



**Written Testimony of Janai Nelson, President and Director-Counsel of the Legal
Defense Fund Before the U.S. House of Representatives Committee on Education
and the Workforce on “The State of Education in America”**

I. Education as a Civil Right

Good morning. My name is Janai Nelson. I serve as the President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (“LDF” or the “Legal Defense Fund”). Thank you for the opportunity to testify about civil rights and the state of public education in America. Founded by our nation’s first Black U.S. Supreme Court Justice Thurgood Marshall, LDF is America’s premier legal organization fighting for racial justice. This year we commemorate 85 years of using the power of law, narrative, research, and people to defend and advance the full dignity and citizenship of Black people in America.

Since the historic U.S. Supreme Court decision in *Brown v. Board of Education*, which LDF litigated and won, we have continued to fight for the rights of Black students to receive high quality, equitable educational opportunities. Chief Justice Earl Warren wrote on behalf of a unanimous Court, stating that an equal public education was “perhaps the most important function of state and local governments” and “the very foundation of good citizenship.”¹ Good citizenship requires a quality educational experience that respects the intelligence, dignity, and humanity of *all* students. In *Brown*, Chief Justice Warren further described education as “a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment [...] Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.”² Our constitutional principle of equal protection under the law mandates that school districts, postsecondary institutions, states and the federal government provide equal educational opportunities for all students, including Black students and other students of color, LGBTQIA+ students, students with disabilities, immigrant students and other historically underserved populations.

America has faced challenges in providing equitable educational opportunities since its founding when certain children were excluded on the basis of income, race or ethnicity, gender, or geographic location.³ Prior to the establishment of a public school system, education was mostly made available to white males with access to private funding. However, the nation’s Founding Fathers recognized that the success of American democracy would rest upon an educated population and electorate. During the 18th century, the founders set out to establish a unified system of publicly funded schools or free schools. And in the 1830’s, the “common school” movement began to push for state-funded public education for all children. Even then, education was recognized as integral to intellectual and social-emotional development, and critical to the nation’s economic success. Therefore, since its inception, public education is not only critical to creating pathways for all to meaningfully participate in our economy but is essential to defending our multiracial democracy.

In many ways, *Brown's* promise is one that parallels the promise of America; it calls on each of us to dismantle systemic barriers, eliminate the vestiges of decades of legal discrimination and ensure every individual's right to life, liberty, and the pursuit of happiness. As the guardians of *Brown's* legacy, LDF vehemently opposes the false rhetoric that this decision supports a colorblind society whereby race cannot be considered for the purpose of advancing racial equity. Indeed, *Brown* sought to end a racial caste system premised on the white supremacist tenet that some people are superior to or more deserving of respect, dignity, and opportunity than others. More than 70 years later, while *Brown* has transformed America in profound ways, this country still has much work ahead to fulfill its promise.

II. Affirmative Vision – Fulfilling *Brown's* Promise

LDF envisions and has spent over eight decades fighting for a future in which all people, regardless of race or other constructs and characteristics, have access to high-quality, integrated educational opportunities from pre-school to higher education. In addition to representing Black students in the fight to desegregate schools, particularly in the Deep South, LDF also advocates for equal educational opportunities for all students. From the U.S. Secretary of Education to paraprofessionals in classrooms, those entrusted with the responsibility to educate students must equitably distribute opportunities and resources, including college-and-career ready preparation, ensure access to diverse and high-quality educators, and foster safe and healthy school climates that improve academic outcomes for America's nearly 50 million students enrolled in public elementary and secondary schools and 19 million students enrolled in colleges and universities.⁴

Fair and equitable schools require an unrelenting commitment to eliminate all forms of discrimination – whether intentional or in effect. Furthermore, education should be rigorous, accurate and inclusive. To achieve these goals, we must reject laws and policies that seek to exclude historically marginalized communities' history, perspectives, and experiences from classroom instruction and materials, and school initiatives, raise educational standards, and fully and equitably resource our public school system. Sadly, Black students and other historically underserved students continue to face resistance and systemic barriers to *Brown's* vision, and too often attend schools that lack the proper funding and staffing to meet students' unique needs or subject students to segregated and negative school climates which threaten their mental health, sense of belonging and ability to thrive.

