

Nos. 24-6139, 24-6140, 24-6141

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

No. 24-6139 (D.C. No. 5:21-CV-01022-G) (W.D. Okla.)

BLACK EMERGENCY RESPONSE TEAM, et al.,
Plaintiffs, and

OKLAHOMA STATE CONFERENCE OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,
Plaintiffs-Appellants/Cross-Appellees

v.

GENTNER DRUMMOND,
in his official capacity as Oklahoma Attorney General, et al.,
Defendants-Appellees/Cross-Appellants, and

UNIVERSITY OF OKLAHOMA BOARD OF REGENTS, et al.,
Defendants.

No. 24-6140 (D.C. No. 5:21-CV-01022-G) (W.D. Okla.)

BLACK EMERGENCY RESPONSE TEAM, et al.,
Plaintiffs, and

OKLAHOMA STATE CONFERENCE OF THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED PEOPLE, et al.,
Plaintiffs-Appellees,

v.

JOHN R. BRAUGHT, et al.,
Defendants-Appellants, and

GENTNER DRUMMOND,
in his official capacity as Oklahoma Attorney General, et al.,
Defendants.

No. 24-6141 (D.C. No. 5:21-CV-01022-G) (W.D. Okla.)

BLACK EMERGENCY RESPONSE TEAM, et al.,
Plaintiffs-Appellees,

v.

GENTNER DRUMMOND,
in his official capacity as Attorney General of the State of Oklahoma, et al.,
Defendants-Appellants, and

JOHN R. BRAUGHT, et al.,
Defendants.

On Appeal from the U.S. District Court for the Western District of Oklahoma,
Case No 21-cv-1022-G, Honorable Charles Goodwin, District Judge

**BRIEF OF AMICUS CURIAE THE NATIONAL ACADEMY OF
EDUCATION IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, the National Academy of Education states that it does not have a parent corporation and that no publicly held corporation owns 10% or more of their stock.

CONSENT TO FILE

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

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<i>Keyishian v. Bd. of Regents</i> , 385 U.S. 589 (1967).....	8
<i>McGirt v. Oklahoma</i> , 591 U.S. 894 (2020).....	25
<i>Plyer v. Doe</i> , 457 U.S. 202 (1982).....	3
<i>Tinker v. Des Moines Indep. Cmty. Sch. Dist.</i> , 393 U.S. 503 (1969).....	8
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008).....	2

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OTHER AUTHORITIES

2015 Every Student Succeeds Act	5, 6, 25
Alisha Nguyen, “ <i>Children Have the Fairest Things to Say</i> ”: <i>Young Children’s Engagement With Anti-Bias Picture Books</i> , 50 EARLY CHILDHOOD EDUC. J. 743 (2022)	23
Allyson Tintiangco-Cubales et al., <i>Toward an Ethnic Studies Pedagogy: Implications for K-12 Schools From the Research</i> , 47 URBAN REV. 104 (2015).....	13

Amy Herberle et al., <i>Critical Consciousness in Children and Adolescents: A Systematic Review, Critical Assessment, and Recommendations for Future Research</i> , 146 PSYCH. BULL. 525 (2020).....	14
Ana María Villegas et al., <i>Preparing Culturally Responsive Teachers: Rethinking the Curriculum</i> , 53 J. TEACHER EDUC. 20 (2002)	27
Angelina E. Castagno et al., <i>Culturally Responsive Schooling for Indigenous Youth: A Review of the Literature</i> , 78 REV. EDUC. RSCH. 941 (2008)	14, 18
Ann S. Masten. <i>Global Perspectives on Resilience in Children and Youth</i> , 85 CHILD DEV. 6 (2014).....	16
Beth C. Rubin, “ <i>There’s Still Not Justice</i> ”: <i>Youth Civic Identity Development Amid Distinct School and Community Contexts</i> , 109 TCHRS. COLL. REC. 449 (2007).....	17, 18
Biren (Ratnesh) A. Nagda et al., <i>Fostering Meaningful Racial Engagement Through Intergroup Dialogues</i> , 6 GRP. PROCESSES & INTERGROUP RELS. 111 (2003).....	19
Biren (Ratnesh) A. Nagda et al., <i>Mix It Up: Crossing Social Boundaries as a Pathway to Youth Civic Engagement</i> , 95 NAT’L CIVIC REV. 47 (2006).....	19
Blaine J. Fowers et al., <i>Why Is Multiculturalism Good?</i> , 51 AM. PSYCH. 609 (1996)	8
Blessing Ngozi Iweuno et al., <i>Impact of Racial Representation in Curriculum Content on Student Identity and Performance</i> , 23 WORLD J. ADVANCED RSCH. REVS. 2913 (2024)	26
Brittany Aronson et al., <i>The Theory and Practice of Culturally Relevant Education: A Synthesis of Research Across Content Areas</i> , 86 REV. RSCH. EDUC. 163 (2016)	7
Carlos Muñoz, Jr., <i>The Chicano Movement: Mexican American History and the Struggle for Equality</i> , 17 PERSPECTIVES ON GLOBAL DEV. & TECH. 31 (2018)	9
CAROL D. LEE, NAT’L ACAD. EDUC., <i>EDUCATING FOR CIVIC REASONING AND DISCOURSE</i> (2021).....	1, 17

CHRISTINE E. SLEETER, THE ACADEMIC AND SOCIAL VALUE OF ETHNIC STUDIES: A RESEARCH REVIEW (2011)	13, 27
Christopher M. Span, <i>Post-Slavery? Post-Segregation? Post-Racial? A History of the Impact of Slavery, Segregation, and Racism on the Education of African Americans</i> . 114 NAT’L SOC’Y STUDY EDUC. 53 (2015)	8
Clark A. Chinn et al., <i>Expanding the Dimensions of Epistemic Cognition: Arguments from Philosophy and Psychology</i> , 46 EDUC. PSYCH. 141 (2011)	12
Clark McKown et al., <i>The Development and Consequences of Stereotype Consciousness in Middle Childhood</i> , 74 CHILD DEV. 498 (2003)	23
Daniel Hart et al., <i>High School Community Service as a Predictor of Adult Voting and Volunteering</i> , 44 AM. EDUC. RSCH. J. 197 (2007)	20
David Beaulieu, <i>Native American Education Research and Policy Development in an Era of No Child Left Behind: Native Language and Culture During the Administrations of Presidents Clinton and Bush</i> , 47 J. AM. INDIAN EDUC. 10 (2008)	25
David E. Campbell, <i>Voice in the Classroom: How an Open Classroom Climate Fosters Political Engagement Among Adolescents</i> , 30 POL. BEHAV. 437 (2008)	19
David Osher et al., <i>Drivers of Human Development: How Relationships and Context Shape Learning and Development</i> , 24 APPL. DEV. SCI. 6 (2020) ...	11, 27
Deborah Rivas-Drake et al., <i>Feeling Good, Happy, and Proud: A Meta-Analysis of Positive Ethnic–Racial Affect and Adjustment</i> , 85 CHILD DEV. 77 (2014)	17
DeLeon L. Gray et al., <i>Black and Belonging at School: A Case for Interpersonal, Instructional, and Institutional Opportunity Structures</i> , 53 EDUC. PSYCH. 97 (2018)	21, 22, 27
DIANA HESS, ET AL., THE POLITICAL CLASSROOM: EVIDENCE AND ETHICS IN DEMOCRATIC EDUCATION (2015)	11, 18, 19, 28, 29
EDUCATING FOR AM. DEMOCRACY, EXCELLENCE IN HISTORY AND CIVICS FOR ALL LEARNERS (2021)	8

