels such student or employee to believe” certain concepts, including that “members of one race, color, national origin, sex cannot and should not attempt to treat others without respect to race, color, national origin or sex,” but does not prohibit “discussion . . . in an objective manner without endorsement of the concepts.” §1000.05(4)(a), (4)(a)(4), (4)(b), Fla. Stat. (2022). This restriction is incomprehensible on its face.

The other prohibited concepts are also so overbroad that they can be read to censor permissible and valuable speech. For example, the prohibited concept that “a person, by virtue of his or her race, color, sex or national origin, bears personal responsibility for and must feel guilt, anguish or other forms of psychological distress because of actions . . . committed in the past by other members of the same, race, color, national origin, or sex” will likely chill speech on important topics and violate students’ rights to receive information. *Id.* at (4)(a)(7). A third prohibited concept endorses the virtue of racial colorblindness as objective and not oppressive, *id.* at (4)(a)(8), even though racially colorblind approaches in the classroom are incompatible with extensive research on culturally relevant teaching that students must explicitly discuss racism to identify and eliminate racial bias. *See infra* section II.A.

The net impact of these provisions is to chill speech in Florida schools and universities that would equip students to productively engage with diversity in all forms. Research by members of APA Division 15 shows that this impact will harm students in terms of their academic achievement, their degree of racial tolerance, and their ability to engage as citizens in a diverse society.¹⁰

II. Educational Psychology Research Demonstrates that Explicitly Teaching K-12 Students About Racism Improves Student Achievement and Tolerance, and Censoring Such Instruction Damages Student Outcomes.

A. Research shows that teaching students explicitly about racism benefits individuals and society at large.

Teaching K-12 students explicitly and clearly about racism explicitly has overwhelmingly positive benefits for all students, including both white students and students of color. By contrast, teaching these concepts through euphemistic avoidance of certain prohibited concepts, out of fear of how the overbroad statutory language will be enforced, weakens the pedagogical value of the lesson.

1. Culturally relevant teaching is significantly associated with academic success.

Substantial educational psychology research is devoted to address the explicit evidence of how “asset-based pedagogy,” which views students’ culture

¹⁰ See generally Danielle Gonzales et al., *United We Learn: Honoring America’s Racial and Ethnic Diversity in Education*, The Aspen Institute Education & Society Program (2021), https://www.aspeninstitute.org/wp-content/uploads/2021/10/Aspen-Institute_UnitedWeLearn.pdf.

and language as assets rather than deficits, is beneficial for student outcomes.¹¹ In the mid-90s, education scholar Gloria Ladson-Billings coined the term “culturally relevant pedagogy” to describe teaching in which teachers (1) have high expectations of their students and motivate them to experience academic success, (2) use their students’ culture as a vehicle for learning such that students develop or maintain cultural competence, and (3) develop a broader sociopolitical consciousness that allows them to critique the cultural norms, values, mores, and institutions that produce and maintain social inequality.¹² As Ladson-Billings notes, “If school is about preparing students for active citizenship, what better citizenship tool than the ability to critically analyze the society?”¹³

Along similar lines, other education scholars have developed new terms for asset-based pedagogies that view students’ cultures as assets to capitalize on in order to help make education more engaging and meaningful when drawing directly from the lived experiences of students. Related asset-based pedagogies include “culturally responsive teaching,” defined as “using the cultural characteristics, experiences, and perspectives of ethnically diverse students as

¹¹ Francesca López, *Altering the Trajectory of the Self-Fulfilling Prophecy: Asset-Based Pedagogy and Classroom Dynamics*, *Journal of Teacher Education* 1-20, at 4 (2017), <https://doi.org/10.1177/0022487116685751>.

¹² Gloria Ladson-Billings, *But that’s just good teaching! The case for culturally relevant pedagogy*, 34(3) *Theory into Practice* 159-165, at 160-162 (1995), <http://www.jstor.org/stable/1476635>.