Proposals to abolish or reassign, and therefore destabilize, the role of the U.S. Department of Education (ED) will result in less protection from discrimination, decreased financial support and fewer overall resources for millions of students. Furthermore, advocates for a public education system with absolute reliance on state control fail to account for the critical role of the federal government in providing meaningful guidance and technical assistance, strategically disburse federal grant funding, collecting, analyzing, and reporting data, issuing

rulemaking, and engaging in robust enforcement of federal law. Without the disincentive of decreased federal funding, there will be no guarantee that states will adequately comply with federal education and civil rights laws such as the Elementary and Secondary Education Act, Higher Education Act, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990. ED’s work as an agency is critical to ensuring all students, especially Black students, have equal access to educational opportunities.

Integrated, Inclusive Schools

Where a student lives should not be determinant of the educational opportunities afforded to them. Yet, most public school student assignments are based on residential boundaries, demonstrating how deeply entrenched housing segregation perpetuates the systemic denial of educational opportunities to Black students.⁵ In the 1930’s, the federal government endorsed existing patterns of housing discrimination against people and communities of color through a practice that became known as redlining. The Federal Homeowners’ Loan Corporation (HOLC), established in 1933, used color-coded maps to represent the perceived risk of lending in particular neighborhoods, with “hazardous” (the highest risk) areas coded in red. HOLC routinely gave Black communities a “hazardous” rating, discouraging lending in those “redlined” areas. The impacts of redlining went far beyond just housing; it also played a role in school equity funding and school segregation. A 2021 study from Harvard University found that schools and districts located today in historically redlined D neighborhoods have less district per-pupil total revenues, larger shares of Black and non-white student bodies, and less diverse student populations relative to those located in A, B, and C neighborhoods.⁶ Persistent racial isolation in neighborhoods and schools correlate directly with increases in concentrated poverty, which impacts students’ access to an equitable education.

Since *Brown*, several states and districts have abandoned, or worse, reversed efforts to further school desegregation, resulting in *de facto* resegregated public schools. According to the Government Accountability Office (GAO), the nation’s kindergarten to 12th grade (“K-12”) student population remains divided along racial, ethnic and economic lines, despite boasting a more diverse student population overall. In fact, more than a third of students (about 18.5 million) attended schools where seventy-five percent or more students were of a single race or ethnicity during the 2020-21 school year.⁷ Recently, researchers examining data from U.S. public schools dating back to 1967 found that segregation between Black and white students has *increased* by sixty-four percent since 1988 in the 100 largest districts, and segregation by economic status has increased by about fifty percent since 1991.⁸ The resegregation of public schools is one of the most salient examples of the generational impact of institutional racism, and how educational and economic opportunities are inextricably intertwined.

Efforts to root out and dismantle the structural inequality inherent in racially and economically segregated schools are crucial to providing equal educational opportunities for all students. Segregated schools often cite significant disparities in academic outcomes, including lower achievement in math, science, language, and reading; less access to experienced teachers; less supportive school climates; and fewer resources.⁹ Moreover, one study found that districts with the highest percentages of students of color received about thirteen percent less per student in funding than districts with the lowest percentages.¹⁰ And in 2018, high-poverty school districts on average received seven percent less state and local funding, or about \$1,000 less per student, than low-poverty school districts.¹¹ Thus, school desegregation is an important strategy to more equitably distribute resources, close achievement gaps, and provide equal opportunities by ensuring that resources are not hoarded by race.

