



STATEMENT OF

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For a Hearing on

**“Breaking Trust: Attacks on Parental Rights, Inappropriate Content, and Legal  
Abuses in America’s Schools”**

Before the

**United States House of Representatives**

**Committee on Education & Workforce**

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Chairman Walberg, Ranking Member Scott, and Members of the Committee on Education and Workforce, on behalf of the National Center for Youth Law,<sup>1</sup> I want to thank you for the privilege of testifying before your Committee today.

Throughout the history of our nation, public education has served as a cornerstone of our democracy. Early on, leaders recognized that the development of a “lived democracy”—where everyone can meaningfully participate and engage—required a populace that was skilled and informed.<sup>2</sup> While marked with a terrible history of racial segregation and discrimination,<sup>3</sup> the U.S. public education system has emerged as the primary civic institution where individuals, regardless of their background, can learn critical thinking skills and gain the tools that enable them to make the informed decisions necessary to sustain self-governance. It also provides a forum where people can learn how to interact and engage with those who have diverse backgrounds and perspectives. Today, our public education system provides young people the critical foundation needed to be full participants in our multiracial democracy and competitive in the global economy.

At the National Center for Youth Law, through our work with parents and young people, we hear the same refrain all the time about our education system: they want learning environments that allow students to grow, thrive, and be prepared for the future. They want students, parents, educators, and school staff to all work together to ensure that schools are safe and inclusive for the entire school community. As I will set forth in my testimony, there are two critical aspects necessary to achieve this objective. First, we must guarantee that schools remain places where all students can learn and succeed. Second, we must fully acknowledge and respect the rights of parents and students, recognizing that their voice and perspective are critical in creating and maintaining safe and supportive learning environments.<sup>4</sup> However, as I will explain, the language of “parents’ rights” is too often invoked not to advance these shared goals, but as a cudgel to divide communities. When it becomes a vehicle for a small number of parents to restrict what all students can learn, read, or discuss, or when it makes it harder for some students to learn, it stops serving children, and it undermines the rights of students and other parents.

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<sup>1</sup> The National Center for Youth Law (NCYL) is a national advocacy organization that is building a future where every child thrives and is supported by families and communities. For over 50 years, we have worked alongside young people to drive lasting change so every child can grow, dream, and lead with dignity and opportunity. In the educational context, we aim to create an ecosystem that centers youth and supports them to thrive and to engage civically in our democracy throughout their lifetimes. We also work to create and maintain safe and positive school environments where students can learn and thrive.

<sup>2</sup> L. E. Martin & T. Mulvihill, *The Role of Public Education in Democracy*, *The Teacher Educator* (2026), <https://doi.org/10.1080/08878730.2026.2591006>.

<sup>3</sup> See, e.g., Derek W. Black, *Freedom, Democracy, and the Right to Education*, 116 *Nw. U. L. Rev.* 1031, 1033–34 (2022),

<https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1483&context=nulr>.

<sup>4</sup> This testimony uses the term “parent” to refer collectively to parents, guardians, and/or caregivers.

## **I. Ensuring All Students Have the Opportunity to Learn and Succeed**

Programs and policies that advance diversity, equity, and inclusion ensure that all students have the opportunity to learn and to succeed. My testimony will begin by providing data regarding the demographic diversity of our nation's schools, demonstrating why programs that serve diverse student populations make education stronger for all. Next, I will discuss how programs advancing equity in education have a proven track record of improving outcomes and expanding opportunity for all students. Finally, my testimony lays out the importance of providing inclusive environments for students and how enforcement of federal civil rights protections can help ensure students have access to safe, inclusive learning environments.

### **A. Effective Public Schools Meet the Needs of Their Diverse Student Populations**

A view into this country's classrooms reveals that our students' demographics mirror the growing diversity of our multicultural society. The different backgrounds, identities, and experiences of students, educators, and staff make public education stronger for all. Recognizing, embracing, and uplifting this strength can lead to better outcomes for both students and parents.

According to some of the most recent data available, almost 49.6 million students are enrolled in U.S. public primary and secondary schools.<sup>5</sup> More than half of these students come from communities of color—including 29 percent Hispanic, 15 percent Black, and 5 percent Asian.<sup>6</sup> Enrollment trends show the primary and secondary student population is only growing more diverse: over the past decade, Hispanic, Asian, and multiracial enrollment has increased.<sup>7</sup>

Economic diversity is also prevalent in our nation's schools. More than half of all public school students—25.5 million—qualify for free or reduced-price lunch, and 10.5 million attend high-poverty schools.<sup>8</sup> High-poverty schools disproportionately serve students of color: 38 percent of Hispanic students and 37 percent of Black students attend high-poverty schools.<sup>9</sup>

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<sup>5</sup> Nat'l Ctr. for Educ. Statistics, *Public School Enrollment*, Condition of Education (May 2024), <https://nces.ed.gov/programs/coe/indicator/cga/public-school-enrollment>.

<sup>6</sup> Nat'l Ctr. for Educ. Statistics, *Racial/Ethnic Enrollment in Public Schools*, Condition of Education (May 2024), <https://nces.ed.gov/programs/coe/indicator/cge>.

<sup>7</sup> *Id.*

<sup>8</sup> Nat'l Ctr. for Educ. Statistics, *Public School Enrollment, Concentration of Public School Students Eligible for Free or Reduced-Price Lunch*, Condition of Education (May 2024), <https://nces.ed.gov/programs/coe/indicator/clb/free-or-reduced-price-lunch>.

<sup>9</sup> *Id.*

Our nation’s schools also have significant Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) populations.<sup>10</sup> Approximately 1 in 4 of high school students—25 percent—identify as LGBTQI+.<sup>11</sup> One recent study found that there are more than 723,000 transgender students in the United States.<sup>12</sup>

More than 5.3 million elementary and secondary students, or almost 1 in 10, are English Learners, a figure that has grown by nearly a million students over the past decade alone.<sup>13</sup> They speak more than 400 languages and represent a wide range of cultures, grade levels, experiences, and backgrounds.<sup>14</sup> These students now represent at least ten percent of enrollment in thirteen states across every region of the country.