¹³ *Id.* at 162.

conduits for teaching them more effectively.”¹⁴ Furthering this intuition of developing students’ cultural competence, other researchers have proposed the term “culturally sustaining pedagogy,” which emphasizes sustaining cultural competence in students’ own communities while also offering them access to the dominant culture.¹⁵ Culturally sustaining pedagogy “seeks to perpetuate and foster—to sustain—linguistic, literate, and cultural pluralism as part of the democratic project of schooling.”¹⁶ Regardless of terminology, the goal is to make classroom instruction more consistent with the cultural orientations of ethnically diverse students.¹⁷

Researchers in educational psychology have studied how such asset-based pedagogies connect with student outcomes and found that these pedagogies explicitly connect with very positive results for students. The use of asset-based pedagogies is significantly associated with students’ academic success. For example, in a study surveying 315 sixth- to twelfth-grade students across the country, evenly split between white, Latino, African American, and Asian

¹⁴ Geneva Gay, *Preparing for Culturally Responsive Teaching*, 53(2) *Journal of Teacher Education* 106-116, at 106 (2002), <https://doi.org/10.1177/0022487102053002003>.

¹⁵ Django Paris, *Culturally Sustaining Pedagogy: A Needed Change in Stance, Terminology, and Practice*, 41(3) *Educational Researcher* 93-97, at 95 (2012), <https://doi.org/10.3102/0013189X12441244>.

¹⁶ *Id.*

¹⁷ López, *supra* n.11 at 4.

American students, the vast majority expressed that culturally relevant instruction was important for their academic success.¹⁸ Indeed, a review of cultural relevance and motivation research concluded that “when teachers . . . engag[ed] in culturally relevant teaching practices, students from all cultural groups perceived the learning context as more mastery focused”—that is, culturally responsive pedagogy has dividends for white students as well as for students of color.¹⁹ Another study surveyed the correlation between the degree to which teachers use culturally responsive pedagogy and reading outcomes among 244 Latino students in Arizona.²⁰ That study found that when teachers especially valued culturally responsive pedagogy, their students achieved significantly higher reading scores—approximately one standard deviation higher than other students. As the research study author observed, “instruction that considers culture an asset can reduce educational disparities,”²¹ even in a context like Arizona, where state policies have sought to eliminate or severely restrict Latino cultural and linguistic heritage in

¹⁸ Christy M. Byrd, *Does culturally relevant teaching work? An examination from student perspectives*, 6(3) Sage Open 1-10, at 4-5 (2016), <https://doi.org/10.1177/2158244016660744>.

¹⁹ Revathy Kumar et al., *Weaving Cultural Relevance and Achievement Motivation Into Inclusive Classroom Cultures*, 53:2 Educational Psychologist, 78-96, at 89 (2018), <https://doi.org/10.1080/00461520.2018.1432361>.

²⁰ Francesca López, *Culturally Responsive Pedagogies in Arizona and Latino Students' Achievement*, 118(5) Teachers College Record 1-42 (2016), <https://doi.org/10.1177/016146811611800503>.

²¹ *Id.* at 34.

schools. In another example, when African American private school students encountered negative racial messages at school that parents countered by consciously developing pride in their Black heritage, researchers recommended that schools should encourage more active and open dialogues regarding race, should engage in culturally relevant teaching practices, and should ensure that the historical experiences of African Americans are included in school curricula to nurture a sense of belonging.²² Especially for students of color, “developing cultural competence is necessary to feel academically competent.”²³

A particular example of the benefits of culturally relevant pedagogy for students of color is the academic achievement of students in ethnic studies programs. Ethnic studies courses focus on “decolonization and elimination of racism that helps students critique racism and . . . challenge oppressive conditions.”²⁴ A number of empirical analyses of these courses have found significant educational benefits, including significantly higher rates of graduation, substantially higher attendance and increases in GPA, and greater likelihood of

²² Jessica T. DeCuir-Gunby et al., *African American Students in Private, Independent Schools: Parents and School Influences on Racial Identity Development*, 44 *The Urban Review: Issues and Ideas in Public Education* 113-132, at 129 (2012), DOI: 10.1007/s11256-011-0178-x.

²³ Kumar, *supra* n.19 at 86.