Programs that help increase diversity, equity, inclusion, and accessibility can help improve outcomes for all students. They also can help equalize opportunities for students who are unfairly disadvantaged. These programs can include pathway programs that expose students to science, technology, engineering and math careers, direct admissions programs for selective magnet schools and higher education institutions, and broad outreach and recruitment measures to expand the college applicant pool. Moreover, numerous studies have found that students who learn in an inclusive educational community are more apt to develop a positive identity and succeed academically.¹² Ultimately, diversity, equity, inclusion, and accessibility programs benefit all students, as diverse learning environments help build critical thinking, problem-solving ability, and intellectual self-confidence¹³ and prepare students to thrive in our increasingly global economy.¹⁴

Access to High-Quality Educators and Instruction

Racially and socio-economically segregated schools are, too often, underfunded, understaffed and under-resourced, limiting postsecondary opportunities and denying access to the American dream based on race and class. Across the country, Black students are more likely to attend schools that have high percentages of novice teachers, first year teachers, and uncertified teachers.¹⁵ Black students are less likely to have access to Advanced Placement and International Baccalaureate coursework as well as dual enrollment or dual credit programs.¹⁶ In addition to longstanding disparities in access to experienced, high-quality educators, and rigorous instruction, America continues to face nationwide teacher shortages and a teacher diversity crisis. In the fall of 2021, approximately half of the 49.4 million students enrolled in public elementary and secondary schools were students of color.¹⁷ Unfortunately, the teachers in U.S. public schools are far less racially diverse than their students.¹⁸ White students have an overrepresentation of same-race teachers compared to the student body, while Black, Latino, and Asian American students have an underrepresentation of same-race teachers.¹⁹ As highlighted in our 2024 report entitled, *Black Educators as Essential Workers*, schools with racially diverse

student populations and a diverse educator workforce demonstrate stronger academic outcomes for *all* students.²⁰

Students of all races, including white students, can benefit significantly from racially diverse educational settings through improved social-emotional learning during their formative years and enhanced cognitive and interpersonal skills during adolescence and beyond.²¹ Research that randomly assigned upper-elementary students to a Black or white teacher found significant improvements in a range of academic outcomes, such as better math and language test scores and lower chronic absenteeism, for both Black and non-Black students with Black teachers.²² Despite the demonstrated benefits of Black educators and racially diverse classrooms, there has been an historic and ongoing effort to push Black educators out of schools. According to most recent estimates from the National Center for Education Statistics, just seven percent of public school teachers are Black – far less diverse than the student population, which is approximately fifteen percent Black.²³

Black teachers face the same challenges that all teachers face, such as low pay, burnout, lack of administrative support, and the painstaking work to address the impact of COVID-19 on student learning. They also face additional challenges like racially hostile school environments in integrated schools.²⁴ For instance, as discussed further below, the ongoing spate of anti-truth attacks often target Black educators in uniquely harmful ways by limiting their ability to talk about their own lived experiences in the classroom and making them feel like their own identity is a liability that places their jobs at risk.²⁵ The stark lack of diversity in the educator workforce and insufficient training perpetuates educational disparities and is harmful to school climate, such as contributing to racial inequalities in school discipline.

Safe, Healthy School Climates

Racial disparities in exclusionary school discipline have plagued America's public school system for decades. Black students are routinely subjected to overly punitive school discipline practices that lead to school pushout, exacerbate the school-to-prison pipeline and hinder academic achievement.²⁶ The 2020-2021 Civil Rights Data Collection (CRDC) showed that Black students were almost twice as likely to be suspended or expelled compared to their white peers.²⁷ There is no evidence which suggests that students of color misbehave more than their white peers, yet they are persistently over-represented in school suspensions, expulsions, corporal punishment and other forms of school discipline. In 2019, the U.S. Commission on Civil Rights noted that “[s]tudents of color as a whole, as well as by individual racial group, do not commit more disciplinable offenses than their white peers – but [B]lack students, Latino students, and Native American students in the aggregate receive substantially more school discipline than their white peers and receive harsher and longer punishments than their white peers receive for like offenses.”²⁸ Research has also shown that school discipline policies with

subjective offenses, such as disobedience and disruptive behavior, are significant contributors to the disproportionate exclusionary disciplining of students of color.²⁹

Alarming, racial disparities in exclusionary school discipline begin as early as preschool³⁰ and are more evident when examining suspension and expulsion rates at the intersection of race, gender and disability status.³¹ For example, GAO recently reported that Black girls face more frequent and harsher school discipline than other girls based on multiple forms of bias, including adultification, colorism, and gender stereotypes.³² During the 2017-2018 school year, Black girls comprised fifteen percent of girls enrolled in public schools that year but received almost half of the exclusionary discipline – forty-five percent of out-of-school suspensions; thirty-seven percent of in-school suspensions; and forty-three percent of expulsions.³³