Edward Metz et al., <i>Longitudinal Gains in Civic Development Through School-Based Required Service</i> , 26 POL. PSYCH. 413 (2005)	20
Elan C. Hope et al., <i>The Role of Sociopolitical Attitudes and Civic Education in the Civic Engagement of Black Youth</i> , 24 J. RSCH. ON ADOLESCENCE 460 (2014).....	20
ELIZABETH ANDERSON, <i>THE IMPERATIVE OF INTEGRATION</i> (2010)	8
Erika Wilson, <i>Monopolizing Whiteness</i> , 134 HARV. L. REV. 2382 (2019)	25
Frances E. Aboud, <i>The Developmental Psychology of Racial Prejudice</i> , 30 TRANSCULTURAL PSYCHIATRIC RSCH. REV. 229 (1993).....	23
Frances E. Aboud et al., <i>Interventions to Reduce Prejudice and Enhance Inclusion and Respect for Ethnic Differences in Early Childhood: A Systematic Review</i> , 32 DEV. REV. 307 (2012)	21
Frances E. Aboud & Virginia Fenwick, <i>Exploring and Evaluating School-Based Interventions to Reduce Prejudice</i> , 23 J. SOC. ISSUES 767 (1999).....	21
Greg Wiggan et al., <i>Pedagogy of Empowerment: Student Perspectives on Critical Multicultural Education at a High-Performing African American School</i> , 22 RACE ETHNICITY & EDUC. 767 (2019).....	14
Gregory White et al., <i>Supporting Civic Reasoning, Discourse, and Problem Solving That is Political Without Being Partisan</i> , 47 REV. RSCH. EDUC. 568 (2023).....	17, 28
Isabela Schettino et al., <i>Culturally Responsive Education Under ESSA: A State-By-State Snapshot</i> , 101 PHI DELTA KAPPA 27 (2019)	5
James A. Banks, <i>Multicultural Education: Historical Development, Dimensions, and Practice</i> , 19 REV. RSCH. EDUC. 3 (1993).....	7
Jan Gray & Gary Partington, <i>Attendance and Non-Attendance at School, in REFORM AND RESISTANCE IN ABORIGINAL EDUCATION</i> 146 (2012).....	26
Jean E. Brooks, <i>Strengthening Resilience in Children and Youths: Maximizing Opportunities Through the Schools</i> , 28 CHILD. & SCHS. 69 (2006)	16

Jerry Lipka, <i>Culturally Negotiated Schooling: Toward a Yup'ik Mathematics</i> , 33 J. AM. INDIAN EDUC. 14 (1994).....	18
John Iceland et al., <i>White Residential Segregation in U.S. Metropolitan Areas: Conceptual Issues, Patterns, and Trends from the US Census, 1980 to 2010</i> , 32 POPULATION RSCH. POL'Y REV. 663 (2013)	18
Jolina Ulbricht et al., <i>Fostering Culturally Responsive Teaching through The Identity Project Intervention: A Qualitative Quasi-Experiment with Pre-Service Teachers</i> , 24 IDENTITY 307 (2024)	24
Joseph Kahne et al., <i>Different Pedagogy, Different Politics: High School Learning Opportunities and Youth Political Engagement</i> , 34 POL. PSYCH. 419 (2013).....	11, 19
Julio Cammarota et al., <i>A Critically Compassionate Intellectualism for Latina/o Students</i> , 14 MULTICULTURAL EDUC. 16 (2006)	26
Kelly Allen et al., <i>What Schools Need to Know About Fostering School Belonging: A Meta-Analysis</i> , 30 EDUC. PSYCHOL. REV. 1 (2018).....	22
Kiara Rahman, <i>Belonging and Learning to Belong in School: The Complications of the Hidden Curriculum for Indigenous Students</i> , 34 DISCOURSE: STUDS. CULTURAL POL. EDUC. 660 (2005)	27
Kristin Powers et al., <i>Does Cultural Programming Improve Educational Outcomes for American Indian Youth?</i> , 42 J. AM. INDIAN EDUC. 17 (2003)	14
Linda Darling-Hammond et al., <i>Implications for Educational Practice of the Science of Learning and Development</i> , 24 APPLIED DEV. SCI. 97 (2020).....	11
Linda Darling-Hammond et al., <i>Policy for Civic Reasoning</i> , 705 ANNALS AM. ACAD. POL. & SOC. SCI. 232 (2023)	10, 28
LINDA DARLING-HAMMOND ET AL., <i>LEARNING POL'Y INST., EDUCATING THE WHOLE CHILD: IMPROVING SCHOOL CLIMATE TO SUPPORT STUDENT SUCCESS</i> (2018)	28
Lucia Mason et al., <i>Situating and Relating Epistemological Beliefs into Metacognition: Studies on Beliefs About Knowledge and Knowing</i> , 5 METACOGNITION & LEARNING 1 (2010)	12

Margaret Beale Spencer, <i>Phenomenology and Ecological Systems Theory: Development of Diverse Groups</i> , in 1 HANDBOOK OF CHILD PSYCHOLOGY 829 (William Damon et al. eds., 6th ed. 2006).....	16
Margaret Connell Szasz, “ <i>I Knew How to be Moderate. And I Knew How to Obey</i> ”: <i>The Commonality of American Indian Boarding School Experiences, 1750s-1920s</i> , 29 AM. INDIAN CULTURE & RSCH. J. 75 (2005)	8
Marisol Diaz, <i>Developing a Critical Consciousness with Elementary Students as a Catalyst for Academic Success</i> , 15 ASS’N MEXICAN AM. EDUCATORS J. 90 (2021)	15
Markus Appel et al., <i>Stereotypes and the Achievement Gap: Stereotype Threat Prior to Test Taking</i> , 24 EDUC. PSYCH. REV. 609 (2012)	23
Mary Helen Immordino-Yang & Antonio Damasio, <i>We Feel, Therefore We Learn: The Relevance of Affective and Social Neuroscience to Education</i> , 1 MIND, BRAIN & EDUC. 3 (2007).....	22
Mary Helen Immordino-Yang et al., <i>Civic Reasoning Depends on Transcendent Thinking: Implications of Adolescent Brain Development for SEL</i> , 4 SOC. & EMOTIONAL LEARNING: RSCH., PRAC., & POL’Y 1	15
Matthew A. Diemer et al., <i>Critical Consciousness: A Developmental Approach to Addressing Marginalization and Oppression</i> , 10 CHILD DEV. PERSPS. 216 (2016)	15, 18
Matthew Diemer et al., <i>Critical Consciousness and Career Development Among Urban Youth</i> , 68 J. VOCATIONAL BEHAV. 220 (2006).....	16
Matthew Diemer, <i>Pathways to Occupational Attainment Among Poor Youth of Color: The Role of Sociopolitical Development</i> , 37 COUNSELING PSYCH. 6 (2009)	16
Michael B. Frisby et al., <i>Development and Validation of the White Critical Consciousness Index</i> , 21 RSCH. HUMAN DEV. 229 (2024)	18
NAT’L ACAD. EDUC., <i>EVALUATING AND IMPROVING TEACHER PREPARATION PROGRAMS: CONSENSUS REPORT</i> (2024).....	1
NAT’L ACADS. SCIS., ENG’G, & MED., <i>HOW PEOPLE LEARN II: LEARNERS, CONTEXTS, AND CULTURES</i> (2018)	5, 11, 12