And 7.5 million public school students, or 15 percent of enrollment, receive special education services under the Individuals with Disabilities Education Act (IDEA).<sup>15</sup> These students range from those with learning disabilities (the largest group, at 32 percent of IDEA recipients) to students with autism, speech impairments, and intellectual disabilities.<sup>16</sup>

As these data demonstrate, diversity in our nation’s schools is not a buzz word or talking point. It is a factual description of the students our schools serve, of classrooms that themselves reflect the full demographic and socioeconomic tapestry of our nation. American public schools have never served a uniform population and, as a result, must educate and support students from a wide range of backgrounds, experiences, and circumstances.

Programs that recognize and serve the needs of a diverse student body are necessary to ensure that all students can learn and succeed. Such programs serve students with disabilities who need individualized support. They serve English learners navigating a new language and culture. They serve children living in poverty. They serve students whose racial and ethnic backgrounds reflect the full breadth of the nation. They serve parents who are invested in ensuring their students have the tools to succeed in our increasingly global economy. Programs designed to meet students where they are linguistically, economically, and academically are the infrastructure that makes a public education system genuinely public. The presence of different backgrounds, perspectives, identities, and experiences provides students with the opportunity to engage in cultures and

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<sup>10</sup> Throughout this testimony, some of the data referenced only track certain parts of the community reflected in the acronyms used for those sections.

<sup>11</sup> Ctrs. for Disease Control & Prevention, *Disparities in School Connectedness, Unstable Housing, Experiences of Violence, Mental Health, and Suicidal Thoughts and Behaviors Among Transgender and Cisgender High School Students — Youth Risk Behavior Survey, United States, 2023*, (Oct. 10, 2024), <https://www.cdc.gov/mmwr/volumes/73/su/su7304a6.htm>.

<sup>12</sup> Williams Institute, *How Many Adults and Youth Identify as Transgender in the United States?* (Aug. 2025), <https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/>.

<sup>13</sup> Nat’l Ctr. for Educ. Statistics, *English Learners in Public Schools*, Condition of Education (U.S. Dep’t of Educ., Inst. of Educ. Scis.), May 2024, <https://nces.ed.gov/programs/coe/indicator/cgf>.

<sup>14</sup> U.S. Gov’t Accountability Off., GAO-24-106360, *K-12 Education: Student, Teacher, and School Characteristics Associated with English Learners’ Academic Performance* 1 (2024), <https://www.gao.gov/assets/gao-24-106360.pdf>

<sup>15</sup> Nat’l Ctr. for Educ. Statistics, U.S. Dep’t of Educ., *Students With Disabilities* (May 2024), <https://nces.ed.gov/programs/coe/indicator/cgg>

<sup>16</sup> *Id.*

dynamics that are beyond their own limited experiences and worldview. It also prepares them to interact civilly and with respect for people from different backgrounds as they grow older.

This diversity serves as a core strength of our public education system.

## **B. Equipping All Students With the Tools They Need to Succeed**

Equity in education demands that *all* students have the tools they need to succeed in school. It means treating students fairly and providing them with the specific resources and support they need, including by addressing historical and systemic barriers to opportunity. Equity does not require treating every student the same; it involves meeting students where they are and providing what each one needs to thrive. Equitable programs target the conditions that drive disparities in graduation rates and other measures of student success, such as unequal access to support, harassment, and violence in educational settings, and weakened feelings of belonging in the school community and curricula that fail to reflect the full range of student experiences. The results are documented. A 2025 study demonstrates that incorporating principles of equity into school policies, curricula, and professional development strengthens the sense of belonging that has consistently been identified as a key predictor of both psychological well-being and academic achievement.<sup>17</sup> Fostering a sense of belonging where students feel accepted, valued, and empowered is essential for equity. Many programs grounded in equitable principles were created after parents specifically requested these kinds of supports.

Programs focused on ensuring equity have a demonstrated track record of improving educational outcomes for all students. The American Psychological Association (APA) finds that teaching that advances equity by reckoning with historical and ongoing discrimination improves critical thinking and raises academic achievement for all students.<sup>18</sup> One study that the APA cites concluded that “regardless of students’ race, language, ethnicity, or other characteristics, if students perceived more diversity in the curriculum, they believed that they understood . . . concepts more and could better apply concepts to their lives.”<sup>19</sup> Such students are better equipped to recognize their own biases, engage in difficult conversations, and think through complex problems. These are transferable skills that matter in college, careers, and civic life.<sup>20</sup> Equity doesn't redistribute a fixed pool of academic success. It expands it.

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<sup>17</sup> Brandon J. Cheeks, *Transforming Education: Advancing Diversity, Equity, Inclusion, and Belonging for Systemic Change*, 51 *Educ. Considerations* 1 (2025); see also Shaun Harper, *Consequences of and Responses to Politicized Attacks on Diversity, Equity, and Inclusion in Schools*, 101 *Peabody J. Educ.* 1 (2026).

<sup>18</sup> Mary E. Kite & Patricia Clark, *The Benefits of Diversity Education: An Inclusive Curriculum Offers Important Positive Outcomes*, *Am. Psych. Ass’n* (Sept. 8, 2022), <https://www.apa.org/ed/precollege/psychology-teacher-network/introductory-psychology/benefits-of-diversity>.

<sup>19</sup> Joelle D. Elicker, Andrea F. Snell & Alison L. O'Malley, *Do Student Perceptions of Diversity Emphasis Relate to Perceived Learning of Psychology?*, 37 *Teaching of Psychology* 1, 39 (2010), <https://doi.org/10.1080/00986280903425706>.

<sup>20</sup> Mary E. Kite & Patricia Clark, *The Benefits of Diversity Education: An Inclusive Curriculum Offers Important Positive Outcomes*, *Am. Psych. Ass’n* (Sept. 8, 2022).