²⁴ Francesca López et al., *Race-Reimagined Self-Determination Theory: Elucidating How Ethnic Studies Promotes Student Identity and Learning Outcomes Using Mixed-Methods*, Manuscript submitted for publication, at 2 (2022) (quotation marks and internal citations omitted).

college enrollment.²⁵ Beyond these measures of academic success, while it may seem counterintuitive, “awareness of racism among historically marginalized youth provides an important buffer to negative social stereotypes”—rather than inferring that differential treatment they experience results from personal deficiencies, marginalized students have greater awareness that it may be a product of discrimination.²⁶ In a study of K-12 students in ethnic studies courses, researchers found that while levels of intellectual curiosity wane as students progress through school, over the course of a year in an ethnic studies course, students’ intellectual curiosity actually increased.²⁷ Students found great value in learning about their own culture and “engaging in modern issues along with historical issues” made the courses interesting.²⁸

2. Learning about historical racism improves racial tolerance for all students.

²⁵ *Id.* at 2-3 (citing Nolan L. Cabrera, *Missing the (student achievement) forest for all the (political) trees: Empiricism and the Mexican American studies controversy in Tucson*, 51(6) *American Educational Research Journal* 1084-1118 (2014), <https://doi.org/10.3102/0002831214553705>; Thomas Dee & Emily Penner, *The causal effects of cultural relevance: Evidence from an ethnic studies curriculum*, 54(1) *American Educational Research Journal* 127-166 (2017), <https://doi.org/10.3102/0002831216677002>; Sade Bonilla et al., *Ethnic studies increases longer-run academic engagement and attainment*, 118 (37) *Proceedings of the National Academy of Sciences* 1-10 (2021), <https://doi.org/10.1073/pnas.2026386118>).

²⁶ López, *supra* n.11 at 6.

²⁷ López, *supra* n.24 at 21-22, 36-37.

²⁸ *Id.* at 37.

In addition to improving academic outcomes, when teachers explicitly engage with issues of race and racism in the classroom, this improves levels of racial tolerance among students, no matter the race of the student. Thus, for example, a study examining white and Black children's responses to learning about racism found an improvement in racial attitudes (i.e., their evaluations of their racial ingroup and racial outgroup).²⁹ Researchers first gave white elementary students six days of lessons with biographies of famous Americans. One set of these lessons included explicit information about discriminatory practices endured by African Americans at the hands of white Americans; the control lessons made no reference to racial discrimination. White children who received lessons discussing racism had significantly more positive and less negative attitudes towards African Americans than children in the control group and did not differ in their views of white people.³⁰ In addition, white children who received lessons discussing racism were likely to hold positive attitudes toward African Americans. Researchers observed that the pathway to holding these more positive attitudes about African Americans involved some "racial guilt,"³¹ meaning that this

²⁹ Julie M. Hughes et al., *The consequences of learning about historical racism among European American and African American children*, 78(6) *Child Development* 1689-1705 (2007), <https://doi.org/10.1111/j.1467-8624.2007.01096.x>.

³⁰ *Id.* at 1693.

³¹ *Id.* at 1701.

curriculum is among those likely to be chilled by the Act. Researchers then used the same two sets of lessons with African American children. For these children, both sets of lessons resulted in more positive views of African Americans, without a negative shift in their evaluations of white people. African American students who learned about racism expressed greater satisfaction with their lessons than those who received the control lessons.³²

Similarly, in another study about the best ways to address race and racism in the classroom, researchers again taught biographies of famous Americans to elementary school students for six days, this time in one of three ways: (1) not explicitly labeling race (race-blind lessons), (2) explicitly labeling race but not providing information about racism (race-based lessons), or (3) giving information about racial discrimination African Americans suffered at the hands of white Americans (antiracism lessons).³³ Those in the third group who received antiracism lessons, including both African American and white children, expressed a desire for racial fairness more than those who had received the other two types of lessons.³⁴ Antiracism lessons were more effective at fostering racial tolerance than

³² *Id.*

³³ Julie M. Hughes & Rebecca S. Bigler, *Addressing Race and Racism in the Classroom*, in E. Frankenberg & G. Orfield (Eds.), *Lessons in integration: Realizing the promise of diversity in American schools* (pp. 190-206), Charlottesville, VA: University of Virginia Press (2007).

³⁴ *Id.* at 200.

race-blind or race-based lessons. Thus, actual discussion of racism beyond racial labeling is essential to reduce stereotyping and racial prejudice, and thus to enabling multiracial democracy to flourish.

