



“Why Do They Hate Us So Much?”

Discriminatory Censorship Harms Education in Florida

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Summary

People feel empowered to attack queer students because if the legislators can do it, they think they can do it too... I've heard slurs being said constantly and no teacher bats an eye and it's like, whoa, why aren't you doing anything about it? We need more protections for queer students. We need schools that are an inclusive space.

—Kara F., Sarasota Florida high school senior, March 2024

When the state says that you can teach slavery but not the bad parts, that's a tremendous injury.

—Dr. Marvin Dunn, Miami Florida educator, February 2024

There's an attack on Blackness here. Anti-Black policies and anti-LGBTQ policies. It's bad, and it's causing people to feel hopeless.

—Patricia T., Jacksonville Florida parent, February 2024

Since 2021, Florida has issued laws and policies that censor and distort the curriculum and educational environment of K-12 classrooms in ways inconsistent with international human rights standards on education, access to information, and discrimination. Florida's policies have also led to the removal of information, instruction, and books from classrooms under procedures exploited by antagonistic political groups. The state's actions have created an environment of censorship and discrimination in classrooms that harms education for all Florida students but is especially hostile in its impact on Black Floridians and LGBTQ Floridians. Led by Governor Ron DeSantis and the state's Department of Education, such efforts also include promulgating new civics training for teachers and history standards for students, rejected as inaccurate or misleading by teachers, scholars, and Florida education professionals.

Florida's efforts to censor undermine students' ability to access accurate information, participate in age-appropriate discussions, develop critical thinking skills, and prepare to engage with a changing society. Proponents of Florida's new laws claim they seek to reform divisive and inappropriate school curricula, but they themselves are imposing a curriculum riddled by harmful gaps and inaccurate information that reinforce

discrimination, driven by politicians rather than education experts and professionals best suited to determine content that maximizes a child's healthy development. Determining age appropriateness is not a new factor in building educational environments in schools, but now, the professional expertise of local educators and librarians is being challenged and supplanted by people without training in these topics. Meanwhile, students, parents, and educators are left to operate in a politicized environment rife with suppressed speech, stifled discussion, and corrosive fear that their legitimate demands for inclusivity and nondiscrimination will be met with reprisals. According to Florida students, parents, and teachers interviewed for this report, the legal and curriculum changes have created an educational environment more conducive to harassment and discrimination in the classroom on the basis of race, sexual orientation, and gender identity.

Florida's discriminatory educational legal framework for K-12 schools is primarily built out of three laws. The first, known as the Stop WOKE Act (House Bill 7), prohibits instruction "embracing the concept that individuals share responsibility for others' past actions due to their race, sex, or national origin." State leaders have suggested that the law is necessary because curricula and classroom instruction about the history of racism and social inequality may represent discrimination against white students and make them uncomfortable. Our findings, however, show that the law has fueled censorship of information about Black history and curtailed meaningful and informed classroom discussions of racism.

The second, known as the "Don't Say Gay or Trans" law (House Bill 1557), restricts any teaching between kindergarten and third grade about sexual orientation or gender identity as well as teaching about these topics in other grades unless it is deemed "age-appropriate," a term that is undefined. This law deprives LGBTQ students of information they need to live safe and healthy lives and deters discussions of LGBTQ identities in public schools, while permitting discussion of and education about heterosexuality and non-LGBTQ identities.

The third law, House Bill 1069, extends the provisions of the "Don't Say Gay or Trans" law by banning instruction on sexual orientation and gender identity from pre-kindergarten to eighth grade as well as teaching about these topics in high school unless it is deemed "age appropriate." It also prohibits teachers from asking a student's pronoun or name, or providing their own pronouns or names if they do not correspond to the teacher's sex

assigned at birth. The law significantly limits the ability of counselors and teachers to act as confidential resources for students, including LGBTQ students who may not feel comfortable discussing sexual orientation or gender identity with their family, or students for whom this could be dangerous. HB1069 also changed book challenge procedures, resulting in hundreds of books by LGBTQ and Black authors being removed from Florida's library shelves. For example, "ABCs of Black History" a children's book about important figures, places, and moments in Black history, and "And Tango Makes Three" a children's book about two male penguins adopting an orphan penguin, among countless other books, have been challenged and, in some instances, removed.

Florida's discriminatory educational censorship laws sparked numerous ongoing lawsuits, which challenged them on the grounds of being vague and overly broad, as well as for violating constitutional free speech and equal protection guarantees in the US Constitution. Federal courts blocked some provisions of the laws, with one judge issuing a temporary injunction of the Stop WOKE Act at the higher education level because it gave Florida "unfettered authority to muzzle its professors in the name of 'freedom.'" And while a legal challenge to the Don't Say Gay or Trans law has reached a settlement clarifying some language, the law remains in force and its discriminatory impact on elementary, middle, and high school curricula continues. The polarizing impact of the law as implemented before the settlement also continues.

Beyond legislation, Florida has used statewide policies to censor and distort state curricula. For example, in 2022, the state began its so-called "Excellence in Civics Initiative" which aimed to promote a "patriotic" civics curriculum, the new content of which included factual inaccuracies regarding the US "founding fathers" and the history of slavery in the United States. Education experts and scholars argued the course content whitewashes, or misrepresents, the experience of Black Americans. Then in 2023, the Florida Department of Education forbade state schools from offering the College Board's Advanced Placement (AP) African American Studies Course, a new university-level course for high school students with strong academic abilities, which covered the contributions of Black Americans to US history, art, and culture.

Florida's discriminatory censorship and the politicization of schools have bred fear among some educators as they try to do their jobs in an increasingly hostile environment. The state's ongoing initiatives that limit access to information, such as by creating labyrinthine

bureaucracy for approval of books teachers and administrators want to use in the classroom, not only promote a culture of fear but may impede the ability of students to fully understand complex issues, freely express ideas, and make informed decisions. In such a climate, Florida students, teachers, and parents told us that self-censorship has become increasingly commonplace.

This report describes some of the impacts of discriminatory educational censorship in Florida and the lack of response from the US federal government, including how these laws and policies:

- Prompted Florida teachers to stop or significantly circumscribe teaching students about LGBTQ subjects and racism in US history;
- Caused Florida public school students, particularly Black and LGBTQ students, to feel demoralized, unseen, and unheard, by both the Florida state and US federal government;
- Resulted in a school board official explaining that students would need to seek out information about Black history outside of Florida's public schools;
- Promulgated new state history standards that required teachers to tell students US slavery had positive aspects, requiring them to teach that "slaves developed skills which, in some instances, could be applied for their personal benefit;"
- Contributed to an environment in which people issued death threats and racial, gender, or sexual orientation, or gender identity slurs against school board members, Black and LGBTQ students, or parents in Florida;
- Fomented fear of reprisals in teachers and students for asking critical questions, sharing divergent views on US history, or simply decorating their schools with anti-discrimination artwork;
- Prompted Black students to ask, in the words of their teacher, "Why do they hate us so much?"

Florida is not alone in relying on discriminatory educational censorship laws to restrict classroom content about race, gender, and LGBTQ people. Such laws and policies now impact K-12 public schools in most US states, according to PEN America, a non-profit organization that seeks to protect free expression in the United States and worldwide. Many of these states passed laws restricting classroom discussions of race. According to the Movement Advancement Project, at least seven states have passed versions of Florida's Don't Say Gay or Trans law, and four others restrict discussions of same-sex

activity in sexuality education curricula. Millions of students in the United States now attend public schools with fewer books by authors of color and LGBTQ authors, inaccurate or incomplete discussions of race and history, and reduced or no discussion of sexual orientation and gender identity. While these laws spread throughout the country, Florida's laws remain among the most extreme.

The stakes extend beyond classrooms and impact all people in the United States. A healthy democratic system of government welcomes diversity and the inclusion of various perspectives, which enriches public discourse and fosters tolerance and empathy. Stifling inclusion and discussion at the K-12 level, especially discussions of race, sexual orientation, or gender identity, may lead to discrimination and contribute to creating an environment in which exclusion is normalized as children mature. As students who have passed through Florida's schools become adults, their experience of discriminatory censorship suppresses free expression and access to information and may ultimately thwart the informed political participation required for US democracy to thrive.

Although education is largely controlled by local and state governments in the US, the federal government has an important role to play; its response to Florida's recent actions has been insufficient. Educators and students in Florida have increasingly organized themselves to protest the new laws and their implementation. Students across the state have attended school board meetings demanding an education free from discrimination, but thus far, such efforts have received little support from the federal agencies mandated to address discrimination in education under Title IV and Title VI of the 1964 Civil Rights Act and Title IX of the Education Amendments of 1972.

In a positive step forward, in April 2024, the US Department of Education released long awaited updated Title IX regulations that protect students from discrimination based on their gender identity. Florida, Alabama, Georgia, and South Carolina quickly filed a lawsuit to block implementation of the new rules, arguing the administration of President Joe Biden overstepped its authority. This litigation was ongoing at the time of writing in June 2024 and how the new regulations may be implemented to mitigate the harms of educational censorship laws remains to be seen.

International human rights law requires countries to protect students' rights to non-discrimination in education and to receive information. Countries have a proactive

obligation to provide information about the history of minority racial and ethnic groups and comprehensive sexual education, and in federal systems like the United States, the federal government is required to ensure this content is provided by states. The United States has signed and ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which says it has an obligation to “adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination.”

In 2019, the UN Working Group of Experts on People of African Descent issued a report with measures that it recommends countries pursue, including critical recommendations relevant to Florida and other states with discriminatory censorship laws. Among other things, the working group called on governments to:

Intensify efforts in the field of education in order to promote an understanding and awareness of the causes, consequences and evils of racism, racial discrimination, xenophobia and related intolerance...

This is precisely the education the Florida state government is attacking.

The federal government has a mandate to enforce equal protection under the Fourteenth Amendment of the US Constitution and the Civil Rights Act of 1964, which protects against discrimination. The president and the US Congress, along with key federal agencies such as the Department of Education and the Department of Justice, also have a duty to proactively address discrimination in the United States’ elementary, middle, and high school classrooms. Biden administration officials should make good on their statements and promises to directly impacted people by proactively educating them on federal civil rights complaints mechanisms. Furthermore, the federal government should convene a national summit on ending discriminatory educational censorship efforts across the US. Congress and federal executive agencies should take immediate and stronger action to protect students’ right to an education free of discrimination and censorship.

In its landmark case desegregating US public schools, *Brown v. Board of Education of Topeka*, the United States Supreme Court underscored the importance of education to democracy. “[Education] is the very foundation of good citizenship,” the Court said. The

question all officials must now address is how to ensure students learn US history and the contributions and cultures of the many people of the United States with accuracy and nuance; and discuss and think critically about these topics in a context where they may express their identities and their opinions free from discrimination and fear.

Recommendations

To the President of the United States and the White House

- Continue to publicly condemn laws that limit or obstruct factually accurate teaching about US history—including the history of slavery, its legacies, and the civil rights movement—in the United States.
- Hold a national summit on educational censorship and book banning in elementary, middle, and high school education with a specific focus on how such censorship is discriminatory and undermines democratic values. Ensure students, educators, and advocates from Florida and other states where discriminatory censorship is rife participate. Further ensure federal interagency participation and action.
- Sign the Books Saves Lives Act, Equality Act, Student Non-Discrimination Act, Safe Schools Improvement Act, and Real Education for Healthy Youth Act, or similar legislation, if passed by Congress.