Ensuring that all students have the resources they need to succeed is not just good policy, it is also consistent with federal law. Congress has enacted a series of statutes designed to ensure that school districts do not overlook the needs of students who have been underserved, such as students from families experiencing economic hardship, students from different racial and ethnic groups, Native American students, English learners, and students with disabilities. These efforts reflect a longstanding legislative recognition that equal opportunity in education requires attention to disparities in access and outcomes across defined student populations. Under the Every Student Succeeds Act, states must implement accountability systems that measure performance “for all students and separately for each subgroup of students,” including “economically disadvantaged students,” “students from major racial and ethnic groups,” “children with disabilities,” and “English learners.”<sup>21</sup> These systems must also establish “long-term goals . . . for all students and separately for each subgroup of students” and track progress toward closing achievement gaps.<sup>22</sup> In this way, federal law requires states and districts to identify disparities and take steps to address them within a framework that evaluates outcomes for all students.

The case for programs that expand opportunity in education is not only about what they provide students, but also about what is lost when they are undermined. A national survey of school superintendents found that the politicization of education in K-12 public schools cost districts an estimated \$3.2 billion during the 2023–2024 school year alone.<sup>23</sup> That figure represents money that did not go to teachers, classrooms, tutoring, mental health support, extra-curriculars, or other resources students need. Politicized attacks drain the budgets of the very schools serving the students who are in greatest need.

The damage isn't only financial. Programs and curricula that are not culturally responsive to the students they serve harm the academic performance of all students.<sup>24</sup> Research also shows that culturally responsive education decreases dropout rates and suspensions while increasing student participation, confidence, academic achievement, and graduation rates.<sup>25</sup> Moreover, interviews with 55 educators in a Texas urban district found that “anti-CRT” and “anti-DEI” laws and rhetoric erode teacher well-being. Teachers reported diminished professional autonomy, heightened stress, and accelerating burnout.<sup>26</sup> At a time when schools are already struggling with staffing shortages, policies that drive experienced educators out of the classroom compound every other challenge districts face.

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<sup>21</sup> 20 U.S.C. § 6311(b)(2)(B)(xi)(I)–(VI).

<sup>22</sup> *Id.* at § 6311(c)(4)(A)(i).

<sup>23</sup> John Rogers, Rachel White, Robert Shand, & Joseph Kahne, *The Costs of Conflict: The Fiscal Impact of Culturally Divisive Conflict on Public Schools in the United States* (UCLA Inst. for Democracy, Educ. & Access Oct. 2024), <https://idea.gseis.ucla.edu/publications/costs-of-conflict/>.

<sup>24</sup> Thurgood Marshall Institute, *Project 2025's Threat to Providing Black Students with a Safe, Inclusive, and Quality Education*, <https://tminstitutelfd.org/project-2025-threats-to-education/>.

<sup>25</sup> *Id.*

<sup>26</sup> Michaela L. Perneti, Danielle Sutherland, & Emily Germain, *Under Pressure: The Impact of Anti-CRT and Anti-DEI Laws and Rhetoric on Teacher Well-Being*, 101 *Peabody J. Educ.* 20 (2026), <https://doi.org/10.1080/0161956X.2026.2647659>.

Investments in programs that support student opportunity improve educational outcomes. Schools with the most successful students advance evidence-based, culturally responsive practices that research has shown to work.

### C. Ensuring Inclusive Environments for All Students

For students to succeed, they must feel safe, respected, valued, and free to fully participate in educational life. Inclusive classrooms are those where all students, regardless of their race, ethnic background, language, religion, sex, including their sexual orientation and gender identity, or ability, have equal access to opportunity. An inclusive environment ensures that no student feels like the “other;” and everyone is equally valued as participants in the classroom. Students in inclusive environments are more likely to grow into confident individuals, a quality that will serve them well, not just during their education, but throughout their lives. For these reasons, parents have often been the impetus for schools developing inclusive policies in the first place. Indeed, parents have been important advocates for and partners in developing inclusive policies in schools for decades. As the father of two Black children, I personally understand the need every parent feels to make sure their children are affirmed and supported throughout their educational careers.

Failure to have safe and inclusive learning environments harms students. The Institute of Education Sciences (IES) conducted a review of studies regarding inclusive learning environments and found that when schools fail to provide inclusive conditions, students lose their sense of belonging, disengage from learning, and perform worse academically. IES also notes that exclusionary environments “disenfranchise students” and produce “deep and lasting” community-level harms.<sup>27</sup> This is especially true when students do not feel safe from harassment or violence in school settings. Recently we have seen a troubling increase in incidents of racial harassment and bullying against Black students and other students of color.<sup>28</sup> Similarly, 53% of LGBTQI+ students reported facing discriminatory school policies, such as being prevented from using school facilities consistent with their gender identity.<sup>29</sup> FBI data shows particularly large increases in anti-LGBTQ+ hate crimes and bullying in K-12 schools over the past few years, particularly in states with exclusionary policies.<sup>30</sup> This exclusion and violence likely contribute

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<sup>27</sup> Inst. of Educ. Scis., Reg'l Educ. Lab. Midwest, *Building Inclusive and Equitable Learning Environments* (REL Midwest 23581v7, 2024),

<https://ies.ed.gov/rel-midwest/2025/01/building-inclusive-and-equitable-learning-environments>.

<sup>28</sup> Jennifer Smith Richards et al., *Monkey Sounds, “White Power” and the N-Word: Racial Harassment Against Black Students Ignored Under Trump*, ProPublica (Dec. 19, 2025),

<https://www.propublica.org/article/trump-education-department-civil-rights-racial-harassment>.

<sup>29</sup> Glisten, *The 2025 National School Climate Survey* (Apr. 2026), <https://glisten.org/nscs2025/>.