These harms are exacerbated by the prevalence of school-based law enforcement. Research shows that police do not create safety in schools and instead may foster hostility – and sometimes violence.³⁴ Black students are overrepresented in school-based arrests and referrals to law enforcement. The 2020-2021 CRDC revealed that while “[B]lack students represented fifteen percent of the total student enrollment, they accounted for eighteen percent of law enforcement referrals and twenty-two percent of those subjected to school-related arrests despite the fact that Black students do not generally have higher rates of misbehavior than other students.³⁵ Black students are also more likely to attend schools staffed with law enforcement but without a counselor, social worker, nurse, or school psychologist.³⁶ Overall students require a safe and nurturing environment for learning, and police in schools is not only incompatible with this goal, but also diverts limited federal funds away from evidence-based practices to improve school climate, and therefore student achievement.

Ongoing COVID-19 Recovery

In order to fulfill *Brown*’s promise, government, school leaders and advocates must work together to address longstanding failures of America’s public education system exacerbated by the pandemic through targeted federal funding and data-driven policy reforms. In 2021, the Department of Education reported the widespread impact of COVID-19’s disruptions to learning for students of color, students with disabilities, LGBTQIA+ students, English learners, and low-income students in K-12 and postsecondary schools.³⁷ While there is some variation between states, recent federal data on student performance in reading and math demonstrates overall historic lows for student achievement, underscoring that a proactive vision for education equity must center evidenced-based immediate interventions and long-term strategies to eliminate barriers to equal educational opportunities.

While not exhaustive, we recommend the following Congressional action to advance education equity and safeguard equal and fair treatment for all students.

1. School Desegregation: Congress should expand grant programs that advance school desegregation and equitable school funding, and support federal policies that incentivize state and local educational agencies to implement evidence-based strategies that increase diversity among all races and ethnicities and socioeconomic backgrounds in schools.
2. Educator Quality and Diversity: Congress should incentivize school districts to institute reforms to attract Black applicants and members of other underrepresented communities to careers in teaching, including through increased salary, housing subsidies, student loan repayment, and anti-discrimination policies for all teachers.
3. School Climate: Congress should build upon state and municipal level progress by banning discriminatory school grooming and dress policies. Congress should also support policies which seek to advance evidence-based strategies to eliminate disturbing and unconstitutional disparities in school discipline practices like increasing student access to school counselors and psychologists and decreasing exposure to law enforcement in educational settings.
4. Culturally Inclusive Education and Critical Learning [address discriminatory book bans, need to prepare students to function in a multiracial democracy as a component of good citizenship, including critical analytical skills].

III. Threats to Civil Rights and Education Equity and Economic Justice

Unfortunately, rather than setting forth a policy agenda that protects students' constitutional rights and provides equal educational opportunities, the current administration has prioritized legislation and executive action that may further deny access to a quality education for all students.

Dismantling the Department of Education

One of the greatest threats to education is Project 2025's proposal to restructure and abolish the Department of Education, sabotaging the federal government's ability to protect the civil rights of all students, ranging from early childhood education to higher education. ED's role is crucial to advance policies and practices that eliminate racial disparities and strengthen state and local compliance with federal civil rights laws, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act of 1990. For decades, "states' rights" has been weaponized to shield bad actors from accountability for maintaining segregated, inequitable public schools. Abolishing ED will place Black students, and other students for whom the federal government is often the last line of defense, at greater risk of being denied the

opportunity to receive a high-quality education in diverse classrooms with a positive school climate and rigorous academic instruction.