NAT’L CTR. EDUC. STATS., <i>Table 203.20, Enrollment in Public Elementary and Secondary Schools, By Region, State, and Jurisdiction: Selected Years, Fall 1990 Through Fall 2023</i>	10
Nicholas A. Bowman, <i>College Diversity and Cognitive Development: A Meta-Analysis</i> , 80 REV. EDUC. RSCH. 4 (2010)	17, 19, 20
Nicholas A. Bowman, <i>Promoting Participation in a Diverse Democracy: A Meta-Analysis of College Diversity Experiences and Civic Engagement</i> . 81 REV. EDUC. RSCH. 29 (2011)	20
Nicholas Denson, <i>Do Curricular and Cocurricular Diversity Activities Influence Racial Bias? A Meta-Analysis</i> , 79 REV. EDUC. RSCH. 805 (2009)	20
Nida Denson et al., <i>Racial Diversity Matters: The Impact of Diversity-Related Student Engagement and Institutional Context</i> , 50 AM. EDUC. RSCH. J. 322 (2009)	19, 24
Nolan L. Cabrera et al., <i>Missing the (Student Achievement) Forest for All the (Political) Trees: Empiricism and the Mexican American Studies Controversy in Tucson</i> , 51 AM. EDUC. RSCH. J. 1084 (2014)	13
Norma González et al., <i>Funds of Knowledge for Teaching in Latino Households</i> , in NORMA GONZÁLEZ ET AL., FUNDS OF KNOWLEDGE: THEORIZING PRACTICES IN HOUSEHOLDS, COMMUNITIES, AND CLASSROOMS (2005)	24
OKLA. STATE DEP’T EDUC., OKLAHOMA EDGE: OKLAHOMA ESSA CONSOLIDATED STATE PLAN (2018)	6
OKLA. STATE DEP’T EDUC., OKLAHOMA ACADEMIC STANDARDS FOR SOCIAL STUDIES (2025)	6, 7
Patricia Gurin et al., <i>Diversity and Higher Education: Theory and Impact on Educational Outcomes</i> , 72 HARV. EDUC. REV. 330 (2002)	17, 19, 20, 24
PHYLLIS A. KATZ, DEVELOPMENT OF CHILDREN’S RACIAL AWARENESS AND INTERGROUP ATTITUDES (1981)	23
Ray Barnhardt et al., <i>Indigenous Knowledge Systems and Alaska Native Ways of Knowing</i> , 36 ANTHROPOLOGY EDUC. Q. 8 (2005)	26

Rebecca J. M. Gotlieb et al., <i>Diverse Adolescents’ Transcendent Thinking Predicts Young Adult Psychosocial Outcomes Via Brain Network Development</i> , 14 SCI. REPS. 6254 (2024)	15
Rebecca S. Bigler et al., <i>Developmental Intergroup Theory: Explaining and Reducing Children’s Social Stereotyping and Prejudice</i> , 16 CURRENT DIRECTIONS PSYCH. SCI. 162 (2007).....	21
Ricardo L. Garcia et al., <i>Indian Education: Assumptions, Ideologies, Strategies</i> , in TEACHING AMERICAN INDIAN STUDENTS (1992)	18
RICHARD M. LERNER, <i>LIBERTY: THRIVING AND CIVIC ENGAGEMENT AMONG AMERICA’S YOUTH</i> (2004)	20
Roslyn Arlin Mickelson, <i>The Cumulative Disadvantages of First-and Second-Generation Segregation for Middle School Achievement</i> , 52 AM. EDUC. RSCH. J. 657 (2015).....	25
Roslyn Arlin Mickelson et al., <i>Integrated Schooling, Life Course Outcomes, and Social Cohesion in Multiethnic Democratic Societies</i> , 36 REV. RSCH. EDUC. 197 (2012).....	7, 25
Sade Bonilla et al., <i>Ethnic Studies Increases Longer-Run Academic Engagement and Attainment</i> , 118 PROCS. NAT’L ACAD. SCIS.1 (2021)	13
Scott Seider et al., <i>Black and Latinx Adolescents’ Developing Beliefs About Poverty and Associations with Their Awareness of Racism</i> , 55 DEV. PSYCH. 509 (2019)	18
Scott Seider et al., <i>The Development of Critical Consciousness and its Relation to Academic Achievement in Adolescents of Color</i> , 91 CHILD DEV. e451 (2019).....	15
Scott Seider et al., <i>Investigating the Relation Between Critical Consciousness and Academic Achievement for Adolescents of Color and White Adolescents</i> . 29 CULTURAL DIVERSITY & ETHNIC MINORITY PSYCH. 516 (2023).....	15
Sylvia Hurtado, <i>The Next Generation of Diversity and Intergroup Relations Research</i> , 61 J. SOC. ISS. 595 (2005)	19, 23

Tabbye Chavous et al., <i>Advancing a Science of Learning and Development That Can Promote Dignity-Affirming Educational Environments: Some Considerations for the Field</i> , 47 REV. RSCH. EDUC. 116 (2023).....	17
Thomas M. Philip et al., <i>Becoming Racially Literate About Data and Data-Literate About Race</i> , 34 COGNITION & INSTRUCTION 361 (2016)	26, 27
Thomas S. Dee et al., <i>The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum</i> , 54 AM. EDUC. RSCH. J. 127 (2017).....	12, 13
Vanessa Siddle Walker, <i>Organized Resistance and Black Educators' Quest for School Equality</i> , 107 TEACHERS COLL. RECORD 355 (2005).....	9
VINE DELORIA ET AL., <i>POWER AND PLACE: INDIAN EDUCATION IN AMERICA</i> (2001).....	25

IDENTITY AND INTEREST OF AMICUS CURIAE

The National Academy of Education (NAEd) is a nonpartisan, nonprofit organization that advances high-quality research to improve education policy and practice. NAEd comprises U.S. members and international associates who are elected based on their scholarship related to education. NAEd undertakes interdisciplinary research studies that review and synthesize the best available research evidence on pressing educational issues and administers professional development programs to enhance the preparation of the next generation of education scholars. All NAEd publications and reports undergo rigorous peer review to ensure objectivity and scientific rigor.

Given its members' extensive knowledge and experience concerning research about how students learn and research-supported curricula and pedagogy necessary to promote the goals of public education, NAEd is well-positioned to explain the legitimate pedagogical interests harmed by Oklahoma H.B. 1775 (H.B. 1775 or the Act), as well as the multitude of benefits of more inclusive curricula. The NAEd and its members have produced a substantial body of research on teaching and learning processes that promote academic achievement and developmental well-being for all children, including recent NAEd reports.¹

¹ CAROL D. LEE, NAT'L ACAD. EDUC., EDUCATING FOR CIVIC REASONING AND DISCOURSE (2021); NAT'L ACAD. EDUC., EVALUATING AND IMPROVING TEACHER PREPARATION PROGRAMS: CONSENSUS REPORT (2024).

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

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

LEGAL STANDARDS

Plaintiffs articulated the familiar four-factor legal standard and standard of review applicable to preliminary injunction motions. First Br. on Cross-Appeal at 18-19 (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)).

Plaintiffs carried their burden as to each of these factors.

This brief focuses on the first factor: Plaintiffs are likely to succeed on the merits of their Fourteenth Amendment and First Amendment claims. In particular, with respect to their First Amendment claim, Plaintiffs are likely to succeed on the merits because H.B. 1775, Section 1(B) impermissibly restricts K-12 students' rights to receive information.² To pass constitutional muster, as Plaintiffs explain, "restrictions on students' First Amendment rights in the curricular context must be 'reasonably related to legitimate pedagogical concerns.'" First Br. on Cross-Appeal at 47 (quoting *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 273 (1988)). The Act fails to meet this standard. As explained below, the Act has no reasonable

² The parties voluntarily stipulated to dismiss the claims challenging Section 1(A) of the Act pertaining to higher education. First Br. on Cross-Appeal at 8, n.2.

relation to legitimate pedagogical concerns. Quite the contrary. Narrow, non-inclusive curricula—such as those enshrined by the Act—serve no pedagogical interest and cause documented harm to students. The district court therefore erred in holding the Act does not violate the First Amendment.

Because Plaintiffs met their burden of demonstrating each preliminary injunction factor, the district court erred in partially denying preliminary injunctive relief. This Court should enjoin the Act’s enforcement in full.

SUMMARY OF ARGUMENT

The Supreme Court has consistently underscored the role of public education in preparing the next generation of Americans to be productive workers, caring members of society, and active participants in our democracy. *See, e.g., Brown v. Bd. of Educ.*, 347 U.S. 438 (1954); *Plyer v. Doe*, 457 U.S. 202 (1982).

Empirical studies performed by interdisciplinary researchers demonstrate that laws like H.B. 1775, which limits public school curricula, pedagogy, and dialogue related to race and sex, run counter to peer-reviewed scientific, social science, and educational evidence on how students learn. The Act denies the next generation of Oklahomans access to a curriculum that furthers proven “legitimate pedagogical concerns” for their successful cognitive, social, and emotional development, and strongest academic achievement, including preparation for democratic civic engagement.