<sup>30</sup> Laura Meckler, et al., *In states with laws targeting LGBTQ issues, school hate crimes quadrupled*, Washington Post (Mar. 13, 2024), <https://www.washingtonpost.com/education/2024/03/12/school-lgbtq-hate-crimes-incidents/>.

to the staggering disparities faced by LGBTQI+ youth, with over 70% of transgender youth reporting markers for depressive symptoms and nearing 30% having attempted suicide.<sup>31</sup>

Access to diverse books and similar materials that share stories helping students understand themselves and others also contributes to an inclusive classroom environment.<sup>32</sup> Time and time again, studies confirm inclusive curricula that include discussions of race, sex, culture, and complex histories reflecting students' identities and cultural contexts optimize educational outcomes, improve well-being, and prepare young people for the responsibilities of citizenship.<sup>33</sup> By contrast, policies that disproportionately block access to books about race, gender, and LGBTQI+ identities erase the very same representation that enables all students to function more effectively in the world.<sup>34</sup> Parents know this to be true. 80 percent of parents want to protect the ability of young people to have access to books from which they can learn about and understand different perspectives and help them grow into adults who can think for themselves.<sup>35</sup> Yet, since 2021, PEN America has tracked over 22,800 instances of book banning in public schools, which disproportionately targeted stories that depict racial, gender, or LGBTQI+ diversity.<sup>36</sup> This widespread effort to censor books in schools, libraries, and programs has a negative impact on educators' ability to teach and students' ability to learn.<sup>37</sup> As one prominent scholar has warned, "When children cannot find themselves reflected in the books they read, or when the images they

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<sup>31</sup> Ctrs. for Disease Control and Prev., *Disparities in School Connectedness, Unstable Housing, Experiences of Violence, Mental Health, and Suicidal Thoughts and Behaviors Among Transgender and Cisgender High School Students—Youth Risk Behavior Survey*, United States, 2023, (Oct. 10, 2024), <https://www.cdc.gov/mmwr/volumes/73/su/su7304a6.htm>.

<sup>32</sup> There is also evidence that they increase literacy rates. Tracey Flores & Sandra Osorio, *Why Diverse Books Matter: Mirrors and Windows*, Colorin Colorado (2021), <https://www.colorincolorado.org/article/why-diverse-books-matter-mirrors-and-windows>.

<sup>33</sup> Brief of Amicus Curiae National Academy of Education in Support of Plaintiffs-Appellees/Cross-Appellants, *E.K. v. Department of Defense Education Activity*, Nos. 25-2497 & 26-1002 (4th Cir. filed June 3, 2026); see also Nat'l Acads. of Scis., Eng'g & Med., *How People Learn II: Learners, Contexts, and Cultures* 124–31 (2018), <https://doi.org/10.17226/24783>; Sci. of Learning & Dev. All., *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, 130–35 (2017); Diana E. Hess & Paula McAvoy, *The Political Classroom: Evidence and Ethics in Democratic Education* 70–81 (2015); Joseph Kahne et al., *Different Pedagogy, Different Politics: High School Learning Opportunities and Youth Political Engagement*, 34 *Pol. Psych.* 419, 421–22 (2013).

<sup>34</sup> Sabrina Baêta et al., *The Normalization of Book Banning*, PEN America (Oct. 2025), <https://pen.org/report/the-normalization-of-book-banning/>.

<sup>35</sup> American Library Association, *Voters Oppose Book Bans in Libraries*, <https://www.ala.org/advocacy/voters-oppose-book-bans-libraries>.

<sup>36</sup> Baêta et al., *supra* note 34; Kasey Meehan et al., *Banned in the USA: Beyond the Shelves*, PEN America (Nov. 2024), <https://pen.org/report/beyond-the-shelves/>; Kasey Meehan et al., *Banned in the USA: The Mounting Pressure to Censor*, PEN America (Sept. 2023), <https://pen.org/report/book-bans-pressure-to-censor/>; Jonathan Friedman et al., *Banned in the USA: The Growing Movement to Censor Books in Schools*, PEN America (Sept. 2022), <https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/>.

<sup>37</sup> Kasey Meehan et al., PEN America, *Banned in the USA: Narrating the Crisis*, PEN America (Apr. 16, 2024), <https://pen.org/report/narrating-the-crisis/>.

see are distorted, negative, or laughable, they learn a powerful lesson about how they are devalued in the society of which they are a part.”<sup>38</sup>

Unfortunately, the history of our nation is littered with examples of people, including students, being denied access to equal opportunity and inclusive environments. Communities of color, women, religious minorities, LGBTQI+ individuals, individuals from lower-income families, people with disabilities, and others have suffered widespread discrimination and mistreatment. This has been especially true in our public schools. Students have often been on the front lines of challenging situations where they are either expressly unwelcomed or subjected to severe mistreatment, violence, and abuse. Parents have demanded that public schools fulfill the promise of providing their children with equal educational opportunities. Indeed, in the years following *Brown v. Board of Education*,<sup>39</sup> children, including the Little Rock Nine and six-year-old Ruby Bridges, endured threats, harassment, and violence simply for trying to go to their public schools, and ultimately had to be escorted by federal troops or marshals past jeering crowds.

#### **D. Congress’ Important Role in Ensuring that All Students Receive the Education to Which They Are Entitled**

In response to the harms discussed above, and often after long campaigns led by parents on behalf of their children, Congress has enacted legislation that extends civil rights protections and provides remedies for these historic injustices. The Civil Rights Acts of 1871 (the Ku Klux Klan Act), the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Fair Housing Act of 1968, the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Equal Educational Opportunities Act of 1974, the Individuals with Disabilities Education Act of 1975, and the Americans with Disabilities Act of 1990 are just a few examples of the landmark legislative achievements that have helped ensure our country lives up to its promise of equal justice and opportunity for all. Some of these statutes were enacted for the express purpose of protecting the rights of students and ensuring inclusive learning environments.