B. Conversely, censoring discussions of race and racism when teaching students is detrimental to their learning and healthy development.

Many white adults, including many white teachers, may avoid the issue of race when speaking with children.³⁵ In fact, adults significantly underestimate when children start perceiving racial difference. A study of when adults estimate that children can process race showed that adults estimated that children could effectively process race four and half years later than is suggested by scientific evidence.³⁶ While research shows that children can process racial difference in infancy, most parents in the study did not believe that race should be broached with children until age 5.³⁷ This seems a significant delay, as research shows that

³⁵ Jessica Sullivan et al., *Adults Delay Conversations About Race Because They Underestimate Children's Processing of Race*, 150(2) *Journal of Experimental Psychology: General* 395-400, at 395 (2021), <http://dx.doi.org/10.1037/xge0000851> (citing Evan P. Apfelbaum et al., *Seeing Race and seeming racist? Evaluating strategic colorblindness in social interaction*, 95 *Journal of Personality and Social Psychology* 918-932 (2008), <https://doi.org/10.1037/a0011990>; Erin Pahlke et al., *Relations between colorblind socialization and children's racial bias: Evidence from European American mothers and their preschool children*, 83(4) *Child Development* 1164-1179 (2012), <https://doi.org/10.1111/j.1467-8624.2012.01770.x>).

³⁶ *Id.* at 399.

³⁷ *Id.* at 395 (citing Yair Bar-Haim et al., *Nature and nurture in own-race face processing*, 17 *Psychological Science* 159-163 (2006),

American children at age 3 already associate marginalized racial groups with negative traits.³⁸ Thus, even though adults may have the instinct to censure children’s comments that raise racial difference and only emphasize the commonality between human beings, “fully mitigating racial bias will require talking about it.”³⁹

Colorblind socialization strategies are more common among white adults than black adults in America.⁴⁰ Colorblindness often involves a belief that seeing race is a precondition to racism such that being unable to recognize race would reduce racism. In practice, adults favoring a colorblind approach find it best when interacting with children to behave as if one does not “see” race so that, by being “color-mute” and not discussing race, they seek to socialize nonbiased views in

<http://dx.doi.org/10.1111/j.1467-9280.2006.01679.x>; Gizelle Anzures et al., *Categorization, categorical perception, and asymmetry in infants’ representation of face race*, 13 *Developmental Science* 553-564 (2010), <http://dx.doi.org/10.1111/j.1467-7687.2009.00900.x>), 397.

³⁸ *Id.* at 395 (citing Yarrow Dunham et al., *Two signatures of implicit intergroup attitudes: Developmental invariance and early enculturation*, 24 *Psychological Science* 860-868 (2013), <http://dx.doi.org/10.1177/0956797612463081>; Anna-Kaisa Newheiser et al., *Preference for high status predicts implicit outgroup bias among children from low-status groups*, 50 *Developmental Psychology* 1081-1090 (2014), <http://dx.doi.org/10.1037/a0035054>).

³⁹ *Id.* at 399.

⁴⁰ Pahlke, *supra* n.35 at 1165 (citing Helen A. Neville, *Construction and initial validation of the Color-Blind Racial Attitudes*, 47 *Journal of Counseling Psychology* 59-70 (2000), <https://doi.org/10.1037/0022-0167.47.1.59>; Carey S. Ryan, *Multicultural and colorblind ideology, stereotypes, and ethnocentrism among Black and White Americans*, 10 *Group Processes Intergroup Relations* 617-637 (2007), <https://doi.org/10.1177/1368430207084105>).

their children.⁴¹ A study examining racial socialization practices among middle-class white Americans who profess a commitment to racial equality involved having mothers read and discuss books that raise issues of racial diversity and racism to their pre-K child as they would at home. None of the mothers discussed ethnic diversity when reading the books, and the vast majority avoided discussions of race or discrimination.⁴² In fact, many of the mothers had never explicitly talked about racial attitudes with their children. Researchers observed that these colorblind strategies fail to prevent racial biases among children.⁴³ By comparison, as other studies suggest, strategies that directly engage with the topic of racism are more successful at helping children to develop racial tolerance.⁴⁴

Another report on this issue confirms that when adults adopt a “colorblind” approach to avoid talking about race, including with children, this results in children also learning to avoid talking about race.⁴⁵ The report describes this learned avoidance as “a missed opportunity,” as children then miss opportunities to develop empathy and learn new perspectives, and ultimately to exhibit less racial bias.⁴⁶

⁴¹ *Id.* at 1164-1165.