To the United States Congress

- Increase funding for the US Department of Education’s Office for Civil Rights (OCR) to ensure the office can make OCR complaints mechanisms widely available and accessible to all people in the United States, as well as investigate and resolve complaints in a timely manner.
- Hold public hearings on discriminatory educational censorship laws to hear testimony from students, parents, and education professionals directly impacted by discriminatory censorship.
- Adopt a federal national standard incentivizing states to adopt the teaching of colonization, including forced displacement, dispossession, and mass killings of Indigenous peoples; the history of slavery and its legacies, including Reconstruction, Jim Crow laws, lynchings, redlining, and segregation; civil rights movements; and other racial and gender justice and labor rights movements.
- Enact the Books Save Lives Act or similar legislation which clarifies that discriminatory educational censorship violates the United States Constitution and US federal civil rights law and requires public schools and school libraries to

maintain diverse book collections that depict or are authored by members of underrepresented communities.

- Enact the Equality Act or similar legislation to prohibit discrimination on the basis of sexual orientation and gender identity in employment, education, federal funding, and public accommodations.
- Enact the Student Non-Discrimination Act or similar legislation to prohibit discrimination on the basis of sexual orientation and gender identity in schools.
- Enact the Safe Schools Improvement Act or similar legislation to encourage states to enact strong policies to prevent bullying and harassment that are inclusive of sexual orientation and gender identity.
- Enact the Real Education for Healthy Youth Act or similar legislation to support comprehensive sexuality education and restrict funding to health education programs that are medically inaccurate or incomplete, scientifically ineffective, or unresponsive to the needs of LGBTQ youth.

To the US Department of Education's Office for Civil Rights (OCR)

- Commit additional resources to significantly increase public awareness of the OCR complaint process, particularly among students and teachers, including through Know Your Rights webinars, trainings, brochures, and social media in accessible language.
- Increase community engagement with directly impacted students, parents, and teachers in states that have implemented discriminatory censorship laws, such as by holding frequent listening sessions and offering support to interact with state officials and school administrators.
- Issue guidance clarifying that laws distorting Black American history, restricting LGBTQ content in curricula, or banning books in a way which harms students from protected classes may deny them educational opportunities or create a hostile environment, which may amount to civil rights violations.
- Increase transparency so OCR complainants have reasonable expectations of the timeline and outcome of investigations and receive regular communications as to the status of their complaint investigation.
- Initiate compliance reviews in jurisdictions where large numbers of civil rights complaints originate and/or high levels of educational censorship efforts are reported that may be fostering discrimination or other civil rights violations.

To the US Department of Justice

- Issue guidance, alongside the Department of Education, clarifying that laws distorting Black American history, restricting LGBTQ content in curricula, or banning books in a way that harms students from protected classes may deny them educational opportunities or create a hostile environment, which may amount to civil rights violations.
- Initiate compliance reviews, alongside the Department of Education, in jurisdictions where large numbers of civil rights complaints originate and/or where high levels of educational censorship efforts are reported, that may be fostering discrimination or other civil rights violations.
- Consider filing statements of interest and amicus briefs and joining as a party in litigation challenging laws that impact students' rights to access accurate history or comprehensive sexuality education (CSE).

To the US Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC)

- Investigate the mental health and public health implications of discriminatory educational censorship laws.
- Innovate new ways to collect Youth Behavioral Risk Survey (YBRS) data in Florida and other states not participating in the survey, including via direct outreach to students or by using sampling methods or other survey tools that do not require consent from county governments or school districts.

To the Governor of Florida

- Withdraw objections to the Advanced Placement (AP) African American Studies course, allowing Florida students to participate in the offering.
- Amend the Civics Seal of Excellence curriculum to avoid the appearance of partisanship or politicization of public education curricula.
- Issue statements to school board and district leaders clarifying that the Governor's Office and State Department of Education respect local education officials and will work to ameliorate the culture of fear and address the acts of intimidation and suppression of speech that have been reported.

- Instruct the Florida Department of Education to clarify that books shall not be removed from K-12 school libraries for any discriminatory purposes, including but not limited to restricting access to books authored by or depicting LGBTQ characters or themes, people of color, and/or Black American history or culture.

To the Florida State Legislature

- Repeal the Stop WOKE Act, the Don't Say Gay or Trans Law, and HB1069.
- Repeal laws that prohibit or restrict classroom discussions of and curricula related to LGBTQ rights.
- Pass legislation which requires comprehensive sexuality education (CSE) to be taught in Florida schools. Consider effective models in other US states.
- Pass legislation which requires Black history, women's history, LGBTQ history, and ethnic studies to be taught in Florida schools. Consider effective models used in other US states.
- Halt and reverse all efforts to ban diversity, equity, and inclusion initiatives in Florida schools.

To the Florida State Department of Education

- Ensure that teachers, counselors, and other staff receive training to familiarize themselves with the issues LGBTQ students face.
- In consultation with LGBTQ rights groups, develop model guidelines for school districts to follow to make schools safe and inclusive for LGBTQ youth and promulgate their use by schools state-wide.
- Publicly commit to the accurate teaching of civics and US history.
- Ensure all Florida students have access to robust and accurate history of Black Americans and other ethnic groups, in accordance with international human rights law.
- Ensure all Florida students have access to robust and accurate women's history and LGBTQ history, in accordance with international human rights law.
- Update Principles of Professional Conduct for the Education Profession in Florida to reflect the above and remove restrictions on classroom instruction to students on sexual orientation or gender identity.

- Promptly resume Florida’s participation in the CDC Youth Risk Behavior Survey (YRBS) while working to address gaps in past data collection.
- Clarify that books shall not be removed from K-12 public school libraries for any discriminatory purposes, including but not limited to restricting access to books authored by or depicting LGBTQ characters or themes, people of color, or Black American history or culture.

To Florida School Administrators

- Ensure that school policies against bullying and harassment include enumerated protections on the basis of race, ethnicity, national origin, sexual orientation, and gender identity.
- Ensure that schools provide comprehensive sexuality education that is inclusive of LGBTQ youth, covers consensual same-sex activity, and is medically and scientifically accurate.
- Ensure that GSAs (Gender and Sexuality Alliances) and other LGBTQ student organizations form and operate on the same terms as all other student organizations, as explicitly permitted by the terms of the recent settlement of the legal challenge to the Don’t Say Gay law.
- Ensure that students can access facilities, express themselves, and participate in classes and extracurricular activities in accordance with their gender identity.
- Instruct media specialists that books shall not be removed from K-12 public school libraries for any discriminatory purposes, including but not limited to restricting access to books with LGBTQ characters or themes, people of color, and or Black American history or culture.

Methodology

Research for this report was conducted from January to May 2024 by researchers from Human Rights Watch and the Rule of Law Impact Lab at Stanford Law School in consultation with staff of Florida Rising. This report is based on over 60 interviews, including 38 with students, parents, and educators in Florida, and 25 with advocates and experts. Researchers conducted in-person interviews in Tallahassee, Jacksonville, DeLand, Miami, Gainesville, Sarasota, Tampa, and Saint Petersburg in February and March 2024 as well as interviews via video conference over several months.

To identify interviewees, researchers conducted outreach via teachers' unions, state-based advocacy groups, lawyers, and service providers who agreed to circulate information about the project to their networks and solicit interest in speaking with the research team. Researchers provided a link to a form which was also circulated for anyone wishing to share their views to complete. Twelve people completed that form and were subsequently interviewed.

All interviews were conducted in English. No compensation was paid to interviewees. Researchers obtained oral informed consent from interviewees, and notified interviewees why researchers were conducting the research, how they would use their accounts, that the interviewees did not need to answer all the questions, and that they could stop the interview at any time. The majority of interviews were conducted with one interviewee at a time, but in three instances, researchers spoke with students in pairs or small groups when students preferred that option.

Researchers sent letters summarizing the report findings, posing questions, and soliciting feedback to the White House Domestic Policy Council, the US Department of Justice, the US Department of Education Office of Civil Rights, the Centers for Disease Control and Prevention, the Governor of Florida, and the Florida Education Department. (See Annexes) The White House Domestic Policy Council responded, and its input has been incorporated into the report. Others did not respond.

In this report, pseudonyms are used for interviewees who are students, teachers, or administrators in schools to protect their privacy and mitigate the risk of adverse

consequences arising from their participation in the research. Unless requested by interviewees, pseudonyms are not used for individuals who work in a public capacity on the issues discussed in this report.

Note on Terminology

We use “Black, Indigenous, and other people of color” or “people of color” to describe individuals and communities who may identify as Black or African American; Hispanic, Latino/a, or Latinx of any race; Asian or Pacific Islander; North African or Middle Eastern; Indigenous; or multiracial. We use this terminology to be inclusive of a range of racial and ethnic identities and to bring visibility to the differential impacts of structural racism in a variety of systems on Black, Indigenous, and other communities of color in the United States.

We use lesbian, gay, bisexual, transgender, and queer (LGBTQ) to describe individuals who self-identified as such during our research. Throughout the report, we refer to an individual’s self-reported sexual orientation or gender identity where it is relevant and appropriate. Sexual orientation is the sense of attraction to, or sexual desire for, individuals of the same sex, another sex, both, or neither. Gender identity is the deeply felt sense of being female or male, neither, both, or something other than female and male. It does not necessarily correspond to sex assigned at birth. Some individuals we interviewed self-identified as “queer,” an inclusive umbrella term that is sometimes used interchangeably with “LGBTQ” and sometimes used to describe divergence from heterosexual and cisgender norms without specifying new identity categories. When we use direct quotes, this corresponds to the exact language used by the source, regardless of our policies on terminology.

We recognize that some individuals, such as LGBTQ people of color, live at the intersection of multiple identities and are impacted by the laws in multiple ways.

Background

A National Crisis: Discriminatory Educational Censorship

In 2020, a global wave of protests driven by a widespread desire to end systemic racism erupted after the killings in the United States of George Floyd, Breonna Taylor, and Ahmaud Arbery. This period saw a growing movement to study and educate people about how centuries of racism have shaped current institutions and social practices and what can be done to remedy the ongoing harms.¹ Soon after, a backlash began against the movement, such education and the widespread understanding and teaching of this critical aspect of US history.

On September 22, 2020, US President Donald Trump signed an executive order against “divisive concepts.”² The order banned federal agencies and contractors from holding trainings regarding racism and diversity. This was the beginning of a trend across the United States banning discussions about systemic racism. The president and allies continued their efforts to restrict these discussions, which they argued undermined national unity and patriotism.³ Two months later, President Trump established the 1776 Commission, a body created to promote a “patriotic” view of the United States, which did not discuss the harms and legacies of slavery.⁴ This commission was formed in response to the 1619 Project by the *New York Times Magazine*, an edition of the magazine which explored the enduring effects of racial slavery in the United States, including in housing, incarceration, health care, and education.

¹ Jacey Fortin, “Critical Race Theory: A Brief History,” *New York Times*, July 27, 2021, <https://www.nytimes.com/article/what-is-critical-race-theory.html> (accessed April 11, 2024); Janel George, “A Lesson on Critical Race Theory,” *American Bar Association Human Rights Magazine*, vol. 46, no. 2: Civil Rights Reimagining (January 11, 2021), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory/ (accessed April 11, 2024); “#TruthBeTold: Resist Trump’s Equity Gag Order,” *African American Policy Forum*, https://www.aapf.org/_files/ugd/62e126_903752833b384684a2e699327eaf05ca.pdf, (accessed April 1, 2024), p. 7.