For example, after the Supreme Court’s landmark decision in *Brown v. Board of Education*, school districts throughout the South refused to desegregate despite the Court’s directive to do so. Title VI of the Civil Rights Act of 1964,<sup>40</sup> which prohibits federal funding recipients from discriminating based on race, color, or national origin, “represented an extraordinary mobilization of federal power to put pressure on school districts”<sup>41</sup> to desegregate schools. By conditioning federal funding on school districts’ compliance with federal court orders, Title VI,

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<sup>38</sup> Rudine Sims Bishop, *Mirrors, Windows, and Sliding Glass Doors, Perspectives: Choosing & Using Books for the Classroom*, vol. 6, no. 3, 1990, at ix–xi.

<sup>39</sup> 347 U.S. 483 (1954).

<sup>40</sup> 42 U.S.C. § 2000d et seq.

<sup>41</sup> Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy, 1960–1972* at 164 (1990); see also Suzanne B. Goldberg & Olatunde C. Johnson, *Campus Crises and the Limits of Title VI*, 126 COLUM. L. REV. F. 1, 16 (2026), [https://scholarship.law.columbia.edu/faculty\\_scholarship/4753](https://scholarship.law.columbia.edu/faculty_scholarship/4753).

which was enacted 10 years after the *Brown* opinion, resulted in the first meaningful steps in integrating our nation’s public schools.<sup>42</sup> Similarly, Congress enacted Title IX of the Education Amendments of 1972,<sup>43</sup> the first legislation to prohibit sex discrimination in education, in direct response to the rampant sexism that denied equal opportunity in education for girls and women across the country.<sup>44</sup> Before the enactment of Title IX, women had limited access, if any at all, to educational programs. Colleges and universities regularly set limits on the admission of female applicants and restricted their access to scholarship programs and other opportunities. The fact that women now take more advanced classes, score higher in reading assessment tests, and have higher graduation rates than their male counterparts is evidence of the statute’s impact in opening doors of opportunities regardless of a student’s sex.<sup>45</sup>

These statutes have also evolved over time to confront new types of discrimination and mistreatment. The Supreme Court has explained that:

[L]egislation, both statutory and constitutional, is enacted, it is true from an experience of evils, but its general language should not, therefore, be necessarily confined to the form that evil has theretofore taken. Time works changes, brings into existence new conditions and purposes; therefore a principle, to be vital, must be capable of wider application than the mischief which gave it birth.<sup>46</sup>

For example, over decades, Title IX’s prohibition of sex discrimination in schools has increasingly been understood to encompass discrimination based on sexual orientation and gender identity. As the Supreme Court held in its landmark decision *Bostock v. Clayton County, Georgia*,<sup>47</sup> “it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex” since “homosexuality and transgender status are inextricably bound up with sex.”<sup>48</sup> Consistent with this ruling, multiple federal courts have regularly rejected exclusionary policies that violate the rights of transgender students.<sup>49</sup> In states within the Fourth and Seventh Circuit Courts of Appeals, schools are

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<sup>42</sup> *Id.*; See also Gary Orfield, *The Reconstruction of Southern Education: The Schools and the 1964 Civil Rights Act* 102–03 (1969); Lia Epperson, *Undercover Power: Examining the Role of the Executive Branch in Determining the Meaning and Scope of School Integration Jurisprudence*, 10 Berkeley J. Afr.-Am. L. & Pol’y 146, 152–57 (2008).

<sup>43</sup> 20 U.S.C. §1681 et seq.

<sup>44</sup> Margaret A. Nash, *Hope and a Tool: The History of Title IX of the Education Amendments of 1972*, Nat’l. All. for P’ships. in Equity (Dec. 1993), <https://www.napequity.org/nape-content/uploads/Hope-and-a-tool-in-columns-.pdf>.

<sup>45</sup> U.S. Dep’t. of Just., *Equal Access to Education: Forty Years of Title IX* (2012), <https://www.justice.gov/sites/default/files/crt/legacy/2012/06/20/titleixreport.pdf>.

<sup>46</sup> *Weems v. U.S.*, 217 U.S. 349, 373 (1910).

<sup>47</sup> As the Supreme Court held in its landmark decision *Bostock v. Clayton County, Georgia*, “an employer who discriminates against homosexual or transgender employees necessarily and intentionally applies sex-based rules.” 590 U.S. 644, 667 (2020).

<sup>48</sup> *Bostock v. Clayton Cnty.*, 590 U.S. 644, 660-61 (2020).

<sup>49</sup> See, e.g., *Grimm v. Gloucester County School Board*, 972 F.3d 586 (4th Cir. 2020); *Whitaker v. Kenosha Unified School District No. 1 Board of Education*, 858 F.3d 1034 (7th Cir. 2017); *A.C. v. Metro. Sch. Dist. of Martinsville*, 75 F.4th 760 (2023).

required, in order to comply with the law, to ensure transgender students can use bathrooms consistent with their gender identity, with the Seventh Circuit clarifying that “[a] policy that requires an individual to use a bathroom that does not conform with his or her gender identity punishes that individual for his or her gender non-conformance, which in turn violates Title IX.”<sup>50</sup> Indeed, all students suffer when schools enact policies rooted in unlawful sex stereotypes. In recent years, there have been multiple reports of cisgender women who have been harassed, confronted in, or ejected from public restrooms because they were not perceived to be feminine enough—such as being tall<sup>51</sup> or having short hair.<sup>52</sup> In one such case, a cisgender girl was only able to defuse the confrontation by exposing her clothed breasts.<sup>53</sup>

### **E. The Role of Title VI and Title IX in Ensuring Inclusive Learning Environments**

Statutes like Title VI and Title IX were enacted for the express purpose of ensuring inclusive educational environments for students who have been denied that opportunity. Properly understood, these laws are intentional interventions to directly respond to and correct historical and ongoing injustices. Regulations interpreting Title IX’s prohibition of sex discrimination have acknowledged the ongoing challenges faced by transgender and other LGBTQI+ students and establish that they are entitled to the full protections provided under that law.<sup>54</sup> Likewise, the Department of Education’s regulations implementing Title VI make clear that there may be instances where it is important for educational entities to be cognizant of race:

Even though a [federal funding] applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances, an applicant or recipient may properly give specific consideration to race, color, or national origin to make the benefits of its program more widely available to such groups, not then being adequately served.<sup>55</sup>

One court recently noted that “settled practices” establish that students can engage in conduct that implicates race and national origin—for example, studying material discussing the history of

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<sup>50</sup> *Whitaker*, 858 F.3d at 1049.