This is so for two overarching reasons. *First*, inclusive curricula and pedagogical practices produce measurable academic, social, and emotional benefits for students. When students are taught through inclusive curricula that connect to their prior experiences, they learn more, stay more engaged in school, and develop the skills to navigate difference and contribute to society. They gain academic confidence, emotional resilience, and the ability to deliberate across perspectives. These qualities prepare them to succeed in higher education, the workforce, and civic life.

Second, policies that limit curricula by censoring what educators can teach and what issues students can discuss harm students' development as they try to make sense of the world. Under such laws, students lose access to accurate histories, discussions that connect to their communities and experiences, and opportunities to deliberate on complex issues. These losses impede all students' academic, social, and emotional development, and erode the democratic values schools are charged with protecting.

Courts evaluating "legitimate pedagogical concerns" must therefore recognize that inclusive curricula—curricula that incorporate discussions of cultural pluralism, encourage exploration of different perspectives, and equip students to grapple with complex questions—are themselves pedagogical tools. Empirical findings from across disciplines underscore the power and importance of

teaching students through this approach. When educators are forced to disregard their professional training and their state’s academic standards by restricting what and how they teach students, they cannot complete their most fundamental mission: preparing students for academic success, care for and understanding of others, and democratic participation.

ARGUMENT

The 2015 Every Student Succeeds Act (ESSA), the most important federal law to shape K-12 education funding and policy, requires each state to prepare an ESSA plan describing how it will enable all students, especially those most disadvantaged, to reach high academic standards, thereby preparing them for success in college and careers. Each state submitted its ESSA plan to the U.S. Department of Education in 2017 and 2018 for approval by the first Trump Administration. They remain in effect today. A study of all 50 states’ approved ESSA plans revealed that the majority of them, including Oklahoma’s, incorporate key findings of brain science and human development research—namely, that culture, embedded in the context of society and its history, plays a central role in how all students learn.³

³ Isabela Schettino et al., *Culturally Responsive Education Under ESSA: A State-By-State Snapshot*, 101 PHI DELTA KAPPA 27, 27-28 (2019); NAT’L ACADS. SCIS., ENG’G, & MED., HOW PEOPLE LEARN II: LEARNERS, CONTEXTS, AND CULTURES 1-10 (2018).

Oklahoma’s approved ESSA plan describes the state context of its schools, serving among the “highest number of tribal students in the nation.”⁴ In fact, the State Department of Education embarked upon a unique collaboration process with Oklahoma’s 39 recognized tribal nations in developing its ESSA Plan to include topics of concern to the tribal communities.⁵

Through this engagement process, as part of its ESSA plan, Oklahoma derived its State Academic Standards⁶ for high school social studies, which include the development of critical thinking skills related to issues of race and gender. These standards require all Oklahoma high school students to “develop, investigate, and evaluate plausible answers to essential questions that reflect enduring understandings across time, real-world circumstances, and social studies disciplines.”⁷ Topics to be covered include examination of the “evolution of race relations in Oklahoma,” “the impact of the Code of Indian Offenses of 1883 on Tribal religious and cultural practices,” and the Indian Relocation Act’s “effect on Tribal communities.”⁸ The standards also include the examination of Oklahoma’s

⁴ OKLA. STATE DEP’T EDUC., OKLAHOMA EDGE: OKLAHOMA ESSA CONSOLIDATED STATE PLAN 34 (2018).

⁵ *Id.* at 34-35 (“Representatives from tribal associations . . . shared successes within their communities that have lifted outcomes for Native students as well as provided suggestions on culturally relevant teacher training.”).

⁶ OKLA. STATE DEP’T EDUC., OKLAHOMA ACADEMIC STANDARDS FOR SOCIAL STUDIES (2025).

⁷ *Id.* at 80.

⁸ *Id.* at 87.

effort to “restrict suffrage rights,” “the rise of the Ku Klux Klan,” the “intent and effect of Jim Crow laws,” and the causes of the “Tulsa Race Massacre, including its continued social and economic impact.”⁹

Oklahoma’s academic standards reflect decades of research that underscores the importance of pedagogical strategies centered on inclusive curricula that encompass the complexity of American history, encourage the exploration of different viewpoints, and support students in grappling with complex questions and engaging in meaningful debates.¹⁰ Public schools are the key institutions in our multicultural society in which the next generation can learn viewpoint diversity as a critical aspect of their preparation for the global workforce, civil society, and a deliberative democracy in which not everyone agrees but everyone has a First Amendment right to receive and offer their viewpoints.¹¹

The educative value of exposure to differing viewpoints and experiences is deeply embedded in U.S. history, from the Founding Fathers to the Civil Rights Movement to the most recent brain science. Democracy requires “the free,

⁹ *Id.*

¹⁰ James A. Banks, *Multicultural Education: Historical Development, Dimensions, and Practice*, 19 REV. RSCH. EDUC. 3, 35-38 (1993); Brittany Aronson et al., *The Theory and Practice of Culturally Relevant Education: A Synthesis of Research Across Content Areas*, 86 REV. RSCH. EDUC. 163, 197-200 (2016).

¹¹ Roslyn Arlin Mickelson et al., *Integrated Schooling, Life Course Outcomes, and Social Cohesion in Multiethnic Democratic Societies*, 36 REV. RSCH. EDUC. 197, 197-99 (2012).

cooperative interaction of citizens from all walks of life on terms of equality in civil society.”¹² The acceptance of cultural, racial, and ethnic differences is a core democratic value.¹³ If democracy requires commitments to pluralism, then understanding members of different groups associated with race, ethnicity, and sex is essential and must be a central mission of public education.¹⁴

The research evidence reviewed in this brief brings forward the fundamental tenet that disagreement and deliberation are central pillars of democracy. *E.g.*, *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 512 (1969); *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967). We have continued to struggle over generations to become a better-educated and more-inclusive multicultural society,¹⁵ and our public schools have played a vital role in this process. The evidence reviewed here has informed and validated public school educators who have strived to foster students’ academic, social, and civic

¹² ELIZABETH ANDERSON, *THE IMPERATIVE OF INTEGRATION* 106 (2010).

¹³ Blaine J. Fowers et al., *Why Is Multiculturalism Good?*, 51 AM. PSYCH. 609, 613 (1996).

¹⁴ EDUCATING FOR AM. DEMOCRACY, EXCELLENCE IN HISTORY AND CIVICS FOR ALL LEARNERS (2021).

¹⁵ Christopher M. Span, *Post-Slavery? Post-Segregation? Post-Racial? A History of the Impact of Slavery, Segregation, and Racism on the Education of African Americans*. 114 NAT’L SOC’Y STUDY EDUC. 53, 53 (2015); Margaret Connell Szasz, “I Knew How to be Moderate. And I Knew How to Obey”: *The Commonality of American Indian Boarding School Experiences, 1750s-1920s*, 29 AM. INDIAN CULTURE & RSCH. J. 75, 89-90 (2005).

development for participation in our increasingly complex and global workforce, multicultural civil society, and participatory democracy.¹⁶

H.B. 1775 denies this empirical and professional knowledge in favor of an ideological effort to censor educators, thereby denying Oklahoma students’ First Amendment right to receive information and the sound pedagogical strategies that enable their full engagement with the State Academic Standards. Moreover, while H.B. 1775 states it “shall not prohibit the teaching of concepts that align to the Oklahoma Academic Standards,” it does not explain how to teach about the intent and effect of such historical moments as Jim Crow laws without teaching students that individuals were discriminated against or suffered adverse impact because of their race. Thus, the Act’s disruption of evidence-based pedagogical strategies severely restricts educators’ ability to teach these core concepts, thereby denying students’ First Amendment right to receive information that supports their learning.

This brief provides the Court with an overview of a substantial body of empirical, peer-reviewed evidence from rigorous, scientific, social science, and educational research that documents how inclusive curricula produce measurable benefits for students and how narrowed curricula harm students. The evidence

¹⁶ Carlos Muñoz, Jr., *The Chicano Movement: Mexican American History and the Struggle for Equality*, 17 PERSPECTIVES ON GLOBAL DEV. & TECH. 31, 31-34 (2018); Vanessa Siddle Walker, *Organized Resistance and Black Educators’ Quest for School Equality*, 107 TEACHERS COLL. RECORD 355, 355-59 (2005).

unequivocally supports learning about race, gender, culture, and viewpoint diversity as the best strategy to prepare *all* students for our complex, global, and multicultural society.