² “Executive Order on Combating Race and Sex Stereotyping,” *White House Archive*, September 22, 2020, <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/> (accessed April 11, 2024).

³ NPR Staff, “Trump Expands Ban On Racial Sensitivity Training To Federal Contractors,” *NPR*, September 22, 2020, <https://www.npr.org/2020/09/22/915843471/trump-expands-ban-on-racial-sensitivity-training-to-federal-contractors> (accessed April 11, 2024).

⁴ Nicole Gaudiano, “Trump Creates 1776 Commission to Promote ‘Patriotic Education,’” *Politico*, November 2, 2020, <https://www.politico.com/news/2020/11/02/trump-1776-commission-education-433885> (accessed April 11, 2024).

In the ensuing months state lawmakers followed the Trump administration's lead. Critical race theory (CRT), the study of racial discrimination's entrenchment in law and social structures, became the target of politicians aiming to restrict discussions of race in the United States. Critical race theory is an academic framework primarily taught in law schools, which very few high schools generally include as part of their formal instruction. These leaders began labeling virtually all K-12 and higher education programs that taught about race and racism as "CRT," and argued that such education amounted to indoctrination against white people. At least 35 states introduced or passed broad bans on "CRT" and, in the process, undermined the teaching of content relevant to important topics in US history, including colonialism, slavery, and their legacies. Many state-required curriculum changes also restricted teachers' ability to help students understand and discuss systemic racism and other social issues. Different states adopted different versions of these laws, but nearly all drew on sample legislation crafted by conservative think tanks such as the Heritage Foundation.⁵

At virtually the same time that this backlash was occurring, nationwide campaigns against the teaching of content relating to gender and sexuality were reaching a crescendo. Individuals who led this movement claimed to be concerned about children being taught information that was "age inappropriate."⁶ These activists and legislators used this term broadly to describe virtually any content related to LGBTQ people, families and their experiences, leading to its removal in instruction. Many of the state laws also restricted students' and teachers' ability to share pronouns, and undermined students' ability to confide in trusted educators about their sexual orientation or gender identity without fear of being outed. According to the Movement Advancement Project, at least seven states have passed versions of a "Don't Say Gay or Trans" law, and four others restrict discussions of same-sex activity in sexuality education curricula.⁷

⁵ Heritage Impact, "States Use Heritage's Model Legislation to Reject Critical Race Theory in Classrooms," *Heritage Foundation*, March 18, 2022, <https://www.heritage.org/education/impact/states-use-heritages-model-legislation-reject-critical-race-theory-classrooms> (accessed April 1, 2024).

⁶ Lauren Gambino, "'Parents' Rights': Republicans Wage Education Culture War as 2024 Looms," *Guardian*, March 24, 2023, <https://www.theguardian.com/us-news/2023/mar/24/republicans-parents-rights-education-culture-war> (accessed April 30, 2024).

⁷ For more on these laws, see Movement Advancement Project, "Equality Maps: LGBTQ Curricular Laws," https://www.mapresearch.org/equality_maps/curricular_laws (accessed April 1, 2024) and Movement Advancement Project, "Forced Outing of Transgender Youth in Schools," https://www.lgbtmap.org/equality-maps/youth/forced_outing (accessed April 1, 2024); For more on pronoun restrictions, see Eesha Pendharkar, "Pronouns for Trans, Nonbinary Students: The States with Laws That Restrict Them in Schools," *Education Week*, June 14, 2023, <https://www.edweek.org/leadership/pronouns-for-trans-nonbinary-students-the-states-with-laws-that-restrict-them-in-schools/2023/06> (accessed May 12, 2024).

Book Banning

Schools and school libraries have seen an unprecedented rise in the number of book challenges. A book challenge is a longstanding process in many US school systems that allows members of the public, typically parents with students in public schools, to object to the presence of books with “sensitive content” in schools.⁸ Since 2020, thousands of books have been made less available or banned outright through this process. According to PEN America, the 2022-2023 school year saw an acceleration in book bans in the United States, impacting at least 874 unique titles in the first half of the year.⁹

LGBTQ authors and authors of color are disproportionately impacted. From 2021 to 2023, books representing “the voices and lived experiences” of LGBTQ people and people of color made up 47 percent of the books targeted by censorship attempts.¹⁰ Even books not written by such authors tend to become targets if they contain discussions deemed undesirable on race, LGBTQ experiences, or other forms of difference.¹¹

To challenge the increasing book bans, PEN America, Penguin Random House, and a group of families filed a challenge against Florida’s Escambia County School District and its school board for removing books about race and LGBTQ identities from libraries. A federal judge allowed the case to proceed, noting that the county’s book removal policies likely violate the US Constitution’s First Amendment’s free speech protections.¹² In June 2023, US President Biden appointed a “book ban coordinator” at the Department of Education to monitor these national trends.¹³

⁸ Kasey Meehan and Jonathan Friedman, “Banned in the USA: State Laws Supercharge Book Suppression in Schools,” *PEN America*, August 21, 2023, <https://pen.org/report/banned-in-the-usa-state-laws-supercharge-book-suppression-in-schools/> (accessed April 1, 2024).

⁹ Ibid.

¹⁰ “Censorship by the Numbers,” *American Library Association*, April 20, 2023, <http://www.ala.org/advocacy/bbooks/by-the-numbers> (accessed April 10, 2024).

¹¹ Meehan and Friedman, “Banned in the USA,” *PEN America*.

¹² “Federal Lawsuit Against Florida School District That Banned Books Can Move Forward, Judge Rules,” *Associated Press*, January 10, 2024, <https://apnews.com/article/book-ban-florida-lawsuit-765793db7af28ae83cc63fo89b2edfo1> (accessed April 11, 2024).

¹³ Bo Erickson, “Biden Administration to Appoint Anti-Book Ban Coordinator as Part of New LGBTQ Protections,” *CBS News*, June 8, 2023, <https://www.cbsnews.com/news/biden-anti-book-ban-coordinator-new-lgbtq-protections/> (accessed April 11, 2024).



New College of Florida students and supporters protest ahead of a meeting by the college's board of trustees in Sarasota, Florida, February 28, 2023. © 2023 AP Photo/Rebecca Blackwell

Educational Censorship in Florida

Higher Education

There has been a significant rise in censorship and the politicization of educational institutions, including at Florida colleges and universities.¹⁴

In one particularly harsh example, Governor Ron DeSantis fired the entire board of Florida's public New College in 2023 and filled it with political allies.¹⁵ Board members

¹⁴ American Association of University Professors, *Report of a Special Committee: Political Interference and Academic Freedom in Florida's Public Higher Education System*, report, December 2023, <https://www.aaup.org/report/report-special-committee-political-interference-and-academic-freedom-florida%E2%80%99s-public-higher> (accessed April 11, 2024).

¹⁵ "Anatomy of a Political Takeover at Florida Public College," *Associated Press*, March 30, 2023, <https://apnews.com/article/desantis-new-college-florida-woke-timeline-5a5bcd78230ddd2a1adb8021fea8a755> (accessed April 11, 2024); Patricia Okker, "I Was President of Florida's New College. Then I Was Fired," *Chronicle of Higher Education*, July 19, 2023, <https://www.chronicle.com/article/i-was-president-of-floridas-new-college-then-i-was-fired> (accessed April 11, 2024); January 6, 2023, tweet from Christopher F. Rufo, <https://twitter.com/realchrisrufo/status/1611406507815636993> (accessed April 11, 2024).

criticized the school's diversity, equity, and inclusion office and fired the college president in January 2023. The new board replaced the college president with a former Republican legislator who had led the Florida Education Department in banning critical race theory in 2021.¹⁶ The same board members announced plans to abolish New College's gender studies department in August 2023.¹⁷ The political takeover at New College continues to loom large in the minds of many educators across the state, creating fear of potential retaliation for not aligning with the political ideology of some state leaders.¹⁸

Florida has moved to ban entire fields which study and address social inequality. In late 2023, the Florida Department of Education met and removed sociology as a core course from public colleges and universities, alleging that the discipline teaches critical race theory.¹⁹ In the same meeting, leaders voted to cut state funding for diversity, equity, and inclusion (DEI) programs. DEI programs were established to ensure institutions meet their civil rights obligations.²⁰

A group of professors filed a lawsuit against the Stop WOKE Act, arguing that the law violated their right to free speech, was improperly vague, and was racially discriminatory. In 2023, a federal court issued a preliminary injunction, which temporarily prevented the law from being implemented at Florida public colleges and universities. In its decision, the

¹⁶ C.A. Bridges, "Who is Richard Corcoran, The New Interim President of New College?" *Sarasota Herald Tribune*, January 31, 2023, <https://www.heraldtribune.com/story/news/education/2023/01/31/richard-corcoran-desantis-new-college-of-florida-president-patricia-okker/69859721007/> (accessed April 11, 2024).

¹⁷ Steven Walker, "New College of Florida Board Moves to Abolish Long-Standing Gender Studies Program," *Sarasota Herald Tribune*, August 11, 2023, <https://www.usatoday.com/story/news/education/2023/08/11/new-college-of-florida-board-begins-process-to-abolish-gender-studies/70573522007/> (accessed April 11, 2024).

¹⁸ Trey Walk (Human Rights Watch), "How America's Union Growth Is Playing Out Among Florida Teachers," *Messenger*, October 31, 2023, <https://www.hrw.org/news/2023/10/31/how-americas-union-growth-playing-out-among-florida-teachers>; Human Rights Watch (HRW), Rule of Law Impact Lab at Stanford Law School (SRLIL), Florida Rising (FL Rising) interview with James Q., Chicago, February 27, 2024: James is a former faculty member at New College whose contract was not renewed by the new board.

¹⁹ Josh Moody, "DEI Spending Banned, Sociology Scrapped in Florida," *Inside Higher Ed*, January 18, 2024, <https://www.insidehighered.com/news/governance/trustees-regents/2024/01/18/dei-spending-banned-sociology-scrapped-florida> (accessed April 11, 2024).

²⁰ Legal Defense Fund, "Written Testimony of Jin Hee Lee, Director of Strategic Initiatives, NAACP Legal Defense and Educational Fund, Inc, Submitted to the U.S. House of Representatives Education and Workforce Committee Subcommittee on Higher Education and Workforce Development In Connection with the March 7, 2024, Hearing 'Divisive, Excessive, Ineffective: The Real Impact of DEI on College Campuses,'" <https://www.naacpldf.org/wp-content/uploads/LDF-Testimony-of-Jin-Hee-Lee-for-House-Ed-and-Workforce-Hearing-on-DEIA38.pdf> (accessed April 11, 2024): DEI offices provide training for employees on avoiding harassment, collect data for understanding demographic diversity and institutional climate, and monitor the effectiveness of ongoing policies to remedy past discrimination.

court labeled the law “positively dystopian” and wrote that, “the State of Florida has taken over the ‘marketplace of ideas’ to suppress disfavored viewpoints.”²¹

Florida K-12 Schools in the Crosshairs of the “Parental Rights Movement”

Local activist groups have supported Florida leaders’ efforts to reshape public education and have catalyzed Florida’s role as the national hotbed of discriminatory educational censorship.²² These groups are affiliated with the conservative “parents’ rights movement” that has taken on a number of issues in public schools, including opposing Covid-19 mask mandates and new targets such as instruction about race in schools and LGBTQ rights.²³ One key group in this movement is Moms for Liberty, a nationally funded organization whose members have brought many book challenges and advocated against the “indoctrination” of children.²⁴

Activists affiliated with this “parental rights” movement exercise outsized influence on schools across the state. For example, while book bans are facilitated by state laws such as HB1069, they are supercharged by this organized and well-funded movement. A *Washington Post* analysis found that by May 2023, just 6 percent of book challenge filers were responsible for 60 percent of book challenges across the country.²⁵ Nearly half of the

²¹ Order Granting in Part and Denying in Part Motions for Preliminary Injunction, *Pernell v. Florida Board of Governors*, No. 4:22cv304 (US District Court Northern District of Florida, filed November 17, 2022), <https://www.aclu.org/cases/pernell-v-lamb#legal-documents> (accessed April 11, 2024); Another federal court order struck down the provisions of the law applying to private employers.