<sup>51</sup> Daniel Wu, *Walmart fires woman who reported anti-trans threats from man in bathroom*, The Washington Post (Mar. 27, 2025).

<sup>52</sup> Brandon Truett, *Woman says security guard at Liberty Hotel in Boston confronted her in bathroom, asked to prove gender*, CBS News (May 7, 2025), <https://www.cbsnews.com/boston/news/women-boston-liberty-hotel-bathroom-gender/>.

<sup>53</sup> Ryan Adamczeski, *Lesbian teen cornered by server in bathroom and forced to prove gender files charges*, Advocate (Aug. 13, 2025), <https://www.advocate.com/news/minnesota-cisgender-girl-restaurant-bathroom>.

<sup>54</sup> U.S. Dep’t of Educ., Final Rule: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance. 85 Fed. Reg. 30026, 30478 (May 19, 2020).

<sup>55</sup> 34 C.F.R. § 100.5(i).

racial injustice and discrimination—without running afoul of Title VI.<sup>56</sup> That court and others have recognized that programs such as race- and gender-based affinity groups are not discriminatory; in fact, they help improve academic outcomes for students from marginalized communities.<sup>57</sup>

Recognizing that the protections these laws provide are meaningless if they are not aggressively and effectively enforced, Congress has also established federal agencies tasked with civil rights implementation and enforcement. The Department of Education’s Office for Civil Rights (OCR) is the federal office most directly responsible for ensuring students’ equal access to education. OCR is the federal backstop ensuring that every student—regardless of race, color, national origin, sex, shared ancestry, and disability—has equal access to education. Congress delegated enforcement authority for critical civil rights protections, including Title VI, Title IX, Section 504 of the Rehabilitation Act, Title II of the Americans with Disabilities Act, to OCR to ensure that all students across the country have equal access to an education regardless of who they are or where they live.

OCR, when fully functional and adequately staffed, often stands as a student’s and family’s last and sometimes only option to attend school free from discrimination when local systems fail. The fact that OCR has seen substantial increases in the complaints received each year, with over 20,000 complaints in each of the last several fiscal years, only highlights the extent of ongoing discrimination in our nation’s schools<sup>58</sup>—an urgent priority that is not being fully addressed by OCR’s current staffing levels, leadership, and focus. OCR has abandoned its role in investigating complaints and working directly with school districts to implement policies that ensure all students can learn and are free from discrimination. Indeed, OCR has dismissed over 90% of complaints it received in mid-2025 without full investigation,<sup>59</sup> while failing to reach *any* resolution agreements related to racial harassment, sexual harassment, sexual violence, seclusion or restraint, or discriminatory school discipline.<sup>60</sup> In practical terms, this means that students are suffering egregious harm. The examples of severe harassment, mistreatment, and abuse against

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<sup>56</sup> *Am. Fed. of Teachers v. Dept of Ed.*, 796 F.Supp.3d 66, 105 (D. Md, 2025).

<sup>57</sup> Lawyers' Comm. for Civ. Rts. Under Law, *Correcting the Record on Affinity Student Groups and Spaces*, <https://allianceforhighered.org/resources/lawyers-committee-for-civil-rights-under-law-correcting-the-record-on-affinity-student-groups-and-spaces>. See also, Sam Steen et al., *Affinity Groups in Educational Settings to Promote Inclusive Excellence: A Systematic Literature Review*, Iris Publishers (Oct. 24, 2025), <https://irispublishers.com/ijer/fulltext/Affinity-Groups-in-Educational-Settings-to-Promote-Inclusive-Excellence-A-Systematic-Literature-Review.ID.000616.php>.

<sup>58</sup> U.S. Dep’t. of Educ., Off. for C.R., *2024 Annual Fiscal Year Report* (2024).

<https://www.ed.gov/media/document/ocr-report-president-and-secretary-of-education-2024-109012.pdf>.

<sup>59</sup> Gov’t Accountability Office, GAO-26-108320, Dep’t of Education: Full Costs and Savings Estimate Needed for Reduction-in-Force and Restructuring of the Office for Civil Rights (Jan. 29, 2026), <https://www.gao.gov/products/gao-26-108320>.

<sup>60</sup> U.S. Senate Comm. on Health, Educ., Labor, and Pensions, “Justice Denied: How Trump’s Office for Civil Rights Reached a 12-Year Low in Protecting Students from Discrimination” (Apr. 28, 2026), [https://www.sanders.senate.gov/wp-content/uploads/04.24.26-Justice-Denied-How-Trumps-Office-for-Civil-Rights-Reached-a-12-Year-Low-in-Protecting-Students-from-Discrimination\\_FINAL.pdf](https://www.sanders.senate.gov/wp-content/uploads/04.24.26-Justice-Denied-How-Trumps-Office-for-Civil-Rights-Reached-a-12-Year-Low-in-Protecting-Students-from-Discrimination_FINAL.pdf).

students of color, LGBTQI+ students, and others discussed above, are currently going unaddressed.