I. INCLUSIVE CURRICULA AND PEDAGOGICAL PRACTICES PRODUCE MEASURABLE ACADEMIC, SOCIAL, AND EMOTIONAL BENEFITS FOR STUDENTS.

Public schools in the U.S. are the primary sites for preparing future generations for work, society, and participation in a multicultural democracy.¹⁷ In Oklahoma, nearly 700,000 children attend public schools.¹⁸ The pedagogical strategies and curricula that guide educators in developing their daily lesson plans are central tools for cultivating the knowledge, dispositions, and skills necessary to ensure the academic success of all students and their equal preparation for citizenship and democratic participation.

Pedagogy refers to the practices through which teachers help students learn. Curriculum is the foundation on which pedagogy rests and directly impacts teachers' ability to motivate students and foster higher-order thinking. All students benefit from a curriculum that is inclusive of others' perspectives and enables

¹⁷ Linda Darling-Hammond et al., *Policy for Civic Reasoning*, 705 ANNALS AM. ACAD. POL. & SOC. SCI. 232, 236 (2023).

¹⁸ NAT'L CTR. EDUC. STATS., *Table 203.20, Enrollment in Public Elementary and Secondary Schools, By Region, State, and Jurisdiction: Selected Years, Fall 1990 Through Fall 2023*, DIG. EDUC. STATS. (Oct. 2024).

student deliberation over controversial public issues. Inclusivity and deliberation are not peripheral ideas but integral to legitimate pedagogy.¹⁹

The Oklahoma State Academic Standards, approved by the U.S. Department of Education, incorporate both inclusivity and deliberation. Ideologically driven policies like H.B. 1775, which intentionally narrow the topics educators can include in their classes, restrict their ability to connect the concepts that align with state-mandated standards for learning outcomes to the experiences and understandings that students bring with them to school.

People learn by connecting new information and knowledge to their prior experiences and understandings. Developmental psychology, neuroscience, and education research have all shown that children’s ability to learn depends on whether instruction connects with something they already know. Children do not leave their identities at the classroom door. They bring their emotions, backgrounds, and experiences with them, and these foundations shape how they process, remember, and apply information.²⁰

¹⁹ DIANA E. HESS ET AL., THE POLITICAL CLASSROOM: EVIDENCE AND ETHICS IN DEMOCRATIC EDUCATION, XV-XVI (2015); Joseph Kahne et al., *Different Pedagogy, Different Politics: High School Learning Opportunities and Youth Political Engagement*, 34 POL. PSYCH. 419, 419 (2013).

²⁰ Linda Darling-Hammond et al., *Implications for Educational Practice of the Science of Learning and Development*, 24 APPLIED DEV. SCI. 97, 97-98 (2020); NAT’L ACADS. SCIS., ENG’G, & MED., *supra* note 3, at 6-7; David Osher et al., *Drivers of Human Development: How Relationships and Context Shape Learning and Development*, 24 APPL. DEV. SCI. 6, 6 (2020).

Contemporary research in epistemic cognition confirms that learning is not simply the absorption of new information but a process of actively connecting new material to preexisting knowledge structures and beliefs. Students' epistemic beliefs about the certainty, complexity, and justification of knowledge shape how they interpret evidence, grapple with divergent views, regulate their learning, and integrate new ideas.²¹ Inclusive curriculum is effective not only because it validates identity but also because it fosters deliberation, which extends students' existing knowledge to make learning deeper and more durable.

The evidence is clear: inclusive curricula that foster discussions of race, culture, and complex histories—and that reflect students' identities and cultural contexts—improve students' educational outcomes, well-being, and preparedness for the responsibilities of citizenship.²²

²¹ Clark A. Chinn et al., *Expanding the Dimensions of Epistemic Cognition: Arguments from Philosophy and Psychology*, 46 EDUC. PSYCH. 141, 141 (2011); Lucia Mason et al., *Situating and Relating Epistemological Beliefs into Metacognition: Studies on Beliefs About Knowledge and Knowing*, 5 METACOGNITION & LEARNING 1, 5 (2010).

²² NAT'L ACADS. SCIS., ENG'G, & MED, *supra* note 3, at 2-7; SCI. LEARNING & DEV. ALL., *HOW THE SCIENCE OF LEARNING AND DEVELOPMENT CAN TRANSFORM EDUCATION: INITIAL FINDINGS* 8-14 (May 2020); Thomas S. Dee et al., *The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum*, 54 AM. EDUC. RSCH. J. 127, 129-30 (2017).

A. Inclusive Curricula Strengthen Academic Achievement and Engagement.

Students are more likely to invest in academic tasks when they understand how the material is relevant and connected to their own experiences and those of their families and communities, even when learning about events, time periods, or cultures that are vastly different from their own. This motivation fuels stronger engagement in learning activities and a greater sense of belonging in schools, thereby enhancing self-efficacy and academic identities and outcomes.

One of the most thoroughly researched areas of inclusive school curricula is ethnic studies programs in secondary schools. Ethnic studies courses consistently improve student engagement, agency, and achievement.²³ In San Francisco, students randomly assigned to ethnic studies courses showed significant gains in attendance, GPA, and credits earned, and were more likely to graduate.²⁴ In Tucson, ethnic studies curriculum was associated with higher standardized test scores, improved graduation rates, and stronger student engagement.²⁵ And tribal-

²³ CHRISTINE E. SLEETER, *THE ACADEMIC AND SOCIAL VALUE OF ETHNIC STUDIES: A RESEARCH REVIEW*, at vii-viii (2011).

²⁴ Dee, *supra* note 22, at 158-60; Sade Bonilla et al., *Ethnic Studies Increases Longer-Run Academic Engagement and Attainment*, 118 PROCS. NAT'L ACAD. SCIS.1, 1 (2021).

²⁵ Nolan L. Cabrera et al., *Missing the (Student Achievement) Forest for All the (Political) Trees: Empiricism and the Mexican American Studies Controversy in Tucson*, 51 AM. EDUC. RSCH. J. 1084, 1106-07 (2014); Allyson Tintiangco-Cubales et al., *Toward an Ethnic Studies Pedagogy: Implications for K-12 Schools from the Research*, 47 URBAN REV. 104, 113 (2015).

focused curriculum enhanced learning outcomes for all students, particularly when they centered Indigenous voices.²⁶ These results confirm that inclusive curricula are consequential in improving students' academic success and engagement.

B. Inclusive Curricula Build Critical Consciousness, Resilience, and Agency.

Inclusive curricula also foster critical psychosocial skills that support students' social and emotional development, which is consequential for adult success. Most notably, research demonstrates that cultivating students' critical consciousness, *i.e.*, understanding of societal inequality and challenges, results in a variety of positive outcomes.²⁷

For instance, curricula and pedagogy that integrate discussion of social structures, history, and identity support the type of complex thinking that leads to critical consciousness, which not only strengthens students' academic motivation, engagement, and achievement, but also their ability to adapt emotionally, socially,

²⁶ Angelina E. Castagno et al., *Culturally Responsive Schooling for Indigenous Youth: A Review of the Literature*, 78 REV. EDUC. RSCH. 941, 958 (2008); Kristin Powers et al., *Does Cultural Programming Improve Educational Outcomes for American Indian Youth?*, 42 J. AM. INDIAN EDUC. 17, 38-39 (2003).

²⁷ Amy Herberle et al., *Critical Consciousness in Children and Adolescents: A Systematic Review, Critical Assessment, and Recommendations for Future Research*, 146 PSYCH. BULL. 525, 535-37 (2020); Greg Wiggan et al., *Pedagogy of Empowerment: Student Perspectives on Critical Multicultural Education at a High-Performing African American School*, 22 RACE ETHNICITY & EDUC. 767, 783-784 (2019).

and behaviorally to their environment.²⁸ As youth grapple with complex, emotionally relevant ideas, they actively utilize brain systems involved in attention, executive control, cognition, self-awareness, narrative, memory, emotion, motivation, and other mental processes.²⁹ Evidence suggests that such active neurological engagement with important social and civic ideas grows teens' brain structure and function over time.³⁰ These positive effects are seen across grade levels, developmental spectrums, and racial and ethnic identities.³¹ The development of critical consciousness leads to improved academic achievement,³²

²⁸ Matthew A. Diemer et al., *Critical Consciousness: A Developmental Approach to Addressing Marginalization and Oppression*, 10 CHILD DEV. PERSPS. 216, 218-19 (2016).