Through its work to enforce federal anti-discrimination law, ED's Office for Civil Rights (OCR) utilizes a variety of policy enforcement tools to eliminate discriminatory barriers for nearly 80 million individuals that attend federally funded schools. During Fiscal Year 2024 alone, OCR received nearly 23,000 complaints overall—a new record high.³⁸ Of those complaints, 37% (8,457) alleged disability discrimination and 19% (4,307) contained allegations of discrimination on the basis of race, color, or national origin. One example includes a complaint filed against the Southwick-Tolland Granville School District in Massachusetts where Black students were repeatedly called a racial epithet and were subjected to a racially hostile school environment where white students held a "slave auction" where they could bid on the school's Black students.³⁹ Similarly, LDF has represented impacted students and families against Carroll Independent School District in Texas alleging violations of Title VI (Complaint No. 06-21-1301) and of Title IX (Complaint No. 06-21-1302) based on egregious race and sex discrimination. One student was regularly called "nigger" and other slurs, including "porch monkey" and "Black fuck." Another student was called "dumb cunt," was subject to unwelcome and degrading sexual remarks, and physically attacked in the hallway. The local school district was aware of and failed to appropriately address and, in some instances, condoned the harassment. As a result, both students struggled in school and suffered from mental health harms.

While OCR has reported an increase in reporting of harassment on the basis of race, sexuality, and gender identity,⁴⁰ school districts in states like Texas have rolled back anti-discrimination policies, removing protected classes and examples from those policies.⁴¹ Any federal action to dismantle or defund OCR and eliminate enforcement tools will significantly hinder the ability of the federal government to provide remedies to students who have been impacted by various forms of systemic oppression, harassment, and discrimination.

Furthermore, Project 2025 directs ED and the Department of Justice (DOJ) to issue joint guidance asserting that each agency would no longer investigate Title VI cases based on disparate impact, and that the DOJ should enforce civil rights laws only in the courts, eliminating important administrative tools to address discrimination.⁴² The Supreme Court has repeatedly affirmed that Title VI regulations extend beyond intentional discrimination to seemingly neutral policies or practices that have a discriminatory effect on historically disadvantaged communities.⁴³ To weaken or terminate the ability of ED to investigate and resolve Title VI complaints based on disparate impact will significantly harm Black students and will exacerbate existing inequities for other students of color, including Latino, Asian American and Native American students. OCR should not only remain within ED but Congress should allocate additional funding to increase its capacity to resolve the historical number of complaints received by their office.

School Privatization – Tax Credit Scholarships/Vouchers/Charter schools

Congress must reject attempts to privatize public education via programs like “school choice,” tax credit funded scholarships, voucher programs, and education savings accounts. Each generation of American families and leaders are called upon to renew *Brown*’s foremost promise: equal access to a sound public education for all. The Court’s recognition that public education is “perhaps the most important function of state and local governments” and “the very foundation of good citizenship”⁴⁴ is especially prescient today as its foundations are assaulted by President Trump and those implementing his Project 2025 agenda.⁴⁵ The denial, and even the erosion, of public education through means of separate but inherently unequal facilities equates to the state’s endorsement of one group’s superiority over another group and is violative of the Constitution.⁴⁶ Congress must act boldly by reinvesting in public education and transforming it into education system promised by *Brown*.

Due mostly to “massive resistance” and court-sanctioned funding disparities, many public schooling systems today have and continue to fail to provide an equal and sound education to this nation’s children, particularly its Black children. Despite *Brown*’s clear mandate to end racial segregation in public schooling, states across the country, particularly in the South, waged campaigns of “massive resistance” in an effort to evade desegregation. Segregationists in Virginia alone attempted to nullify *Brown*,⁴⁷ closed an entire school district for five years,⁴⁸ prohibited integrated schools from receiving state funding,⁴⁹ and promoted “Freedom of Choice” plans, “school choice,” or tuition (voucher) programs.⁵⁰ Where “massive resistance” failed, many white families chose to flee to segregated neighborhoods rather than to build integrated communities.

In *San Antonio v. Rodriguez*, the Court permitted states to maintain inferior public school systems where the inequality was a result of the differences in taxes collected per district. Over fifty years later, *Rodriguez* has led to the Orwellian result where public education is chronically underfunded and every state in this nation, without exception, spends more on incarceration per person than on education per student.⁵¹ Indeed, in America, the majority of state funding for K-12 education and incarceration comes from the same discretionary fund.⁵² And from 1977 to 2021, elementary and secondary education spending grew 136% while corrections spending grew 346%, meaning government spending on incarceration increased 2.5 times the increase in K-12 education spending.⁵³