²² Leslie Postal, “Florida Leads the U.S. By Far in School Book Bans, New Report Says,” *Orlando Sentinel*, September 21, 2023, <https://www.orlandosentinel.com/2023/09/21/florida-leads-the-u-s-in-school-book-bans-new-report-says/> (accessed April 11, 2024).

²³ Lauren Gambino, “‘Parents’ Rights’: Republicans Wage Education Culture War as 2024 Looms,” *Guardian*, March 24, 2023, <https://www.theguardian.com/us-news/2023/mar/24/republicans-parents-rights-education-culture-war> (accessed April 11, 2024).

²⁴ Will Carless, Chris Ullery, and Alia Wong, “What’s Behind the National Surge in Book Bans? A Low-Tech Website Tied to Moms for Liberty,” *USA Today*, October 5, 2023, <https://www.usatoday.com/story/news/investigations/2023/10/05/website-driving-banned-books-surge-moms-for-liberty/70922213007/> (accessed April 11, 2024); Southern Poverty Law Center, “Moms for Liberty,” <https://www.splcenter.org/fighting-hate/extremist-files/group/moms-liberty> (accessed April 11, 2024): Southern Poverty Law Center (SPLC) designated Moms for Liberty as an extremist group. Moms for Liberty endorses political candidates and wields great influence in school boards across the country. The group’s members actively bring book challenges and speak at school board meetings in favor of restricting access to books they believe are inappropriate for children. Moms for Liberty rose on the national stage at a similar time as Governor Ron DeSantis, with whom they share a close connection, according to news reports. In a display of the group’s national influence, a number of US presidential candidates—including former President Donald Trump and former UN Ambassador Nikki Haley—spoke at the group’s annual summit.

²⁵ Hannah Natanson, “Objection to Sexual, LGBTQ Content Propels Spike in Book Challenges,” *Washington Post*, May 23, 2023, <https://www.washingtonpost.com/education/2023/05/23/lgbtq-book-ban-challengers/> (accessed April 11, 2024).

1,100 book challenges in Florida were filed by only two people, according to *The Tampa Bay Times*.²⁶ In response to criticism, in April 2024, Florida passed a law limiting adults without children in public schools to one book challenge per month. Parents with children attending public schools are still permitted to file an unlimited number of objections with the school district.²⁷

Politicization of School Boards

Local school boards are responsible for implementing state laws and policies at the local level for students in kindergarten through 12th grade, for making decisions about books in school libraries, and for allocating funding for school initiatives and programming.

In 2022, Governor DeSantis decided to endorse school board candidates, the first time in Florida's history that a governor had done so.²⁸ The elections for these nonpartisan positions were previously relatively quiet affairs. However, the governor changed this by donating at least \$2.1 million to candidates who shared his preferred policies and ideologies.²⁹ A political action committee (PAC) affiliated with the governor sponsored mailers and digital advertisements supporting his preferred candidates.³⁰

These moves heightened the scrutiny applied to school boards and made them a new target for political activism, especially for “parents’ rights” groups. Florida school board officials have been subject to harassment and threats, especially when advocating for

²⁶ Ian Hodgson, “Florida Schools Got Hundreds of Book Complaints — Mostly From 2 People,” *Tampa Bay Times*, August 24, 2023, <https://www.tampabay.com/news/education/2023/08/24/florida-school-book-complaints-library-challenges-ban-department-of-education-bruce-friedman-vicki-baggett-parental-rights-sold-patricia-mccormick/> (accessed April 11, 2024).

²⁷ Brendan Farrington, “DeSantis Tweaks Florida Book Challenge Law, Blames Liberal Activist Who Wanted Bible Out of Schools,” *Associated Press*, April 16, 2024, <https://apnews.com/article/florida-ron-desantis-education-book-bans-65daf4420318a837487976c10bb75d86> (accessed April 29, 2024).

²⁸ Patricia Mezei, “Most of the School Board Candidates DeSantis Backed in Florida Won,” *New York Times*, August 24, 2022, <https://www.nytimes.com/2022/08/24/us/politics/ron-desantis-florida-school-board.html> (accessed April 11, 2024); Adriana Gomez Licon, “DeSantis Puts His Imprint on School Board Races in Florida,” *Associated Press*, September 5, 2022, <https://apnews.com/article/2022-midterm-elections-covid-health-race-and-ethnicity-racial-injustice-b64d994c9f2215d4326b395c5385b2d> (accessed April 11, 2024); News Service of Florida, “DeSantis Committee Gave \$2.1M to Florida School Board Candidates,” *Tampa Bay Times*, December 20, 2022, <https://www.tampabay.com/news/education/2022/12/20/desantis-committee-gave-21m-florida-school-board-candidates/> (accessed April 11, 2024).

²⁹ Ibid.

³⁰ Jacob Ogles, “Ron DeSantis’ Committee Funding Mailers Backing School Board Candidate Faves Throughout State,” *Florida Politics*, August 7, 2022, <https://floridapolitics.com/archives/544913-ron-desantis-committee-funding-mailers-backing-school-board-candidate-faves-throughout-state/> (accessed April 11, 2024).

policies like LGBTQ rights and racial justice.³¹ Superintendents who questioned or challenged state policies were fired and replaced by the governor’s political allies on school boards.³²

Other actors have also contributed to the culture of tension and fear at school board meetings. The Proud Boys, a militant white supremacist group, began attending school board meetings across Florida. Some members wore attire with violent messaging or made hateful remarks during public comment period, intimidating local officials and community members who did not align with their beliefs.³³ A TikTok account called the “Libs of TikTok,” has doxed—posted personal information with malicious intent—educators, students, and local officials who do not align with their political beliefs.³⁴ According to news reports, this doxing has at times led to harassment campaigns against these individuals. Several Florida school board members and education professionals have reported doxing or online harassment in the last three years.³⁵ This harassment contributes to a culture of fear in schools, described in this report.

³¹ Gabriella Borter, Joseph Ax, and Joseph Tanfani, “School boards Get Death Threats Amid Rage Over Race, Gender, Mask Policies,” *Reuters*, February 15, 2022, <https://www.reuters.com/investigates/special-report/usa-education-threats/#:~:text=In%20Brevard%20County%2C%20Florida%2C%20school,alleging%20she%20abused%20her%20daughter> (accessed April 11, 2024); Jeffrey Solocheck, “Some Florida School Board Members Say They Are Being Threatened, Harassed,” *Tampa Bay Times*, October 15, 2021, <https://www.tampabay.com/news/education/2021/10/15/some-florida-school-board-members-say-they-are-being-threatened-harassed/> (accessed April 11, 2024).

³² Superintendents serve as the chief executive of a school district; Kathryn Varn, “After Contentious Elections, Conservative Florida School Boards Boot Out Superintendents,” *USA Today*, December 14, 2022, <https://www.tallahassee.com/story/news/education/2022/12/14/florida-school-boards-backed-by-ron-desantis-oust-superintendents/69715686007/> (accessed April 11, 2024); The Florida Department of Education attempted to remove the professional education certificate of the Leon County superintendent after he encouraged teachers to continue supporting LGBTQ students after the “Don’t Say Gay” Law was passed: Steve Stewart, “Florida DOE Pursuing Action Against Superintendent Rocky Hanna,” *Tallahassee Reports*, April 27, 2023, <https://tallahasseereports.com/2023/04/27/leon-county-superintendent-hanna-says-doe-pursuing-action-against-my-professional-educator-certificate/> (accessed April 11, 2024).

³³ Sheera Frenkel, “Proud Boys Regroup, Focusing on School Boards and Town Councils,” *New York Times*, December 14, 2021, <https://www.nytimes.com/2021/12/14/us/proud-boys-local-issues.html> (accessed April 11, 2024); Jeff Bryant, “The Proud Boys Are Coming for Public Schools,” *Progressive*, October 19, 2021, <https://progressive.org/public-schools-advocate/proud-boys-coming-public-schools-bryant-211019/> (accessed April 11, 2024); Kate Payne, “Miami-Dade School Board Rejects LGBTQ History Month Again, Following Marathon Meeting,” *WLRN Public Media*, September 7, 2023, <https://www.wlrn.org/education/2023-09-07/miami-dade-school-lgbtq-history-month-rejected> (accessed June 5, 2024).

³⁴ Taylor Lorenz, “Meet the Woman Behind Libs of TikTok, Secretly Fueling The Right’s Outrage Machine,” *Washington Post*, April 19, 2022, <https://www.washingtonpost.com/technology/2022/04/19/lib-of-tiktok-right-wing-media/> (accessed April 11, 2024); Reina Sultan, “How Libs of TikTok Became an Anti-LGBTQ+ Hate Machine,” *Them*, September 30, 2022, <https://www.them.us/story/lib-of-tik-tok-twitter-facebook-instagram-explained-childrens-hospitals-grooming> (accessed April 11, 2024).

³⁵ Dave Bohman, “Threats Investigated After Contentious Indian River County School Board Meeting Involving Books,” *WPTV*, August 31, 2023, <https://www.wptv.com/news/education/threats-investigated-after-contentious-indian-river-county-school->

Impacts of Florida's Discriminatory Educational Censorship

I noticed, I definitely have been censoring myself more. I actually had a couple of students a few weeks ago ask me if I was straight or not. And I kind of just skirted around the conversation.

— Sonya N., Florida middle school teacher, February 2024

In Florida, we feel that we've been left out on an island to suffer these abuses alone.

— Kelvin L., Florida parent, February 2024

Impact on Quality of Education

A child's right to education is enshrined in international human rights law,³⁶ US federal law,³⁷ and Florida's own constitution.³⁸ Contrary to Florida's efforts to censor, the right to education can only be meaningful if it includes the right to access information that is accurate, allows for age-appropriate discussion and debate to foster critical thinking skills, and prepares students to engage with a changing society.³⁹

Distorting Civics

The administration of Florida Governor DeSantis has taken numerous steps to reshape the history and civics curriculum in elementary, middle, and high school in ways that undermine the rights to education and information, stifle pedagogy, sideline teachers, and

board-meeting-involving-books (accessed June 5, 2024); David Gilbert, "A Far-Right Moms Group Is Terrorizing Schools in the Name of Protecting Kids," *VICE News*, April 26, 2023, <https://www.vice.com/en/article/dy3gnq/what-is-moms-for-liberty> (accessed June 5, 2024), see report from Jacksonville, Florida; Evelyn Nieves, "As Moms for Liberty Spreads, So Does School Turmoil," *Salon Magazine*, October 13, 2023, https://www.salon.com/2023/10/13/as-moms-for-liberty-spreads-so-does-school-turmoil_partner/ (accessed June 5, 2024), see report from Brevard County, Florida.

³⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, Art. 13: The US has signed but not ratified the ICESCR and is therefore not bound by its provisions. However, as a signatory to the convention, the United States is required to refrain from acts that are "contrary to the object and purpose" of the treaty. Vienna Convention on the Law of Treaties (1980), 1155 U.N.T.S. 331, art. 18.

³⁷ *Brown v. Board of Education of Topeka*, 347 US 483 (1954); *Plyler v. Doe*, 457 US 202 (1982).

³⁸ Florida State Constitution, art. 9, sec. 1., <https://www.flsenate.gov/laws/constitution#A9So1> (accessed April 11, 2024).

³⁹ ICESCR, art. 12

marginalize specific groups and histories. Quality education that allows for full development of students, including as participants in democratic processes, is essential to a healthy democracy. Florida's recent steps put that development at risk.

On January 31, 2019, only a few weeks after being elected governor, DeSantis signed a new Executive Order in which he required the commissioner of education to, among other tasks, “identify opportunities to equip high school graduates with sufficient knowledge of America’s civics, particularly the principles reflected in the United States Constitution, so as to be capable of discharging responsibility associated with American citizenship.”⁴⁰ While the executive order was neutral on its face, it soon became clear that the Governor could use it to advance a discriminatory and regressive agenda.

In June 2019, DeSantis signed a new law which required that all instructional materials for teaching civics draw on content created by ideologically aligned groups, including Hillsdale College, a private conservative Christian college in Michigan, among others.⁴¹ Florida later approved Prager U as acceptable supplemental coursework in classrooms. Prager U is a conservative nonprofit organization which creates educational material, often from a Christian or nationalist perspective.⁴² According to its 2023 annual report, the organization, “educate[s] everyone about the importance of Judeo Christian values in their own lives, and... the future of Western Civilization.”⁴³

⁴⁰ State of Florida, Office of the Governor, *Executive Order 19-32: Commitment to Eliminating Common Core, Ensuring High-Quality Academic Standards and Raising the Bar for Civic Literacy*, January 31, 2019, <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-32.pdf> (accessed April 11, 2024): The commissioner of education, appointed by the Governor, oversees education policies for the states.

⁴¹ Civics Education, Florida House Bill (HB) 807 of 2019, <https://www.flsenate.gov/Session/Bill/2019/807/BillText/er/PDF> (accessed April 11, 2024); Diane Rado, “The Legislature Inserted Groups Tied to Right-Wing Donors Into Florida’s New Law on Civics Education,” *Florida Phoenix*, August 22, 2019, <https://floridaphoenix.com/2019/08/22/the-legislature-inserted-groups-tied-to-right-wing-donors-into-floridas-new-law-on-civics-education/> (accessed April 11, 2024).

⁴² Kelly Sheridan, “Videos by PragerU, a Conservative Media Company, can be Played in Florida Classrooms,” *NPR All Things Considered*, August 11, 2023, <https://www.npr.org/2023/08/11/1193534564/videos-by-prageru-a-conservative-media-company-can-be-played-in-florida-classroom> (accessed April 11, 2024); Ayana Archie, “A Lot is Happening in Florida Education. These Are Some of the Changes Kids Will See,” *NPR*, August 14, 2023, <https://www.npr.org/2023/08/14/1193557432/florida-education-private-schools-prageru-desantis> (accessed April 11, 2024); PragerU, *2023 Annual Report*, report, https://downloads.ctfassets.net/qnesrjodfi8o/5CKH6Ji47c5yxhvfpeQuWY/854d8f1082a44e96a4522abfc843adb5/2023_AnnualReport_FullDoc_FINAL_Web_Single_Compressed.pdf (accessed April 11, 2024): The report discusses the importance of promoting Biblical values; “Why You Should Be A Nationalist,” December 17, 2018, Prager U, <https://www.prageru.com/video/why-you-should-be-a-nationalist> (accessed June 5, 2024): In this video the speaker discusses the benefits of nationalism and says that “if you care about freedom, you should hope [nationalism] succeeds.”

⁴³ PragerU, “2023 Annual Report,” p. 12: “We educate everyone about the importance of Judeo Christian values in their own lives, and to the future of Western Civilization.”

In July 2021, DeSantis announced the allocation of US\$106 million to a new “Civic Literacy Excellence Initiative,” which required Florida’s high school students to pass a civics test; established the Civics Seal of Excellence program, in which schools can earn recognition by meeting specific criteria related to civics instruction; and created voluntary in-person teacher training with a US\$700 stipend and/or a \$3,000 incentive for the first 20,000 eligible teachers who complete a 50-hour online training in civics education and pass a related exam, called the Civics Teacher Initiative.⁴⁴ While these measures were not inherently objectionable, Governor DeSantis said the initiative would “expressly exclude unsanctioned narratives like critical race theory and other unsubstantiated theories.”⁴⁵

Educators then flagged factual inaccuracies and misleading framing in the Civics Teachers Initiative’s course content.⁴⁶ In one example, teachers said the curriculum stated that the idea the founders of the United States sought to separate church and state was a “misconception.”

Other teachers pointed to the ways in which the civics curriculum minimized the horrors of slavery and downplayed the role of the founders of the United States in perpetuating slavery. For example, one slide said that “two-thirds of our founders owned slaves, but none of those who held slaves defended the institution,” a claim that drastically oversimplifies and distorts the founders’ diverse views and actions regarding slavery.⁴⁷ The training did not include how chattel slavery developed or how it was integral to the founding of the United States in the negotiations during the Constitutional Convention. For example, the curriculum wholly omitted the “Three-Fifths Compromise,” in which northern and southern states

⁴⁴ Florida Department of Education, “Civics Literacy Excellence Initiative,” July 13, 2021, <https://www.fldoe.org/academics/standards/subject-areas/social-studies/civics-lei.stml> (accessed April 11, 2024).

⁴⁵ Florida Governor Ron DeSantis, press conference in Naples, Florida, March 2021, <https://www.wtsp.com/article/news/regional/florida/desantis-naples-civics-education/67-6cb12955-e708-4829-a695-973695c83a41>; Florida Governor DeSantis, press conference in Orlando, Florida, July 2021, <https://www.wtsp.com/article/news/regional/florida/gov-desantis-civics-education-florida/67-6f20d201-4aed-4e92-91cc-5a473e811d45> (accessed April 11, 2024).

⁴⁶ HRW, SRLIL, FL Rising interview with Sonya N., Sarasota, February 22, 2024; HRW, SRLIL, FL Rising interview with Renee O., Miami, March 4, 2024; <https://www.civicsexcellence.org/>: To see the course content, one must have a teaching license from the state of Florida; For teachers’ concerns regarding the accuracy of the curriculum, see “New Florida Teacher Training Downplays Role of Slavery in U.S. History,” *MSNBC*, August 18, 2022, video clip, YouTube, <https://www.youtube.com/watch?v=sVmHRSq3wlk> (accessed April 11, 2024); “Florida Educators Raise Concerns Over New Civics Training,” *NBC News*, August 3, 2022, video clip, YouTube, <https://www.youtube.com/watch?v=CSSoQ9n6Gxs> (accessed April 11, 2024).

⁴⁷ Ana Ceballos, “The Slides Shown to Teachers During Florida’s Civics Training Sessions,” *Miami Herald*, June 29, 2022, <https://www.miamiherald.com/news/local/education/article262982363.html> (accessed April 11, 2024).

agreed at the Constitutional Convention to count three-fifths of the slave population in determining direct taxation and representation in the House of Representatives.⁴⁸

In another example, some teachers noted that the trainers asserted it was “unjust” for the US Supreme Court to decide in 1962 that school-sponsored prayer violated the First Amendment’s establishment of religion clause.⁴⁹ Florida teachers complained that the trainers were pushing biased information.⁵⁰ Further, these omissions violate guidance by international human rights bodies to ensure that the history of slavery and its legacies are taught to students, in an effort to prevent ongoing racial discrimination.⁵¹

Renee O. is a former finalist for Miami Teacher of the Year who attended the training in-person. She told researchers that participants were given a poll at the start of the course which included questions like: “Do you believe that the forefathers of this country, including Thomas Jefferson, were racist individuals?” When nearly 90 percent of attendees answered yes, Renee said the trainers—who were hired by the Florida Department of Education—seemed concerned and repeated their talking points to the contrary. The trainers repeated the poll question three times during the session, which gave Renee the impression that they were dissatisfied with teachers’ responses. She said, “There was

⁴⁸ Ibid.

⁴⁹ Ana Ceballos and Sommer Brugal, “Some Teachers Alarmed by Florida’s Civics Training Approach on Religion and Slavery,” *Tampa Bay Times*, June 28, 2022, <https://www.tampabay.com/news/florida-politics/2022/06/28/some-teachers-alarmed-by-florida-civics-training-approach-on-religion-slavery/> (accessed April 11, 2024).

⁵⁰ Adrea Chu, “DeSantis Touts Civics Education Plan Amid Concerns of Conservative Bias in Teacher Trainings,” *Tampa 10, WSTP*, June 30, 2022, <https://www.wtsp.com/article/news/education/desantis-civics-teacher-training-concerns-florida/67-4e56ddfa-7aaa-4d2b-ba2a-fdb12a1afc6c#:~:text=Education-,DeSantis%20touts%20civics%20education%20plan%20amid%20concerns%20of%20conservative%20bias,to%20push%20an%20ideological%20agenda.%22&text=SANFORD%2C%20Fla.,%E2%80%94%20Gov> (accessed May 14, 2024); Travis Gibson, “Florida Teachers Raise Concerns About New Civics Training, Say It Downplays Slavery, Promotes Originalism,” *News4jax*, June 30, 2022, <https://www.news4jax.com/news/local/2022/06/29/florida-teachers-raise-concerns-about-new-civics-training-say-it-downplays-slavery-promotes-originalism/> (accessed May 14, 2024); Jack Prator, “Florida’s Largest Teachers Union Takes Issue With State Civics Training, ‘Don’t Say Gay’ Law,” *WLRN*, July 5, 2022, <https://www.wlrn.org/news/2022-07-05/floridas-largest-teachers-union-takes-issue-with-state-civics-training-dont-say-gay-law> (accessed May 14, 2024).

⁵¹ United Nations General Assembly, “2019 Report of the Working Group of Experts on People of African Descent,” A/74/274, August 2, 2019, <https://undocs.org/en/A/74/274> (accessed June 5, 2024), para 78: Topic: Role of negative racial stereotypes and the stereotyping of people of African descent in perpetuating racially biased decision-making, racial disparities and racial injustice; UN Committee on the Elimination of Racial Discrimination, General Recommendation No. 34, Racial Discrimination Against People of African Descent, CERD/C/GC/34 (2011), <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-34-2011-racial> (accessed June 5, 2024), para. 61-66.

definitely some rhetoric trying to be passed down through teachers. But if you're a strong-minded individual, you're not going to fall into it."⁵²

Renee further explained Florida educators are under pressure to pass on the kind of information provided in the civics curriculum to their students so that their students can pass state tests, even if teachers believe the standards are inaccurate. Student test scores are a component of teacher evaluations.