²⁹ Mary Helen Immordino-Yang et al., *Civic Reasoning Depends on Transcendent Thinking: Implications of Adolescent Brain Development for SEL*, 4 SOC. & EMOTIONAL LEARNING: RSCH., PRAC., & POL'Y 1, 5-6.

³⁰ Rebecca J. M. Gotlieb et al., *Diverse Adolescents' Transcendent Thinking Predicts Young Adult Psychosocial Outcomes Via Brain Network Development*, 14 SCI. REPS. 6254 (2024).

³¹ Scott Seider et al., *Investigating the Relation Between Critical Consciousness and Academic Achievement for Adolescents of Color and White Adolescents*, 29 CULTURAL DIVERSITY & ETHNIC MINORITY PSYCH. 516, 524-26 (2023); see Marisol Diaz, *Developing a Critical Consciousness with Elementary Students as a Catalyst for Academic Success*, 15 ASS'N MEXICAN AM. EDUCATORS J. 90 (2021).

³² Scott Seider et al., *The Development of Critical Consciousness and its Relation to Academic Achievement in Adolescents of Color*, 91 CHILD DEV. e451, e467-69 (2019).

enhanced career development,³³ and greater occupational attainment in adulthood.³⁴

Relatedly, inclusive curricula foster students' resilience, or positive adaptation within the context of significant adversity. Resilience is a necessary skill for individuals to persist, thrive, and contribute to democratic society as active, responsible, and empowered citizens.³⁵ Experts in developmental psychology, education, and sociology agree that students build resilience by learning to engage with challenges under supportive conditions.³⁶ In other words, resilience is a skill that develops as students encounter structured opportunities to reflect and persist in the face of challenges.

Furthermore, when schools affirm and leverage students' cultural identity in their classroom practices (*e.g.*, integrating texts, histories, or problem-solving approaches that reflect students' cultural backgrounds) while fostering cross-group

³³ See Matthew Diemer et al., *Critical Consciousness and Career Development Among Urban Youth*, 68 J. VOCATIONAL BEHAV. 220 (2006).

³⁴ Matthew Diemer, *Pathways to Occupational Attainment Among Poor Youth of Color: The Role of Sociopolitical Development*, 37 COUNSELING PSYCH. 6, 28 (2009).

³⁵ Margaret Beale Spencer, *Phenomenology and Ecological Systems Theory: Development of Diverse Groups*, in 1 HANDBOOK OF CHILD PSYCHOLOGY 829, 838-40 (William Damon et al. eds., 6th ed. 2006).

³⁶ Ann S. Masten, *Global Perspectives on Resilience in Children and Youth*, 85 CHILD DEV. 6, 9 (2014); Jean E. Brooks, *Strengthening Resilience in Children and Youths: Maximizing Opportunities Through the Schools*, 28 CHILD. & SCHS. 69, 71-73 (2006).

learning about other groups’ experiences (*e.g.*, reading texts from racially and ethnically diverse authors and perspectives), all students demonstrate significant positive outcomes in academic motivation, engagement, and achievement as well as greater self-efficacy, emotional regulation, and sense of belonging.³⁷

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

Learning experiences that encourage students to grapple with histories of injustice and imagine collective solutions promote civic participation, democratic engagement, and a commitment to equity.³⁸ A large and growing body of research consistently finds that diverse curricula and pedagogical practices promote civic learning, including the knowledge, skills, and dispositions to prepare young people as problem solvers and civic actors.³⁹

³⁷ See Tabbye Chavous et al., *Advancing a Science of Learning and Development That Can Promote Dignity-Affirming Educational Environments: Some Considerations for the Field*, 47 REV. RSCH. EDUC. 116, 124-25 (2023); Deborah Rivas-Drake et al., *Feeling Good, Happy, and Proud: A Meta-Analysis of Positive Ethnic–Racial Affect and Adjustment*, 85 CHILD DEV. 77, 93-95 (2014).

³⁸ See Patricia Gurin et al., *Diversity and Higher Education: Theory and Impact on Educational Outcomes*, 72 HARV. EDUC. REV. 330, 358-60 (2002); Nicholas A. Bowman, *College Diversity and Cognitive Development: A Meta-Analysis*, 80 REV. EDUC. RSCH. 4, 20-21 (2010).

³⁹ Gregory White et al., *Supporting Civic Reasoning, Discourse, and Problem Solving That is Political Without Being Partisan*, 47 REV. RSCH. EDUC. 568, 575-80 (2023); LEE ET AL., *supra* note 1, at 12-13; Beth C. Rubin, “*There’s Still Not Justice*”: *Youth Civic Identity Development Amid Distinct School and Community Contexts*, 109 TCHRS. COLL. REC. 449, 474-77 (2007).

Research on inclusive curricula and students of color, in particular, finds that such exposure results in greater empowerment and civic action through their deeper understanding of efforts to overcome discrimination and inequality.⁴⁰ For Indigenous youth, culturally responsive schooling fosters respect for elders,⁴¹ strengthens community leadership,⁴² and promotes self-direction and political activism.⁴³ As for White students, research finds that engaging with inclusive curricula is particularly important because they are less likely to have regular contact with people of color due to segregation patterns.⁴⁴ Regardless of race, students exposed to critical analyses of inequality are better equipped to challenge systemic injustice and participate in a multiracial democracy.⁴⁵

Decades of research show that students exposed to curricula that provide opportunities to engage with diverse perspectives on complex societal issues⁴⁶

⁴⁰ Scott Seider et al., *Black and Latinx Adolescents' Developing Beliefs About Poverty and Associations with Their Awareness of Racism*, 55 DEV. PSYCH. 509, 509 (2019); Rubin, *supra* note 39, at 473-74.

⁴¹ See Castagno et al., *supra* note 26, at 958.

⁴² *Id.* at 961; Jerry Lipka, *Culturally Negotiated Schooling: Toward a Yup'ik Mathematics*, 33 J. AM. INDIAN EDUC. 14, 28-29 (1994).

⁴³ Ricardo L. Garcia et al., *Indian Education: Assumptions, Ideologies, Strategies*, in TEACHING AMERICAN INDIAN STUDENTS, 13, 16-17 (1992).

⁴⁴ See John Iceland et al., *White Residential Segregation in U.S. Metropolitan Areas: Conceptual Issues, Patterns, and Trends from the US Census, 1980 to 2010*, 32 POPULATION RSCH. POL'Y REV. 663, 663 (2013).

⁴⁵ Michael B. Frisby et al., *Development and Validation of the White Critical Consciousness Index*, 21 RSCH. HUMAN DEV. 229, 240-41 (2024); Seider et al., *supra* note 31, at 518, 520-21; See Diemer et al., *supra* note 28.

⁴⁶ HESS ET AL., *supra* note 19, at 58-60.

demonstrate stronger civic engagement, more complex thinking, and a greater ability to consider multiple perspectives.⁴⁷ Classrooms that deliberately engage students in structured controversy deepen civic knowledge, cultivate more complex political reasoning, and prepare young people for democratic debate.⁴⁸ This pedagogy fosters students' civic identities, allowing them to see themselves as participants in a shared democratic project, rather than isolated individuals.

Students who are exposed to readings on different racial/ethnic groups and engage in intergroup dialogues with diverse peers are more likely to vote in state and federal elections⁴⁹ due to their engagement in complex thinking, development of cultural awareness, and greater interest in social issues. And students who are exposed to multicultural curricula and classmates are likely to believe that racial inequality still needs to be addressed and is unacceptable in a democratic society.⁵⁰

⁴⁷ Bowman, *supra* note 38, at 21-23; Nida Denson et al., *Racial Diversity Matters: The Impact of Diversity-Related Student Engagement and Institutional Context*, 50 AM. EDUC. RSCH. J. 322, 343-44 (2009); Gurin et al., *supra* note 38, at 351-53.