Today’s efforts to provide learning environments outside of traditional public schools and privatize education must be examined with the history of public education post-*Brown* and attempts to defy integration. Like their “Freedom of Choice” plan predecessors, “school choice,” private school voucher programs, and tax credit scholarship proposals endorsed by President Trump are just veiled attempts to maintain and expand the vestiges of racial segregation. “School choice” is a false choice for the vast majority of American families, particularly Black and other

families of color and low-income families. Voters in Colorado and Nebraska recently saw these programs for the false choice that they are and rejected them – Congress must do the same and champion public education instead.⁵⁴

Congress need not look far to examine the impact of the privatization and divestment of public education will have racial and economic segregation. In the South, where these disparities are most pronounced, racial and economic segregation occurs between private schools and public schools but also within and between public school districts.⁵⁵ And even with the assistance of vouchers, private schools remain unaffordable for most Americans, meaning only wealthier families can begin to even consider them a viable option.⁵⁶ Therefore, voucher programs effectively aid primarily wealthier families to parachute out of public schools and into private ones.

Additionally, private and religious schools are not required to enroll all applicants and have a history of rejecting students of color, students with disabilities, and LGBTQIA+ families. Nor do many private or religious schools provide sufficient accommodation for students with disabilities and many require the waiver of disability rights protections to be enrolled.⁵⁷ Moreover, voucher programs have higher rates of expulsion and dropouts, leading to lowered educational quality for Black and other students of color.⁵⁸ Therefore, unlike in a public school setting, Black families must navigate a minefield of discrimination for voucher programs without civil rights protections.

And while there are good examples of non-traditional public schools, like charter schools that welcome all students regardless of race, ethnicity, sexual orientation, gender identity, immigration status, disability, religion, or any other identifying characteristic and offer high-quality academic excellence and inclusive and culturally relevant curriculum, too many fall short too often, failing students and families. “Financial malfeasance, mismanagement, low enrollment, and poor academic performance are the top four reasons charter schools fail and close regularly.”⁵⁹ Charter schools in New Orleans’ should serve as a cautionary tale as data shows that stark racial disparities in academic performance and access continue to persist.⁶⁰ For example, in some charter schools, application data for the 2022-23 academic year showed that Black students were two to three times more ineligible than white students.⁶¹ One report found New Orleans’ charter and voucher based school choice programs “more likely to lead to small increases in segregation [rather] than to improve integration.”⁶² Additionally, schools continue to close mid-academic year forcing parents to find alternatives and disrupting student learning.⁶³

Indeed, the privatization of education leads to the divestment of public education, limiting their capacity to serve all students, while increasing financial revenues for private actors. Voucher programs and tax credit scholarships lack the kind of public accountability and transparency that is typically required of funding for public schools, obscuring whether taxpayer dollars are effectively spent and whether students are succeeding.⁶⁴ Voucher students “perform no better—and in many cases worse—than their peers” in private schools with few structures of

public accountability.⁶⁵ Additionally, tax credits are generally not considered federal financial assistance and thus, do not trigger the application of federal civil rights laws, such as Title VI. Privatizing public education in the form of tax credit scholarships removes any educational accountability and limits civil rights enforcement at schools that may engage in discrimination. Divestment from public education and into private education will only make the lack of transparency and accountability worse.

Changes to Title I Funding

Opponents of progress have argued for changing Title I of the Elementary and Secondary Education Act (“Title I”) federal funding formulas, which supports “low-income students and nearly two in three public schools” and addresses critical “opportunity gaps” between these students and more affluent peers.⁶⁶ Freezes or restrictions in Title I funding will disparately impact low-income students who are disproportionately Black. During the 2018-2019 academic year, Black schoolchildren were more likely than any other racial group to attend a Title I public school, with approximately seventy percent of Black public-school students in Title I districts and schools.⁶⁷ Additionally, research shows that state funding formulas substantially underfund school districts serving Black, Latino, and Native American students, by “as much as \$2,700 per student.”⁶⁸ Federal oversight and civil rights enforcement through the Department of Education has been a key lever for investigating and remedying such educational disparities.