Undermining Critical Thinking in Florida's Classrooms

On the first day of the 2023 school year, 12-year-old Naomi O., a girl in the seventh grade in Florida, arrived in her civics class eager to learn. She recounted how her teacher announced, "There have been limitations set forth for teachers... I used to be able to allow open debates in the classroom... If I ask you not to ask questions, don't ask questions."⁵³

The teacher projected a PowerPoint presentation from the school district outlining the US political system, including the importance of its "Judeo-Christian roots," and told the class to copy the text. Naomi said that when students asked questions, the teacher said the school district provided the material and that she is "just a body teaching what the district tells me to."⁵⁴

Over the semester, the teacher omitted critical information about how foundational laws of the United States addressed race. For example, Naomi said the teacher did not ever tell the students that Black people did not have the legal right to vote until 1870, almost 100 years after the founding of the United States. Naomi knew this from books at home.⁵⁵

⁵² HRW, SRLIL, FL Rising interview with Renee O., Miami, March 4, 2024.

⁵³ HRW, SRLIL, FL Rising interview with Celeste and Naomi, Miami, March 4, 2024.

⁵⁴ Ibid.

⁵⁵ Ibid.

According to Naomi, the teacher frequently said she limited what topics she covered and refused to answer student questions to avoid drawing the attention of school administrators, which could cost her job. “I like my paycheck,” she told Naomi and her classmates.⁵⁶

The teacher’s fears spread to her students as she told them that if students asked too many questions, they may be sent to the school administration and receive a disciplinary write-up.

Naomi told researchers for this report, “I don’t really feel comfortable saying stuff in class.” Celeste O., Naomi’s mother, was distressed by the teacher’s approach, and hoped her daughter would have opportunities to think critically about her school subjects. Celeste shared her concerns with the teacher, with other parents, and eventually with school leadership, but the school principal did not address her concerns.⁵⁷

“My hope for my kids in public school,” Celeste explained “is not that they get a certain version of history or a certain perspective, but it’s that they are presented with materials and given the opportunity to be skeptical, to ask questions, to think critically, to disagree, to agree, to talk with their peers. To me as a parent, those are the things that are in jeopardy here.”⁵⁸

Schools balance many factors when creating curriculum. Schools rely on experts to create age and developmentally appropriate instructional materials and learning standards.⁵⁹ They rely on classroom teachers to deliver this information in engaging and culturally relevant ways. Schools also consider the interests of parents, who have several opportunities to weigh in on their children’s learning. Florida leaders seeking to push a conservative worldview have interfered at multiple stages of this process.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Florida Department of Education Division of Early Learning, <https://flbt5.floridaeearlylearning.com/> (accessed June 5, 2024); “Developmentally Appropriate Practice (DAP) Position Statement,” National Association for the Development of Young Children, <https://www.naeyc.org/resources/position-statements/dap/contents> (accessed June 5, 2024).

Students should have access to information that prepares them to engage in a diverse society. Florida forecloses this possibility by narrowing the range of perspectives allowed in classroom instruction and libraries. This restriction on critical thinking, exemplified by Florida’s Civics Excellence Initiative, is dangerous when paired with omitted or distorted information about Black history and culture, LGBTQ perspectives, and comprehensive sexuality education.

Discrimination in Education

Racial Discrimination

I feel like the experiences of Black people don’t have a place in public life, like schools. It’s one thing when these attitudes exist in the public sphere, it’s another thing when they are sanctioned by the government.

— Kelvin L., Black father of middle school children in Daytona, Florida, March 2024

The human right to be free from policies that are racially discriminatory in purpose or effect is binding on the United States.⁶⁰ International human rights law requires the US and the state of Florida to end racial discrimination and to take immediate and effective measures, “specifically in teaching and education,” to promote tolerance and combat prejudice against racial and ethnic groups.⁶¹

Stop WOKE Act – Black History and Discussions of Systemic Racism

In April 2022, Governor DeSantis signed House Bill 7, Stop Wrongs Against Our Kids and Employees Act (commonly abbreviated as the “Stop W.O.K.E.”⁶² Act), a law that limits instruction about racism in workplaces and educational institutions. The law created a new state definition of discrimination and banned, among other things, teaching that:

⁶⁰ The right to be free from racial discrimination is provided for in the International Convention on the Elimination of All Forms of Racial Discrimination, further discussed in the human rights law section at the end of this report.

⁶¹ International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, ratified by the US on October 4, 1994, art. 7.

⁶² Ishena Robinson, “How Woke Went From ‘Black’ to ‘Bad’”, *Legal Defense Fund*, August 26, 2022, <https://www.naacpldf.org/woke-black-bad/> (accessed April 11, 2024): The term “woke” originated in African American Vernacular English (AAVE) and is used by Black Americans to describe awareness of systemic racism and other social injustices.

A person, by virtue of his or her race, color, sex, or national origin, bears personal responsibility for and must feel guilt, anguish, or other forms of psychological distress because of actions, in which the person played no part, committed in the past by other members of the same race, color, national origin, or sex.⁶³

Supportive Florida legislators suggested that curriculum about the history of racism and social inequality may represent discrimination against white students by making them uncomfortable.⁶⁴ The law says schools may teach about racial segregation and discrimination, and other related concepts. “However, classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view inconsistent with ... the state academic standards.”⁶⁵ Many educators interpreted this language to outlaw instruction that does not portray the state of Florida or the United States in a favorable light, potentially limiting student access to historical events which are nonetheless critical information.

Local and national advocates immediately challenged the law. They expressed concern that the Stop WOKE Act would reduce all students’ ability to discuss and think critically about race and other social issues in the United States. Some argued the law was crafted with the intent to discriminate against Black educators and students. Florida students and educators filed a legal challenge which argued in part:

The law limits Black and LGBTQ+ teachers especially from talking about their areas of expertise in the classroom and also puts these teachers at higher risk for losing their jobs under the law’s severe punishments for speech about race, gender, and sexuality. During [the law’s] passage, Black students and educators in Florida testified to legislators about the harm it

⁶³ Stop Wrongs Against Our Kids and Employees (“Stop W.O.K.E.”) Act, Florida House Bill (HB) 7 of 2022, <https://www.flsenate.gov/Session/Bill/2022/7/BillText/er/PDF> (accessed April 11, 2024) art. 7.

⁶⁴ Renzo Downey, “House Prepped for Vote Against ‘Woke’ Indoctrination,” *Florida Politics*, February 22, 2022, <https://floridapolitics.com/archives/499446-house-prepped-for-vote-against-woke-indoctrination/> (accessed May 13, 2024); Danielle Brown, “Anti-‘Woke’ and ‘Don’t Say Gay’ Bills Clear FL House Following Emotional Debates,” *Florida Phoenix*, February 24, 2022, <https://floridaphoenix.com/2022/02/24/anti-woke-and-dont-say-gay-bills-clear-fl-house-following-emotional-debates/> (accessed May 13, 2024).

⁶⁵ Florida HB7, section 3H.

would have on their ability to speak freely about issues of race and to challenge racism.⁶⁶

The Stop WOKE Act was not Florida's first attempt to restrict classroom discussions about race and racism. In June 2021, the Florida State Board of Education voted to ban instruction of critical race theory and use of the 1619 Project,⁶⁷ the *New York Times* Magazine's examination of the role of slavery in contemporary American institutions.



A community member chants "Allow teachers to teach the truth" at the end of his public comments opposing the state of Florida's plans to ban the teaching of critical race theory in public schools during a Department of Education meeting in Jacksonville, Florida, June 10, 2021. © 2021 Bob Self/The Florida Times-Union via AP, File

⁶⁶ "Florida Educators and Students Challenge State's Discriminatory 'Stop WOKE' Act," *NAACP Legal Defense Fund News Release*, August 18, 2022, <https://www.naacpldf.org/press-release/florida-educators-and-students-challenge-floridas-discriminatory-stop-woke-act/> (accessed April 11, 2024).

⁶⁷ Jeffrey Solochek, "Florida Education Board Votes to Keep Critical Race Theory Out of Schools," *Tampa Bay Times*, June 10, 2021, <https://www.tampabay.com/news/education/2021/06/10/keep-critical-race-theory-out-of-schools-desantis-tells-state-board/> (accessed April 11, 2024).

Renee O., a Black history teacher in Miami, received an email from her school district instructing her not to teach the 1619 Project. She felt that students at her primarily Black school needed the information the state was trying to ban. The next day, she placed the issue of the magazine on each desk and told the students, “The magazine that’s on your desk is banned by the state.”⁶⁸ This provoked curiosity and outrage among her Black students.

Renee told a researcher for this report:

You know, the main question my Black kids ask me is “why do they hate us so much?” And I can never, ever answer them. When they're learning something new, like “Wait, I'm 18 and I never learned this before. Why do they hate us so much?” ... What's my answer?⁶⁹

Florida political leaders had also previously rallied against instructional references to “critical race theory,” an approach to the study of racial discrimination’s entrenchment in US law and social structures.

The Board of Education's decision to ban instruction on critical race theory and the 1619 Project is consistent with other policies the board adopted, including banning participation in the AP African American History course, releasing inaccurate state history standards on African American history, and releasing new standards and instructional material that promotes a “patriotic” worldview.

Taken as a whole, the flurry of initiatives around race in Florida aimed to limit the range of facts educators can present and approaches they can take to help students understand and think about racism, and they have served to curtail meaningful and informed classroom discussions of racism.

Black parents and educators interviewed for this report said that when Florida passed the Stop WOKE Act, they interpreted it as the legislature sending a message that Black

⁶⁸ HRW, SRLIL, FL Rising interview with Renee O., Miami, March 04, 2024.

⁶⁹ Ibid.

people’s stories are inappropriate to be shared in public schools.⁷⁰ They said it is unfair that they must take additional steps to teach their Black children about their history and culture.

Lucilla S., a 17-year-old Black student from Miami, said she was frustrated but unsurprised to learn about Florida’s proposed policies. She told researchers that she worried that the way the state teaches Black history currently, with inaccurate information about discrimination or omission of Black contributions, would contribute to negative perceptions about Black people. “The way your story is told impacts how the audience perceives you,” she said. Lucilla worries that her white peers who do not understand issues like medical racism or police brutality against Black people may grow up to perpetuate these issues if they don’t receive a proper education in these topics.⁷¹ She said: “When white people don’t grow up around Black people or experience what we go through, they are less likely to understand us. They believe that racism no longer exists.”⁷²

Florida parents of all races, including white parents, have lamented what changing standards and curricula could mean for their children’s education and overall development as participants in a democracy. Some scholars have argued that classroom instruction on and discussions of race and causes of racism can improve students’ analytical skills and social development.⁷³

Nick W., a parent of two white children in middle and elementary school, living in Jacksonville, shared a story about his own education. As a middle school student in Duval County, Florida, he read the “Narrative of the Life of Frederick Douglass: An American Slave” and was shocked to learn that he shared a last name with one of the slave owners in the story. Nick said it was a valuable learning experience because this finding created opportunities for him to talk to a Black classmate about her own family history. Nick said

⁷⁰ HRW, SRLIL, FL Rising interviews with Renee O., Patricia T., Kelvin L., Laura R.

⁷¹ Bans on classroom instruction about systemic racism, put in place by the Florida legislature and Department of Education, restrict students’ ability to understand these phenomena. See sections “Stop WOKE Act – Black History and Discussions of Systemic Racism” and “Book Bans.”

⁷² HRW, SRLIL, FL Rising interview with Lucilla S., Miami, April 12, 2024.