⁴² *Id.* at 1174-1175.

⁴³ *Id.* at 1177.

⁴⁴ Hughes & Bigler, *supra* n.33 at 200, 205.

⁴⁵ Sullivan, *supra* n.35 at 395.

⁴⁶ *Id.*

Research confirms that colorblind socialization strategies fail to prevent racial biases among children. Many schools have adopted a colorblind mindset, ostensibly to achieve racial equality. However, when researchers examined whether schools that endorse colorblindness equip students to detect incidents of racial inequality or effectively facilitate intervention in these incidents, they found this was not the case.⁴⁷ Instead, students exposed to a colorblind mindset instead of a value-diversity mindset were less likely to detect overt instances of racial discrimination or to describe them in a way to prompt intervention by teachers.⁴⁸ Thus, the researchers concluded that “well-intentioned efforts to promote egalitarianism via color blindness sometimes promote precisely the opposite outcome, permitting even explicit forms of racial discrimination to go undetected and unaddressed.”⁴⁹

Rather than colorblind approaches, the authors of a systematic review of 30 years of research on ethnic-racial socialization processes made several recommendations to teachers.⁵⁰ These include the following:

⁴⁷ Evan P. Apfelbaum et al., *In Blind Pursuit of Racial Equality?*, 21 *Psychological Science* 1587-1592 (2010), <http://pss.sagepub.com/content/21/11/1587>.

⁴⁸ *Id.* at 1590-1591.

⁴⁹ *Id.* at 1591.

⁵⁰ Naomi Priest et al., *Understanding the complexities of ethnic-racial socialization processes for both minority and majority groups: A 30-year systematic review*, *International Journal of Intercultural Relations* 1-17 (2014), <https://doi.org/10.1016/j.ijintrel.2014.08.003>.

- promoting reflection on cultural identity and cultural socialization among majority children that recognizes whiteness and white privilege, as well as promoting identity and belonging among minority children;
- promoting messages of egalitarianism that move beyond silence about race or colour blindness but rather promote egalitarian views of equality without ignoring or perpetuating racial/ethnic inequalities; and
- continuing to both proactively and reactively prepare minority children for experiences of bias and supporting them when such experiences do occur.⁵¹

In sum, colorblind approaches are incompatible with culturally relevant teaching and other asset-based pedagogies because students must explicitly discuss racism in order to develop the type of critical consciousness they need to effectively engage with society. “Avoiding these discussions in classrooms is not only inconsistent with the developmental capacities and needs of youth, but it also has detrimental effects for marginalized students and society at large.”⁵²

III. Educational Psychology Research Demonstrates that College Students’ Engagement with Issues of Diversity in the Classroom Is Associated with Better Outcomes and More Engaged Citizenship.

A. College students’ engagement with issues of diversity is associated with higher levels of academic skills and ability to get along with people of different races or cultures.

College students who attend classes that teach explicitly about racism and diversity are, unsurprisingly, more likely to exhibit racial tolerance and

⁵¹ *Id.* at 14.

⁵² Francesca López, *Can educational psychology be harnessed to make changes for the greater good?*, 57 *Educational Psychologist* 1-17, at 8 (2022), <https://doi.org/10.1080/00461520.2022.2052293>.

understanding. For example, in a review of existing research studies on diversity courses on college campuses, including ethnic studies courses, women's studies courses, and courses with a diversity component in other departments, the researchers concluded that "diversity courses were more likely to be positively associated with diversity-related outcomes, such as the goal of promoting racial understanding, multicultural awareness, and positive quality of interactions with diverse others."⁵³ In a meta-analysis of studies on diversity experiences in higher education, the authors determined that "[c]ollege diversity experiences are significantly and positively related to cognitive development."⁵⁴ In another study of how college students' outcomes for learning and education are affected by engaging with racial diversity, including engagement through the curriculum, researchers found that students' increased participation in diversity-related courses was associated with positive ratings of self-efficacy, academic skills, and self-change in the student's capacity to engage with racial-cultural differences.⁵⁵

⁵³ Nida Denson & Nicholas A. Bowman, *Do Diversity Courses Make a Difference? A Critical Examination of College Diversity Coursework and Student Outcomes*, Ch. 2 in *Higher Education: Handbook of Theory and Research* 35-84, at 73 (2017), https://doi.org/10.1007/978-3-319-48983-4_2.