⁴⁸ HESS ET AL., *supra* note 19, at 58-60; David E. Campbell, *Voice in the Classroom: How an Open Classroom Climate Fosters Political Engagement Among Adolescents*, 30 POL. BEHAV. 437, 450-51 (2008); Kahne et al., *supra* note 19, at 431-33.

⁴⁹ Biren (Ratnesh) A. Nagda et al., *Fostering Meaningful Racial Engagement Through Intergroup Dialogues*, 6 GRP. PROCESSES & INTERGROUP RELS. 111, 114-15 (2003); Sylvia Hurtado, *The Next Generation of Diversity and Intergroup Relations Research*, 61 J. SOC. ISS. 595, 601-03 (2005).

⁵⁰ Hurtado, *supra* note 49; Biren (Ratnesh) A. Nagda et al., *Mix It Up: Crossing Social Boundaries as a Pathway to Youth Civic Engagement*, 95 NAT'L CIVIC REV. 47, 52-53 (2006).

Inclusive curricula also increase students' interest and participation in community service,⁵¹ including food distribution and childcare, which contributes to community well-being. A meta-review of 44 studies found that youth who participate in community service gain confidence, recognize commonalities across groups, and are more likely to vote, volunteer, and reflect on moral and political questions.⁵² Meta-analyses of students who take diversity-related courses find they exhibit greater intellectual engagement, complex thinking, and capacity to understand multiple perspectives, which foster cognitive development and long-lasting civic engagement.⁵³

D. Inclusive Curricula Strengthen Social Cohesion Across Groups.

Finally, despite anecdotal claims to the contrary, research demonstrates that when children are taught about racism and injustice, they develop more positive

⁵¹Elan C. Hope et al., *The Role of Sociopolitical Attitudes and Civic Education in the Civic Engagement of Black Youth*, 24 J. RSCH. ON ADOLESCENCE 460, 460 (2014); RICHARD M. LERNER, LIBERTY: THRIVING AND CIVIC ENGAGEMENT AMONG AMERICA'S YOUTH 134-35 (2004).

⁵² Daniel Hart et al., *High School Community Service as a Predictor of Adult Voting and Volunteering*, 44 AM. EDUC. RSCH. J. 197, 212-13 (2007); Edward Metz et al., *Longitudinal Gains in Civic Development Through School-Based Required Service*, 26 POL. PSYCH. 413, 425-27 (2005).

⁵³ Nicholas Denson, *Do Curricular and Cocurricular Diversity Activities Influence Racial Bias? A Meta-Analysis*, 79 REV. EDUC. RSCH. 805, 823, 826-27 (2009); Gurin et al., *supra* note 38, at 351-53; Bowman, *supra* note 38; at 20-21; Nicholas A. Bowman, *Promoting Participation in a Diverse Democracy: A Meta-Analysis of College Diversity Experiences and Civic Engagement*. 81 REV. EDUC. RSCH. 29, 46-48 (2011).

views of peers from different racial groups and stronger pride in their own identities. Lessons that explicitly address these topics decrease students' prejudice.⁵⁴ Reviews of school-based interventions confirm that programs explicitly addressing race and intergroup dynamics reduce bias and foster inclusive environments.⁵⁵

Far from dividing students, inclusive curricula and pedagogical strategies that foster deliberation and perspective-taking build classrooms where young people learn to live and work together across differences. Such instruction fosters empathy, belonging, and cooperation.⁵⁶ Students of all backgrounds who have these classroom experiences are better prepared to navigate global workplaces and society as adults.

II. NARROW CURRICULA CAUSE DOCUMENTED HARMS TO STUDENTS.

The other side of the “inclusive curriculum” coin is the documented harm to students when curricula are narrowed and educators are forced to teach and interact

⁵⁴ Frances E. Aboud & Virginia Fenwick, *Exploring and Evaluating School-Based Interventions to Reduce Prejudice*, 23 J. SOC. ISSUES 767, 773-75 (1999).

⁵⁵ *See id.*; Frances E. Aboud et al., *Interventions to Reduce Prejudice and Enhance Inclusion and Respect for Ethnic Differences in Early Childhood: A Systematic Review*, 32 DEV. REV. 307, 331-32 (2012); Rebecca S. Bigler et al., *Developmental Intergroup Theory: Explaining and Reducing Children's Social Stereotyping and Prejudice*, 16 CURRENT DIRECTIONS PSYCH. SCI. 162, 164-66 (2007).

⁵⁶ *See* DeLeon L. Gray et al., *Black and Belonging at School: A Case for Interpersonal, Instructional, and Institutional Opportunity Structures*, 53 EDUC. PSYCH. 97, 100, 104-06 (2018).

with students as if race and gender have played no role in our history or in access to opportunities. But students know differently. They hear their family and community elders talk about history and what was done by and to people of different backgrounds. If schools ignore that history, students may be confused and frustrated.⁵⁷ This negatively impacts intellectual and academic development, motivation, and more broadly, our multicultural democracy.

As noted above, a strong sense of positive academic identity is essential for motivation, achievement, and resiliency.⁵⁸ Learning is inseparable from emotion, social relationships, and identity.⁵⁹ Ignoring or suppressing these realities harms the very cognitive processes that schools are charged with developing.⁶⁰

A. Restricted, Censored Curricula Deny Students’ Access to Deeper Learning and Inhibit Their Academic, Social, and Emotional Development.

Censorship harms students by removing histories, literatures, and contributions of diverse communities, and it reinforces stereotypes. When schools suppress students’ opportunities to connect new content with their cultural and experiential knowledge, they disrupt the very processes by which students derive

⁵⁷ See *id.* at 100.

⁵⁸ See Kelly Allen et al., *What Schools Need to Know About Fostering School Belonging: A Meta-Analysis*, 30 EDUC. PSYCHOL. REV. 1, 2-3 (2018).

⁵⁹ Mary Helen Immordino-Yang & Antonio Damasio, *We Feel, Therefore We Learn: The Relevance of Affective and Social Neuroscience to Education*, 1 MIND, BRAIN & EDUC. 3, 3 (2007).

⁶⁰ See *id.*

meaning and evaluate information, thus stunting cognitive, social, and emotional development.

When a state law restricts curricula by banning discussion of race, sex, culture, or history, it does not create “neutral” classrooms. Instead, it deprives children of the very tools they need to learn most effectively about our complex society by hearing and understanding other viewpoints that help them develop critical thinking about the world they inhabit. Young children develop an early understanding of race and its social dimensions.⁶¹ By middle-childhood, children are aware of negative stereotypes, which creates stress and heightened vigilance that can divert cognitive resources from learning.⁶² Because children are already making sense of difference, they require guidance to interpret it. Curriculum provides that guidance.⁶³

⁶¹ Frances E. Aboud, *The Developmental Psychology of Racial Prejudice*, 30 *TRANSCULTURAL PSYCHIATRIC RSCH. REV.* 229, 231-32 (1993); PHYLLIS A. KATZ, *DEVELOPMENT OF CHILDREN’S RACIAL AWARENESS AND INTERGROUP ATTITUDES* 2-3 (1981).

⁶² Markus Appel et al., *Stereotypes and the Achievement Gap: Stereotype Threat Prior to Test Taking*, 24 *EDUC. PSYCH. REV.* 609, 625-627 (2012); Clark McKown et al., *The Development and Consequences of Stereotype Consciousness in Middle Childhood*, 74 *CHILD DEV.* 498, 510 (2003).

⁶³ Hurtado, *supra* note 49, at 603, 605; Alisha Nguyen, “*Children Have the Fairest Things to Say*”: *Young Children’s Engagement With Anti-Bias Picture Books*, 50 *EARLY CHILDHOOD EDUC. J.* 743, 743 (2022).