Title I is also a critical tool for supporting student achievement during national emergencies. Title I status is used to screen eligibility for school-based programs targeted at low-income students and families, like vision, dental, and nutritional healthcare.⁶⁹ Students who receive vision care services through Title I schools score higher than their peers on standardized tests.⁷⁰ And during the COVID-19 pandemic, Congress targeted relief funds to Title I schools and Title I schools benefitted most from the emergency funds.⁷¹ Congress should ensure that Title I funds continue to help increase access to a high-quality education for all students.

Higher Education: Federal Student Aid

People who are able to attain a college degree typically make over \$40,000 in earnings more than those who hold a high school degree.⁷² Yet, due to the rising costs of college tuition, many students, particularly the majority of Black students, receive federal assistance via grants and loans to attend college.⁷³ Seventy-two percent of Black students received a Pell Grant⁷⁴ and student loan debt disproportionately impacts Black students⁷⁵ Black students take on more student loans across all income groups. Further, Black women hold the most student loan debt of any demographic.⁷⁶ As a result, the impacts of indebtedness including anxiety, depression, insomnia.⁷⁷ Moreover, even though Black students hold more debt on average than white students, Black students are less likely to earn comparable yearly salaries. Privatizing student

loans, phasing out income-based repayment plans⁷⁸ and loan forgiveness programs will intensify the education and wealth gap for Black students and workers. Congress must reject proposals to remove protections like Borrow's Defense,⁷⁹ student loan forgiveness⁸⁰ and income-driven loan repayment for student loan borrowers and student loan relief programs.

Potential Discriminatory Impact of Recent Executive Actions

Since the first day of President Trump's second and final term, his administration has sought to stretch the bounds of presidential authority by issuing executive orders⁸¹ and other directives designed to create chaos; hurt communities of color and other under-resourced groups; and chill lawful conduct designed to increase access to educational and other opportunities. Like other opponents of progress, the administration seeks to reframe equal opportunity as discrimination and to weaponize the U.S. Supreme Court's decision in *Students for Fair Admissions v. Harvard* and *Students for Fair Admissions v. University of North Carolina*, 600 U.S. 181 (2023) (*SFFA*) to reverse and foreclose critical gains toward equality. However, President Trump cannot erase the experience of our communities by removing a website, and he cannot change civil rights laws with the stroke of a pen. Despite his edicts, policies that increase diversity, equity, inclusion, and accessibility; that respect the dignity of transgender, intersex, and non-binary people; and that allow students to learn about people from all backgrounds in a school environment that encourages belonging and respect remain lawful under the U.S. Constitution. By attacking diversity, equity, and inclusion, President Trump is attempting to make our country further divided and segregated, make access to opportunity more limited and less fair, and increase unearned advantages for the top one percent. In order for all students and our nation to succeed, we must reverse course.

Attacks by opponents of progress on programs that increase diversity, equity, inclusion, and accessibility have already harmed Black students. Echoing President Trump's rescinded 2020 executive order banning the federal government and federal grantees from promoting so-called "divisive concepts,"⁸² more than twenty states have passed legislation prohibiting schools from teaching about race and gender inequalities and historical events or operating diversity, equity, inclusion, and accessibility offices and programs. As a result of these laws, certain teachings and discussions have been censored by school administrators, students have faced discriminatory restrictions on funding student programs, and student organizations have lost access to inclusive spaces that had welcomed Black and LGBTQIA+ students for years. For example, in 2023, Texas passed a sweeping law closing down diversity, equity, and inclusion offices on college campuses with harm falling most on Black students and other students of color.⁸³ Since that law came into effect, universities have also started censoring professors and coursework.⁸⁴ In the past several weeks, bills have been filed by Texas lawmakers that would expand the prohibition against diversity, equity, and inclusion initiatives to K-12 schools, historically utilized businesses, state government agencies, and state contractors. These laws infringe upon the constitutional rights of students and teachers, create hostile campus

environments, and ultimately prevent schools from achieving their educational goals. LDF successfully blocked the implementation of similar legislation in Florida,⁸⁵ and recently filed suit to halt similar statutes in Alabama⁸⁶ and South Carolina.⁸⁷