Through the Civil Rights Act of 1957, Congress also created the Department of Justice’s Civil Rights Division, which plays an important role in enforcing Title VI, Title IX, the Equal Educational Opportunities Act, and other laws that protect students from discrimination. Having previously served as a Deputy Assistant Attorney General in the Civil Rights Division, I have witnessed firsthand the many ways that federal civil rights laws, including Title VI and Title IX, have been used to open the doors of opportunities for students across this country. For example, in 2021, the Division reached an agreement with the Davis (Utah) School District. An extensive investigation revealed that the school district persistently failed to respond to reports of race-based harassment of Black and Asian-American students, who constitute around 1% of the district’s 73,000 students. The Division uncovered hundreds of documented uses of racial slurs and epithets, derogatory race-based comments, and physical assaults targeted at students because of their race. The investigation also found that Black students received more severe discipline than their white peers for similar conduct and that Black students were denied the ability to form student groups while similar requests by other students were approved. The settlement agreement required the district to take corrective action by changing its systems and policies to remedy the district’s racially hostile environment.<sup>61</sup> A few years earlier, the Division relied on Title IX to address allegations against the Metropolitan Nashville (Tennessee) School District involving sexual assaults on a special education bus. In response, the school district agreed to take several steps to prevent sexual harassment and assaults on public school transportation systems, including implementing an extensive reporting system for sexual harassment complaints.<sup>62</sup>

These anecdotes are not anomalies; they are indicative of the ongoing challenges that students continue to face, and evidence that our classrooms have yet to become fully inclusive environments that parents demand and students deserve.

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<sup>61</sup> Press Release, U.S. Dep’t. of Just., *Justice Department Reaches Settlement to Remedy Severe Racial Harassment of Black and Asian-American Students in Utah School District* (Oct. 21, 2021), <https://www.justice.gov/archives/opa/pr/justice-department-reaches-settlement-remedy-severe-racial-harassment-black-and-asian>.

<sup>62</sup> Press Release, U.S. Dep’t. of Just., *Justice Department Settlement with Nashville, Tennessee, Public Schools Will Improve Security on School Buses for Students with Disabilities* (Jan. 27, 2010), <https://www.justice.gov/archives/opa/pr/justice-department-settlement-nashville-tennessee-public-schools-will-improve-security-school>.

## II. Both Parents and Students Play Important Roles in Creating and Maintaining Safe and Supportive School Environments

Schools do not succeed (or fail) in a vacuum. For any school to thrive, there must be a network of families, committed teachers, administrators, operational staff, administrative support, community members, and others who contribute their time, energy, and talents to building an institution that has all the necessary building blocks and components. This section focuses on how both parents and students are vitally important parts of that equation. I first lay out the rights and responsibilities parents have to shape the education development of their children. I will then discuss how children, who are rights holders themselves, are entitled to an education that respects their dignity and equips them for full civic participation.

It is beyond dispute that parents play an essential role in their children's lives. For most, the bond between parent and child is sacrosanct and often among the most meaningful connections they will have in life. Children look to their parents for not only love and support, but also guidance, encouragement, and protection. This influence extends to the educational context as well. Almost all parents are focused on ensuring that their children have all the tools and resources necessary so they can thrive academically. They want to make sure that their children are in learning environments that are safe, that their children feel included, and their identities are being respected and affirmed. Research confirms those efforts have a tangible effect on their children's lives: parental involvement is one of the most important contributors to student success, often overcoming any challenges that might be associated with a child's socioeconomic background or the specific school they attend.<sup>63</sup> Students with engaged parents are more likely to earn higher grades and have better standardized test scores.<sup>64</sup> The Centers for Disease Control and Prevention has observed that parental involvement is closely linked to reductions in unhealthy and risky behaviors as well as disciplinary and behavioral issues.<sup>65</sup>

The United States Supreme Court has also clearly and consistently recognized the central role that parents play in influencing their children's education. Over one hundred years ago, the Supreme Court issued two opinions, *Meyer v. Nebraska*<sup>66</sup> and *Pierce v. Society of Sisters*,<sup>67</sup> that collectively affirmed that parents have a general right to control the upbringing and education of their children. For example, in *Pierce*, a case involving the constitutionality of mandatory public school attendance, two private schools brought a lawsuit challenging an Oregon state law

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<sup>63</sup> See, e.g., Karolina Kantova, *Parental Involvement and Education Outcomes of Their Children*, 56 Applied Econ. 5683, 5683 (2024) (Positing that parental involvement between the ages of 7 and 16 is more influential than family background, family size, or level of parental education in terms of secondary school achievement).

<sup>64</sup> Inclusive Schools Network, *Impacts of Parents on Student Success* (Sept. 2015),

<https://inclusiveschools.org/resource/impact-of-parents-on-student-success/>.

<sup>65</sup> Ctrs. for Disease Control and Prevention, *Parent Engagement in Schools*, <https://www.cdc.gov/healthy-youth-parent-resources/parent-engagement/index.html>.

<sup>66</sup> 262 U.S. 390 (1923).

<sup>67</sup> 268 U.S. 510 (1925).

requiring children between the ages of 8 and 16 to attend public school. They argued that the law violated the rights of parents to choose the schools where their children would receive a more appropriate and suitable education. The Court agreed, explaining that “the child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.”<sup>68</sup>

But while the rights of parents are critically important, the Supreme Court has observed that the “rights of parenthood are [not] beyond limitation.”<sup>69</sup> It is, of course, commonsensical that no right is ever completely supreme or all-encompassing. Parents are not free to take actions that jeopardize the safety and security of children. A parent’s right to direct their child’s education does not permit a parent to refuse to educate their child at all.<sup>70</sup> Moreover, one parent’s right does not supersede the rights of other parents or their children. For example, a parent’s efforts to have their Black or transgender student in a safe, affirming, and inclusive learning environment is not trumped by a parent seeking exclusionary policies. While, in some circumstances, parents may have the right to opt their child out of certain schoolhouse activities or situations, they do not have the authority to dictate the entire operations of the school. The vast majority of parents understand that policies that either explicitly or in practice prevent all students from accessing certain materials or topics because a vocal minority of parents object to them, undermines the needs of all students. Such policies are fundamentally inconsistent with a public education system that must serve and support all students.