⁷³ Leah Watson, “The Anti- ‘Critical Race Theory’ Campaign Classroom Censorship and Racial Backlash by Another Name,” *Harvard Civil Rights-Civil Liberties Law Review*, Volume 58, p. 488-549, https://journals.law.harvard.edu/crcl/wp-content/uploads/sites/80/2023/09/HLC208_Watson.pdf (accessed April 11, 2024).

he did not feel guilt at the time, but curiosity.⁷⁴ He worried when he learned that other parents across the country had challenged the book in classrooms.⁷⁵

Another white parent in Palm Bay told researchers why she wants her daughters to learn about the history of race in the United States: “It’s okay to admit that there’s bias because you can’t tackle bias without knowing that it exists.” She compared it to teaching a toddler how to handle emotions. “You try and give them the words so that they can process their emotions. Now I’m trying to give them the words to be like when you see this [racism]. This is what that is.”⁷⁶

Renee O. said that Florida’s laws restricting discussions of race harm all students, but Black students in particular. She works to prepare her students to contribute to society after graduation, which she believes the Stop WOKE Act prevents. She said:

[E]very student benefits, not only Black kids. I feel that there’s a different benefit for Black kids because by the time you leave my class, you stand up straight and you get it and you’re prepared to attack the world for what it is today... I absolutely believe that the America that we live in today is directly related to the Civil War and Reconstruction and the legacy of that time period. And until you fully understand it, you can’t make your place in this world.⁷⁷

The Stop WOKE Act has had wide reaching impacts. Another teacher said she has a range of posters in her classroom with messages such as “Teach the Truth” and a poster sharing the history of the Tulsa Race Massacre,⁷⁸ and a school administrator suggested she remove the posters because they were inappropriately political.⁷⁹

⁷⁴ HRW, SRLIL, FL Rising interview with Nick W., Jacksonville, March 7, 2024.

⁷⁵ “PEN America Index of School Book Bans - 2022-2023,” *PEN America*, <https://pen.org/2023-banned-book-list/> (accessed April 11, 2024).

⁷⁶ HRW, SRLIL, FL Rising interview with Karla L., Brevard County, February 14, 2024.

⁷⁷ HRW, SRLIL, FL Rising interview with Renee O., Miami, March 4, 2024.

⁷⁸ Human Rights Watch, “The Case for Reparations in Tulsa, Oklahoma,” Human Rights Watch news release, May 29, 2020, <https://www.hrw.org/news/2020/05/29/case-reparations-tulsa-oklahoma>.

⁷⁹ HRW, SRLIL, FL Rising interview with Joyce T., Miami, February 15, 2024.

Banning the AP African American Studies Course

After the passage of the Stop WOKE Act, Florida prevented its schools from offering the College Board's new Advanced Placement (AP) African American Studies course, in January 2023.⁸⁰ The course, developed over years by leading scholars and curriculum experts, was one of a range of ethnic studies courses that students across the US could take in high school to receive college credit. The course was designed to teach students about African American contributions to American arts and culture, social movements, and history.⁸¹ Florida's State Department of Education wrote a letter to the College Board which said the course was "inexplicably contrary to Florida law and significantly lacks educational value."⁸²

Teachers teaching the pilot course said they received an email from the Florida Department of Education instructing them to immediately halt instruction.⁸³ One Florida teacher said that administrators at her school were told by state officials to walk into the classrooms where students were learning AP African American Studies and tell the educators in front of their students to stop their lessons. This same teacher reported that administrators instructed teachers with related course materials on their bookshelves to place paper on the shelves to hide materials from student view.⁸⁴

After Florida's objections to the course, the College Board made revisions to the curriculum for all students across the United States.⁸⁵ Some criticized the College Board for making revisions in response to political pressure from Governor DeSantis.⁸⁶ Analysis by the

⁸⁰ Anthony Izaguirre, "Florida Blocks High School African American Studies Class," *Associated Press*, January 19, 2023, <https://apnews.com/article/ron-desantis-florida-race-and-ethnicity-education-353417231de0a790c8e290479a5e52b8> (accessed April 11, 2024).

⁸¹ "Adopt AP African American Studies," College Board AP Central, <https://apcentral.collegeboard.org/courses/ap-african-american-studies/adopt#:~:text=Launching%20in%20fall%202024%2C%20AP,encounter%20with%20African%20American%20experiences> (accessed April 11, 2024); See course development timeline and course framework.

⁸² Kathryn Varn, "Florida Education Officials: African American Studies AP Course 'Lacks Educational Value,'" *Tallahassee Democrat*, January 19, 2023, <https://www.tallahassee.com/story/news/education/2023/01/19/florida-ap-african-american-studies-class-rejected-education-officials-desantis/69823224007/> (accessed April 11, 2024); Letter from Florida Department of Education to Brian Barnes of the College Board, January 12, 2023, <https://drive.google.com/file/d/1A7ooiX-5pyiCxxLbmrvyPKcD9rp01u3H/view> (accessed April 11, 2024).

⁸³ HRW, SRLIL, FL Rising interview with Renee O., Miami, March 4, 2024.

⁸⁴ Ibid.

⁸⁵ Dana Goldstein, "College Board Will Change Its A.P. African American Studies Course," *New York Times*, April 24, 2023, <https://www.nytimes.com/2023/04/24/us/ap-african-american-studies-college-board.html> (accessed April 11, 2024).

⁸⁶ The Washington Post Editorial Board, "The College Board's Secret Apology," *Washington Post*, April 26, 2023, <https://www.wsj.com/articles/college-board-african-american-studies-ap-course-ron-desantis-florida-emails-817262f4>

African American Policy Forum found that the course revisions left out critical information such as Black Queer studies, discussions of reparations, and the Black Lives Matter Movement.⁸⁷ The College Board later announced certain “controversial” topics would be optional for states providing the course.

Revising Florida’s Black History Teaching Standards

In 2023, Florida’s governor appointed a working group to update the African American history standards to comply with the Stop WOKE Act.⁸⁸ The group released revised standards for K-12 grades in July of that year. While some Florida political leaders praised the standards, there was national backlash to two provisions in particular.⁸⁹ The first provision requires teachers to instruct students that “slaves developed skills which, in some instances, could be applied for their personal benefit.”⁹⁰ The second said that instruction should include “acts of violence perpetrated against *and by* African Americans” and then listed several massacres of Black people carried out by white Americans.⁹¹ As phrased, the standard posits a false equivalence, inaccurately suggesting Black Americans played a key role in initiating and perpetuating race-based violence.

There was a fierce public outcry that included protests in Florida and national condemnation.⁹² Soon after, members of the working group stated that a majority of the

(accessed April 11, 2024); Laura Meckler, “Florida Details Months of Complaints About AP African American Studies Course,” *Washington Post*, February 9, 2023, <https://www.washingtonpost.com/education/2023/02/09/florida-ap-african-american-studies-complaints-college-board/> (accessed April 11, 2024).

⁸⁷ African American Policy Forum, *When Racial Reckoning and “Anti-Wokeness” Collide*, report, Freedom to Learn, May 3, 2023, <https://freedomtolearn.net/download/report-racial-reckoning/> (accessed April 11, 2024).

⁸⁸ Niquel Terry Harris, “Florida’s New Standards on Black History Curriculum Are Creating Outrage,” *CNN*, August 17, 2023, <https://www.cnn.com/2023/08/17/us/florida-black-history-backlash-reaj/index.html#:~:text=Around%20100%20activists%20and%20community,the%202024%20Republican%20presidential%20nomination> (accessed April 11, 2024): Some criticized the governor for appointing a new body to revise the standards rather than tasking the state’s African American History Task Force, composed of experts on Black History.

⁸⁹ Kerry Breen, “Florida’s New Black History Curriculum Says ‘Slaves Developed Skills’ That Could be Used for ‘Personal Benefit,’” *CBS News*, July 21, 2023, <https://www.cbsnews.com/news/floridas-new-education-standards-says-slavery-had-personal-benefits/> (accessed April 11, 2024).

⁹⁰ Florida’s State Academic Standards – Social Studies, 2023, <https://www.fldoe.org/core/fileparse.php/20653/urlt/6-4.pdf>. (accessed April 11, 2024), p. 71.

⁹¹ *Ibid*, HRW/SRLIL/Florida Rising added emphasis.

⁹² Niquel Terry Harris, “Florida’s New Standards on Black History Curriculum are Creating Outrage,” *CNN*, August 17, 2023, <https://www.cnn.com/2023/08/17/us/florida-black-history-backlash-reaj/index.html#:~:text=Around%20100%20activists%20and%20community,the%202024%20Republican%20presidential%20nomination> (accessed April 11, 2024).

members disagreed with the new standards.⁹³ In an anonymous statement to NBC News, members said “most of us did not want that language.” The working group members reportedly feared reprisals if they identified themselves and spoke out publicly.⁹⁴

The American Historical Association (AHA) stated that Florida’s new teaching standards, which say “slavery and racism were deviations from the authentic founding principles of the United States,” served to “marginalize slavery and racism in the broad narrative of US history, and to clean slavery up a bit.”⁹⁵ The National Council for the Social Studies (NCSS), a group of over 10,000 social studies educators, evaluated the new standards and found issues with at least four provisions. They said that the standards incorrectly:

- Offer an inaccurate description of slavery, saying that the institution resulted in personal benefit for enslaved Black Americans.
- Diminish the role of slavery in founding documents such as the US Constitution.
- Erase the experience of military segregation for Black Americans who served in the US armed forces.
- Fail to explain the discrimination Black Americans faced when contributing to science, culture, and political life.⁹⁶

Terrence J., a Black teacher in Miami, told researchers for this report he disagrees with the updated standards and feels that by implementing them, the state is disrespecting his profession. “I have to teach the truth,” he said. Terrence says many teachers “stick to the script” of the state curriculum and might not explain to students how this information is incorrect. Terrence worries that the inaccuracies and omissions in Florida’s new standards could have long term consequences for the quality of all students’ education.⁹⁷

⁹³ Janelle Griffith, “Most of Florida Work Group Did Not Agree with Controversial Parts of State’s New Standards for Black History, Members Say,” *NBC News*, July 28, 2023, <https://www.nbcnews.com/news/us-news/florida-work-group-not-agree-controversial-parts-states-new-standards-rcna96490> (accessed April 11, 2024).

⁹⁴ Ibid.

⁹⁵ James Grossman, “African American History in Florida. AHA Response to New Standards of Instruction,” *American Historical Association*, August 28, 2023, <https://www.historians.org/research-and-publications/perspectives-on-history/september-2023/african-american-history-in-florida-aha-response-to-new-standards-of-instruction> (accessed April 11, 2024).

⁹⁶ “NCCS Statement on the African American History Strand of the New Florida Social Studies Standards,” *National Council for the Social Studies*, August 3, 2023, <https://www.socialstudies.org/current-events-response/ncss-statement-african-american-history-strand-new-florida-social-studies> (accessed April 11, 2024).

⁹⁷ HRW, SRLIL, FL Rising interview with Terrence J., Miami, October 11, 2023.



Historian Marvin Dunn, right, leads protestors during the “Teach No Lies” march to the School Board of Miami-Dade County to protest Florida's restrictive standards for teaching Black history and slavery in Miami, Florida, August 16, 2023. © 2023 AP Photo/Lynne Sladky

After Florida publicly released the standards, Patricia T., a parent, recalled that one teacher told her Black middle school student, “I’m supposed to teach y’all that Black people benefited from slavery.”⁹⁸ Patricia T. said she was dismayed that an educator would say this to her daughter. Lucilla S., a Black high school student characterized these actions as “very much a slap in the face to my community.”⁹⁹

Florida is expected to implement the new standards in Fall 2024.¹⁰⁰

⁹⁸ HRW, SRLIL, FL Rising interview with Patricia T., Tallahassee, February 26, 2024.