⁵⁴ Nicholas A. Bowman, *College Diversity Experiences and Cognitive Development: A Meta-Analysis*, 80(1) *Review of Educational Research* 4-33, at 20 (2010), <http://www.jstor.org/stable/40658444>.

⁵⁵ Nida Denson & Mitchell J. Chang, *Racial Diversity Matters: The Impact of Diversity-Related Student Engagement and Institutional Context*, 46(2) *American Educational Research Journal* 322-353, at 343 (2009), <https://doi.org/10.3102/0002831208323278>.

What’s more, at the institutional level, even if individual students had not taken diversity-related courses, the fact that they attended institutions where a greater proportion of students participated in workshops or classes that considered diversity issues resulted in those individual students “also report[ing] higher levels of self-change in knowledge of and ability to get along with people of different races or cultures, *independent* of their own personal involvements and interactions.”⁵⁶

B. College students’ engagement with issues of diversity predicts aspects of informed citizenship that persist years after college.

Moreover, engagement with issues of diversity in the classroom has long-term benefits for students in terms of their ability to function as active participants in deliberative democracy. In a longitudinal study that surveyed students over the course of ten years, including six years after college, researchers examined the extent to which curricular diversity experiences and interactions with members of other races predicted three measures of informed citizenship: discussing racial/ethnic issues, the personal importance of keeping up to date on political affairs, and news consumption six years after college.⁵⁷ The researchers chose

⁵⁶ *Id.* at 336.

⁵⁷ Nida Denson et al., *Preparing Students for a Diverse, Deliberative Democracy: College Diversity Experiences and Informed Citizenship After College*, 119(8) *Teachers College Record* 1-41, at 2-3 (2017), <https://doi.org/10.1177/016146811711900805>.

these measures as especially salient to supporting deliberative democracy. They found that there were larger positive effects for curricular diversity experiences than for interpersonal experiences, although both were consistently positive.⁵⁸ The researchers observed that curricular diversity experiences “may lead students on a course toward informed citizenship via increased pluralistic orientation and increased likelihood of discussing politics at the end of college, which then leads to changes that persist years after college.”⁵⁹ Because college is often many students’ first setting in which they have cross-racial interactions and exposure to curricular diversity experiences, “[t]hese experiences during the college years are critical for nurturing citizens who are actively engaged in discussing the pertinent issues of today and tomorrow: the foundation of a deliberative democracy.”⁶⁰ Given the importance of curricular diversity experiences in college for students’ ability to become informed citizens,⁶¹ laws that would censor important discussions of racism and sexism on campus are likely to inflict significant damage on students’ prospects as engaged citizens in a multiracial democracy.

⁵⁸ *Id.* at 31-32.

⁵⁹ *Id.* at 32.

⁶⁰ *Id.* at 35.

⁶¹ Nicholas A. Bowman, *Promoting Participation in a Diverse Democracy: A Meta-Analysis of College Diversity Experiences and Civic Engagement*, 81:29 *Review of Educational Research* 29-68, at 46, 49 (2011), <http://rer.sagepub.com/content/81/1/29>.

CONCLUSION

The research described here and conducted by amicus members demonstrates the empirical importance of curricula that affirmatively engage with race, racism, and diversity to academic outcomes for students. But it also makes clear how vital these curricula are to teaching racial tolerance and to ensuring an engaged and thoughtful citizenry that is equipped for the hard work of democratic self-governance. By banning and/or chilling the creation of such curricula, the Stop W.O.K.E. Act thus hamstrings not only our children, but our nation as a whole.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served upon all parties electronically through the Court's ECF system on May 25, 2022.

/s/ Shalini Goel Agarwal