If fully implemented, President Trump’s executive orders attacking diversity, equity, inclusion, and accessibility and inclusive curricula could further undermine America’s ability to put all students on the path to success. President Trump’s executive orders direct the federal government to terminate diversity, equity, and inclusion offices, positions, and programs in the federal government; end “equity-related” grants and contracts; and chill publicly traded corporations, large nonprofits, philanthropic foundations, and institutions of higher education from advancing equity by threatening legal action and other measures to challenge their programs.⁸⁸ The Trump administration has also sought to erase inclusive curricula, instructional materials and programs that center the history and perspectives of Black and LGBTQIA+ people through vague and discriminatory restrictions under the guise of ensuring “parental oversight” and “sex-based rights.” This anti-truth sentiment is likely to chill the speech of educators and students in the classroom⁸⁹, decrease academic rigor, and may violate laws prohibiting the federal government from interfering with local control of school curricula.⁹⁰

President Trump’s executive orders have already caused chaos and harm. In response to these executive orders, the Department of Education has already removed over two hundred pages of resources and guidance that helped schools create welcoming environments and comply with civil rights law.⁹¹ Moreover, in order to effectuate President Trump’s executive orders, including his directive to terminate “equity-related” grants and contracts, the Office of Management and Budget (OMB) issued a memorandum on January 27, 2025, freezing over 2,600 federal grants.⁹² This memorandum threw every corner of this country into chaos and demonstrated the danger that any further freezes might impose on equal access to education and other opportunities. While the OMB memorandum has since been rescinded, the administration has made it clear that it still intends to halt “equity-related” grants and contracts,⁹³ potentially causing significant and irreversible harm to the nation’s public education system.

While President Trump characterizes diversity, equity, inclusion, and accessibility as illegal, immoral, and unpatriotic, these are fundamental American values. Equal opportunity and antidiscrimination obligations are enshrined in the U.S. Constitution and our federal civil rights laws, including Title VI of the Civil Rights Act of 1964, which governs schools and other institutions that receive federal funding. Many diversity, equity, inclusion, and accessibility programs can help schools comply with these anti-discrimination laws by helping them identify and break down unfair barriers that impede student success, block equal employment opportunities, and create negative campus climates. The Supreme Court’s decision in *SFFA* did not alter the legality of initiatives that advance diversity, equity, inclusion, and accessibility⁹⁴ and President Trump cannot change that by executive order. Nor can President Trump infringe

upon Congress' power by refusing to implement programs duly authorized and funded by legislation. We urge Congress to use its powers to make plain the harmful impact and challenge the unlawful implementation of these executive orders.

Deregulation: Block Granting

Congress must guard against the wholesale use of block grant funding to states and localities, which removes definitions of who the funding is intended to serve, making it difficult for Congress to hold recipients of funding accountable.⁹⁵ This ambiguity about the purpose of federal funding then makes it easier for the funding to be removed altogether. For example, when definitions of who should be served by federal funding are removed, those funds can be used for students who would otherwise not qualify for assistance and the most marginalized students do not receive the appropriate amount of federal assistance. Block granting of Title I and other federal programs so that funds can be diverted from marginalized children to their wealthier peers — meaning less support for children in concentrated poverty and exacerbated disparities based on family income, race, disability, and first language. Therefore, block grants may leave the most vulnerable students, who are often concentrated in schools that are already in most need of additional funding, in even greater need.

IV. Conclusion

Public schools in America must deliver quality education for all regardless of race, ethnicity, sexual orientation, gender identity, immigration status, disability, religion, or any other identifying characteristic. Decades of resistance to *Brown's* mandate of desegregation, coupled with poor education policy, have resulted in critically underfunded school systems and under-achieving schools. Congress must fulfill the promise of *Brown* by supporting a public education system that welcomes, includes, and is safe for all and provides equitable high quality academic instruction. Likewise, Congress must guard against attacks on public education like the privatization of public education, the rolling back of civil rights protections in the classroom, and the erosion of the Education Department's funding and responsibilities. Education is a civil right and a public good for all. Congress must not abandon the project and promise of equal access to free, quality public education in the U.S. by siphoning funding to private entities and furthering harmful racial disparities among future generations of American students.

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