Minor students have rights, as well. The Supreme Court has recognized, “[c]onstitutional rights do not mature and come into being magically only when one attains the state-defined age of majority. Minors, as well as adults, are protected by the Constitution and possess constitutional rights.”<sup>71</sup> In fact, even where the Supreme Court articulates parents’ fundamental rights, including *Meyer* and *Pierce*, the Court has taken care to also recognize that children have freestanding constitutional rights of their own.<sup>72</sup> It is well-established that they do not “shed their constitutional rights . . . at the schoolhouse gate.”<sup>73</sup> For example, students have a right to

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<sup>68</sup> *Id.* at 535.

<sup>69</sup> *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944); *see also Regino v. Staley*, 133 F.4th 951, 961, 966 (9th Cir. 2025) (observing that parents’ rights are “not absolute” and are “not without limitations.”). (quotations omitted).

<sup>70</sup> *Wisconsin v. Yoder*, 406 U.S. 205, 238 (1972) (White, J., concurring) (noting the case “would be a very different” one if the parents’ claim were that their religion “forbade their children from attending any school at any time”).

<sup>71</sup> *Parham v. J.R.*, 442 U.S. 584, 627 (1979) (Brennan, J., concurring in part and dissenting in part) (citations omitted).

<sup>72</sup> *See, e.g., Pierce*, 268 U.S. at 535 (recognizing child’s due process right to receive education); *Meyer*, 262 U.S. at 400, 403 (1923) (recognizing child’s rights to receive instruction in languages other than English).

<sup>73</sup> *Tinker v. Des Moines Sch. Dist.*, 393 U.S. 503, 505-06 (1969).

freedom of speech,<sup>74</sup> a right to express themselves,<sup>75</sup> and a right to receive information.<sup>76</sup> Likewise, they enjoy independent privacy rights.<sup>77</sup> And courts have recognized that children's rights do not come at the expense of their parents.<sup>78</sup>

Students having constitutional rights also makes practical sense. As children grow and mature, they have increasing levels of agency and control over their life choices and decisions. That extends to the classroom, as well. A functioning democracy requires that all citizens be able to engage in informed decision-making, and school is a place where students can practice and hone that skill. Properly understood, supporting the rights of parents while also respecting young people's agency are not mutually exclusive. To the contrary, they both result in families that thrive and lead to the development of children who are well-equipped to succeed both in school and in life.

Indeed, in some cases, laws protecting students account for the increasing agency and autonomy as children grow. Consider the Family Educational Rights and Privacy Act of 1974 (FERPA), a law designed to protect students' personal information from inappropriate disclosure. FERPA recognizes the important role that parents play in protecting that privacy but ultimately invests legal rights in students as they demonstrate increased responsibility for their own data.<sup>79</sup> FERPA also balances the family's role in safeguarding inappropriate disclosure with administrability concerns. For example, FERPA does not require that schools affirmatively notify parents of changes to a student's educational record, but instead allows for parents to inspect and review certain records,<sup>80</sup> request amendments to student records,<sup>81</sup> and provide consent for further disclosure of a student's personal information.<sup>82</sup> And, when a parent objects to certain

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<sup>74</sup> In *Tinker*, the Court affirmed that the First Amendment protects a student's right to express their opinions, "even on controversial subjects," so long as she does "so without materially and substantially interfering with the requirements of appropriate discipline in the operation of the school and without colliding with the rights of others." *Id.*, 393 U.S. at 513. That right recognizes that opinionated discussions among students are "not only inevitable" but "an important part of the educational process." *Id.* at 512. A school may not prohibit those inevitable expressions merely "to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint." *Id.* at 509.

<sup>75</sup> See *Mahanoy Area Sch. Dist. v. B.L. ex rel. Levy*, 594 U.S. 180, 190 (holding that a school "has an interest in protecting a student's unpopular expression" because "[o]ur representative democracy only works if we protect the 'marketplace of ideas'").

<sup>76</sup> *Bd. of Educ. Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 867 (1982) (holding that the First Amendment protects students' right to receive information and ideas in the school setting. "The right to receive ideas is a necessary predicate to the recipient's meaningful exercise of his own rights of speech, press, and political freedom.").

<sup>77</sup> *New Jersey v. T.L.O.*, 469 U.S. 325, 340-41 (1985) (holding that students have legitimate expectations of privacy under the Fourth Amendment, including when at school, and rejecting the idea that students forfeit all privacy rights upon entering school grounds.); see also *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364 (2009) (holding that students have a reasonable expectation of privacy in their bodies and personal effects).

<sup>78</sup> *Parham*, 442 U.S. at 627.

<sup>79</sup> See 20 U.S.C. § 1232g(d).

<sup>80</sup> See *id.* at §1232g(a)(1)(A), (a)(4)(B).

<sup>81</sup> See *id.* at §1232g(a)(2).

<sup>82</sup> See *id.* at §1232g(b).

information in a student record—such as a grade—schools can reject parental requests, so long as appropriate process is given so that the parent can be heard.<sup>83</sup>

While a parent may be a child’s first teacher, as the child grows, they naturally develop their own sense of identity and begin to express the rights to which they are entitled. Recognizing and respecting the important roles that both parents and students play, while also acknowledging all the other people that shape children’s lives—relatives, teachers, community members, school staff, caring adults, and peers—is the only way to set our young people on a path that is most likely to lead to success.

### **III. Conclusion**

President Franklin D. Roosevelt once explained: “Democracy cannot succeed unless those who express their choice are prepared to choose wisely. The real safeguard of democracy, therefore, is education.” He understood that to keep our democracy strong we need a public education system that allows all of our nation’s students to succeed and thrive. As we celebrate the 250th anniversary of this country, and look forward to the next 250 years, we should embrace policies that ensure all students have safe, equitable, and inclusive learning environments. This is a goal that all of us, including parents and students, should embrace.

Thank you for the opportunity to speak with you today. I look forward to your questions.

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<sup>83</sup> *See id.* at §1232g(a)(2).