1. Excluding Diverse Perspectives Stunts All Students' Identity Development and Cross-Group Understanding.

Affirming cultural knowledge fosters stronger academic identities and greater resilience among historically marginalized students.⁶⁴ Conversely, exclusion limits identity development and restricts opportunities for *all* students to learn across differences and deliberate issues from varied perspectives.⁶⁵

For instance, restricting curricula harms White students—with their varied histories across socio-economic status and ethnic identities and traditions—of the opportunity to learn accurate histories of their own communities, practice collaboration across differences, and develop skills required for participation in a diverse democracy.⁶⁶ Moreover, White students who attend racially homogenous, predominantly White schools and who are not taught the perspectives and experiences of other racial groups are deprived of opportunities to develop the

⁶⁴ See Norma González et al., *Funds of Knowledge for Teaching in Latino Households*, in NORMA GONZÁLEZ ET AL., FUNDS OF KNOWLEDGE: THEORIZING PRACTICES IN HOUSEHOLDS, COMMUNITIES, AND CLASSROOMS 71-87 (2005); Jolina Ulbricht et al., *Fostering Culturally Responsive Teaching through The Identity Project Intervention: A Qualitative Quasi-Experiment with Pre-Service Teachers*, 24 IDENTITY 307, 309 (2024).

⁶⁵ See Gurin et al. (2002), *supra* note 38, at 334, 362.

⁶⁶ Denson et al. (2009), *supra* note 47, at 324.

skills and cross-cultural competencies needed to thrive in a global, multicultural society and participate in an increasingly diverse democracy.⁶⁷

Treaties, laws, and rulings have affirmed tribal sovereignty in Oklahoma and other states. *See, e.g., McGirt v. Oklahoma*, 591 U.S. 894, 897-98, 938 (2020).

Omitting this history undermines the needed debates about justice and appreciation for Native American cultural survival and civic participation.⁶⁸ Although

Oklahoma's State ESSA Plan was purposefully broadened to acknowledge the importance of these crucial topics, H.B. 1775 prevents these lessons from being taught in Oklahoma classrooms. *See* First Br. on Cross-Appeal at 37-39 (H.B. 1775's reference to Oklahoma's Academic Standards exacerbates its vagueness concerning the permissibility of teaching concepts).

2. Narrowed Curricula Disproportionately Harm Students from Marginalized Backgrounds.

Though censorship affects all students, it affects marginalized youth in particular ways that deny them robust learning opportunities. When schools do not

⁶⁷ *See* Roslyn Arlin Mickelson, *The Cumulative Disadvantages of First-and Second-Generation Segregation for Middle School Achievement*, 52 AM. EDUC. RSCH. J. 657, 685-86 (2015); Erika Wilson, *Monopolizing Whiteness*, 134 HARV. L. REV. 2382, 2384, 2388 (2019).

⁶⁸ *See, e.g.,* VINE DELORIA & DANIEL WILDCAT, POWER AND PLACE: INDIAN EDUCATION IN AMERICA 81-82 (2001); David Beaulieu, *Native American Education Research and Policy Development in an Era of No Child Left Behind: Native Language and Culture During the Administrations of Presidents Clinton and Bush*, 47 J. AM. INDIAN EDUC. 10, 27, 38-39 (2008).

create inclusive environments and a sense of belonging for all students, students often disengage from the curriculum, and their academic learning suffers.⁶⁹ These educational losses translate into broader democratic harm by removing opportunities for students to tap into their prior knowledge and build complex understandings of history, social and civic dilemmas, and critical problem-solving.

When students see their histories and communities reflected in curricula, and when teaching practices allow students to build bridges from prior experiences to connect with other students' experiences and perspectives, they are affirmed in their identities and enabled to see commonalities across difference.⁷⁰ When curricula exclude or distort the complexity of multicultural history—history they may well hear about outside of school but are unable to learn in class where they can research facts and hear others' perspectives—students are more likely to disengage, underperform, feel alienated, and drop out of school.⁷¹

⁶⁹ See Jan Gray & Gary Partington, *Attendance and Non-Attendance at School*, in REFORM AND RESISTANCE IN ABORIGINAL EDUCATION 146-48 (2012); Ray Barnhardt et al., *Indigenous Knowledge Systems and Alaska Native Ways of Knowing*, 36 ANTHROPOLOGY EDUC. Q. 8, 15, 20-21 (2005).

⁷⁰ See Julio Cammarota et al., *A Critically Compassionate Intellectualism for Latina/o Students*, 14 MULTICULTURAL EDUC. 16, 20-22 (2006) (describing relationship-building and “sense of ownership” cultivated among students who were exposed to their histories in their curriculum).

⁷¹ See Blessing Ngozi Iweuno et al., *Impact of Racial Representation in Curriculum Content on Student Identity and Performance*, 23 WORLD J. ADVANCED RSCH. REVS. 2913, 2914 (2024); Thomas M. Philip et al., *Becoming Racially Literate About Data and Data-Literate About Race*, 34 COGNITION & INSTRUCTION 361, 382-84 (2016).

Silencing or erasing cultural knowledge communicates to students that their communities are not worthy of study, while others' are.⁷² This lack of validation erodes trust in schooling institutions and denies students the opportunity to learn about themselves and others, tacitly signaling to them who is important, and who is not.⁷³ Exclusion at the curricular level thus translates into psychosocial harms that can undermine academic engagement, identity development, and social and civic cohesion.

Furthermore, curriculum exclusions send damaging societal messages about whose knowledge is valued.⁷⁴ Inclusive curricula and culturally responsive schooling provide opportunities for students to connect the stories their families and communities share with them to what they are learning in school, thereby broadening classroom discussions and learning to include multiple perspectives.⁷⁵

⁷² See Sleeter, *supra* note 23, at 4; Osher et al., *supra* note 20, at 12.

⁷³ Gray et al, *supra* note 56, at 100-01.

⁷⁴ *Id.*; see also Kiara Rahman, *Belonging and Learning to Belong in School: The Complications of the Hidden Curriculum for Indigenous Students*, 34 DISCOURSE: STUDS. CULTURAL POL. EDUC., 660, 662-63 (2005).

⁷⁵ See Ana María Villegas et al., *Preparing Culturally Responsive Teachers: Rethinking the Curriculum*, 53 J. TEACHER EDUC. 20, 28-29 (2002).

B. Narrowed Curricula Weaken Students' Engagement in Democracy.

Policies that narrow curricula to exclude race, culture, or difficult history disregard the preponderance of social science research about how students learn.⁷⁶ Narrowing curricula limits the development of critical and independent thought—skills necessary for navigating rising misinformation, political polarization, and declining trust in democratic institutions.⁷⁷

Contemporary curricular restrictions mirror historical patterns of exclusion that weaken democracy. Oklahoma's restrictions undermine informed citizenship and perpetuate systems of inequality by denying students access to the full scope of history and culture. By excluding discussions of how race, culture, and power operate in society, these policies erode the very foundations of democratic life. When curricular restrictions suppress discussion of controversial issues, they deny students opportunities to practice democratic dialogue, leaving them less prepared to confront disagreement and polarization in civic life.⁷⁸ Students then leave school

⁷⁶ LINDA DARLING-HAMMOND ET AL., *LEARNING POL'Y INST., EDUCATING THE WHOLE CHILD: IMPROVING SCHOOL CLIMATE TO SUPPORT STUDENT SUCCESS* 1 (2018).

⁷⁷ See Darling-Hammond, *supra* note 17, at 234-35; White et al, *supra* note 39, at 586-89.

⁷⁸ See HESS ET AL., *supra* note 19, at 4-5, 58-60.

without the tools necessary to evaluate contemporary social and political challenges, weakening democracy itself.⁷⁹

CONCLUSION

This Court should reverse the partial denial of the preliminary injunction and enjoin enforcement of the Act in full.

Respectfully submitted on September 3, 2025.

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⁷⁹ See generally *id.* at 28-43 (analyzing impact of classroom environments on political and democratic engagement).

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I hereby certify that on September 3, 2025, I filed a true and correct copy of the foregoing with the Clerk of the United States Court of Appeals for the Tenth Circuit by using the appellate case filing CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

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