⁹⁹ HRW, SRLIL, FL Rising interview with Lucilla S., Miami, April 12, 2024.

¹⁰⁰ FAQ: African American History Standards, *Florida Education Association*, <https://feaweb.org/faq-african-american-history-standards/> (accessed April 11, 2024).

The High Cost to Florida’s Black Families

[These changes are] gonna hurt our babies, especially Black and Brown babies who wind up going to these schools that don’t have the [educational] resources that they need to be successful.

— Patricia T., parent of three children in Jacksonville, Florida, March 2024

Human Rights Watch, the Rule of Law Impact Lab, and Florida Rising found that there are wide disparities across the state in how administrators and educators enforce the new requirements and guidance.¹⁰¹ Each school is largely left to make its own choices about how to comply with the Stop WOKE Act, placing educators in a difficult position. Some teachers said they continue teaching information they believe to be accurate out of a sense of professional duty to their students.¹⁰² Others said they would not provide students with information which is not explicitly approved by the state.¹⁰³

This unequal application of the law is further concerning because not all parents have the resources to supplement their children’s education at home. Celeste O., a white parent of an elementary school child, told researchers she felt fortunate to be able to continue her daughters’ education at home.

We can make it through... she’s a well-resourced kid from a middle-class family. She has the privilege of questioning what she’s exposed to... So what is even more disturbing than the effect on my own child is the effect on the huge majority of kids that don’t have the same resources.¹⁰⁴

¹⁰¹ This section discusses the high cost of educational censorship to Black families in Florida while recognizing that Florida’s laws, and similar state laws in other jurisdictions, harm LGBTQ families, including LGBTQ parents or parents raising LGBTQ children. For more about the experience of these families, see Abbie Goldberg, “Impact of HB 1557 (Florida’s Don’t Say Gay Bill) on LGBTQ+ Parents in Florida,” *Williams Institute, UCLA School of Law*, 2023, <https://williamsinstitute.law.ucla.edu/publications/impact-dont-say-gay-parents/> (accessed May 14, 2024); See also Lori Rosza, “Florida Anti-LGBTQ Laws Prompt Families Who Feel Unsafe to Flee,” *Washington Post*, June 10, 2023, <https://www.washingtonpost.com/nation/2023/06/10/florida-anti-lgbtq-laws/> (accessed May 14, 2024); See also, Self-Censorship, Culture of Fear, and Chilling Effects in this report on p. 78.

¹⁰² HRW, SRLIL, FL Rising interview with Terrence J., Miami, October 11, 2023; HRW, SRLIL, FL Rising interview with Richard P., Lake County, March 7, 2024; HRW, SRLIL, FL Rising interview with Sonya N., Sarasota, February 22, 2024.

¹⁰³ HRW, SRLIL, FL Rising interview with Celeste and Naomi O., Miami, February 16, 2024; HRW, SRLIL, FL Rising interview with David N., Miami, January 25, 2024.

¹⁰⁴ HRW, SRLIL, FL Rising interview with Celeste and Naomi O., Miami, February 16, 2024.

One Black educator said this trend connects to other racial disparities in access to information. She told researchers for this report:

Because right now our bottom line is, most of the people in these communities don't have the voice and they don't have a seat at the table. They are so busy in the daily grind of trying to survive that they are not in tune with all of these other things that are going on at this other level of life.¹⁰⁵

Evan F., an advocate who runs leadership development programs for Black and Brown teenagers, in Miami, said that a school board member advised him and other Black community members not to expect public schools to provide information about Black history. Evan remembers the school board member saying, “you can't rely on us for this.”¹⁰⁶

Florida residents with whom we spoke highlighted the importance of disparities in political voice and power, including which students and parents feel empowered to tell officials their concerns. One teacher observed that low-income parents, or immigrant parents who did not speak fluent English, were more likely to defer to the authority of educators and school officials.¹⁰⁷ One advocate said:

Working class Black and Brown youth at [low-income] schools know it's bad. But most of the mobilization is from wealthier schools and students. Some of the Blackest schools are fearful to have expression because they have funding challenges. They feel that anything they do that makes them more visible [like speaking out] will harm the students.¹⁰⁸

Community members have stepped up to fill the gaps in Florida's curricula. These include Black churches offering Black history classes for the public on Saturdays,¹⁰⁹ or grassroots

¹⁰⁵ HRW, SRLIL, FL Rising interview with Laura R., Tampa, February 14, 2024.

¹⁰⁶ HRW, SRLIL, FL Rising interview with Evan F., Miami, March 19, 2024.

¹⁰⁷ HRW, SRLIL, FL Rising interview with David N., Miami, January 25, 2024.

¹⁰⁸ HRW, SRLIL, FL Rising interview with Evan F., Miami, March 19, 2024.

¹⁰⁹ Brittany Shamas, “After Florida Restricts Black History, Churches Step Up to Teach It,” *Washington Post*, September 24, 2023, <https://www.washingtonpost.com/nation/2023/09/24/florida-black-history-churches-teaching/> (accessed April 11, 2024).

groups offering after school programs which teach Black history.¹¹⁰ Some classroom educators supplement the state curriculum with community resources.

Efforts by community groups, churches, and parents to supplement Florida's official teaching standards demonstrate strength and resilience and are a positive development. But communities should not have to create alternative accommodations to ensure students receive the education guaranteed to them under US federal and international human rights law.

In Miami, one teacher invited Dr. Marvin Dunn, a local historian, to speak to her middle school class for Black History Month.¹¹¹ Dr. Dunn offers Black Florida History tours to the community. He told researchers for this report that his course enrollment increased after Florida's discriminatory censorship laws were passed and that a number of Black students and parents have turned to him to learn about topics that might not be taught in schools anymore. "When the state says that you can teach slavery but not the bad parts, that's a tremendous injury," Dr. Dunn said.¹¹²

LGBTQ/Gender discrimination

All people, including all students in Florida, have the right to be free from discrimination and to access information and education on an equal footing with others.¹¹³ In recent years, Florida has passed laws to codify an overt, discriminatory campaign to keep LGBTQ topics out of school curricula and out of the school environment more generally. It is well

¹¹⁰ Manasota Association for African American Life and History (ASALH), "\$200,000 Community Foundation of Sarasota County Grant Supports the Manasota ASALH Freedom School," press release, October 24, 2023, <https://asalh.org/manasota-asalh-freedom-school-receives-225000-from-the-community-foundation-of-sarasota-county-and-the-marlyn-g-harwell-fund/#:~:text=Run%20by%20the%20Manasota%20branch,restricted%20in%20Florida's%20public%20schools> (accessed April 11, 2024); Black History Project, <https://www.blackhistoryproject.org/> (accessed April 11, 2024).

¹¹¹ Jimena Tavel, "83-Year-Old Historian Spoke to Miami Middle Schoolers About Racism. Here's How It Went," *Miami Herald*, February 1, 2024, <https://www.miamiherald.com/news/local/education/article284904907.html> (accessed April 11, 2024).

¹¹² HRW, SRLIL, FL Rising interview with Dr. Dunn, Miami, February 7, 2024.

¹¹³ ICCPR, Art 26. General Comment No. 20 (2016) on the implementation of the rights of the child during adolescence, CRC/C/GC/20, para.26, 33: "All measures taken in respect of legislation, policies and programmes focused on adolescents should take into consideration intersecting violations of rights and the compounded negative effects on the adolescents concerned... Adolescents who are lesbian, gay, bisexual, transgender and intersex commonly face persecution, including abuse and violence, stigmatization, discrimination, bullying, exclusion from education and training, as well as a lack of family and social support, or access to sexual and reproductive health services and information. In extreme cases, they face sexual assault, rape and even death. These experiences have been linked to low self-esteem, higher rates of depression, suicide and homelessness;" See also UN Human Rights Committee, *Young v Australia*, CCPR/C/78/D/941/2000 (September 18, 2003), <http://hrlibrary.umn.edu/undocs/941-2000.html> (accessed March 21, 2024).

documented that such policies harm the mental health and development of LGBTQ youth.¹¹⁴ They can also impede children’s ability to learn.¹¹⁵

On July 1, 2022, Florida’s Parental Rights in Education law came into force. The legislative debate laid bare its intent. The law, known colloquially as the “Don’t Say Gay or Trans” law, specifically prohibits “classroom instruction by school personnel or third parties on sexual orientation or gender identity” in kindergarten through third grade and includes other vaguely worded provisions, which have left educators confused as to what is barred and how to comply.¹¹⁶ For example, the law bans classroom instruction that is not “age appropriate or developmentally appropriate for students in accordance with state standards.”¹¹⁷ Because the law does not define key terms, like “age appropriate,” “classroom instruction,” “sexual orientation,” or “gender identity,” its vagueness inhibited some educators from teaching content that includes the existence of LGBTQ people, such as stories of families with same-sex parents, and created significant confusion as to what was and was not permitted. The law also requires schools to inform parents “if there is a change in the student’s services or monitoring related to the student’s mental, emotional, or physical health or well-being.”¹¹⁸ Thus, if a student seeks counseling for questions relating to their sexuality or gender identity, school officials cannot keep this information confidential from parents.¹¹⁹ (See Undermining Right to Health and Mental Health Section below.)

During the legislative debate of the Don’t Say Gay or Trans bill before it became law, several legislators pointed out that the law, as written, was vaguely worded and could lead to censorship in classrooms even at the middle and high school levels. “This bill in its language empowers school districts throughout this state to eliminate any discussion or recognition of the LGBTQ community until high school graduation,” Representative Mike

¹¹⁴ In one study, lesbian, gay, and bisexual students in environments with fewer supports—such as gay-straight alliances, inclusive anti-bullying policies, and inclusive non-discrimination policies—were 20 percent more likely to attempt suicide than those in more supportive environments: Mark L. Hatzenbuehler, “The Social Environment and Suicide Attempts in Lesbian, Gay, and Bisexual Youth,” *Pediatrics*, vol. 127, no. 5 (2011), p. 896-903, doi: 10.1542/peds.2010-3020.

¹¹⁵ Sara Agnafors, Mimmi Barmark, and Gunilla Sydsjö, “Mental Health and Academic Performance: A Study on Selection and Causation Effects from Childhood to Early Adulthood,” *Soc Psychiatry Psychiatry Epidemiol*, 2021 May, 56(5), p. 857-866, doi: 10.1007/s00127-020-01934-5.

¹¹⁶ The Parental Rights in Education Law, <http://laws.flrules.org/2022/22> (accessed May 14, 2024), art. 8(c)3.

¹¹⁷ *Ibid.*

¹¹⁸ The Parental Rights in Education Law, art. 8(c)1.

¹¹⁹ Furthermore, the law allows parents to bring legal action against a school that violates the law and requires districts to cover attorney fees and court costs if the parent receives injunctive or declaratory relief: The Parental Rights in Education Law, art. 1(b)2.

Grieco from Miami-Dade County told the news media.¹²⁰ Some school districts, without guidance from Florida about what was “age-appropriate” under the law, opted to restrict most discussions of sexual orientation and gender identity.¹²¹ Grieco added, “this is not about kindergarten through third. Anyone who says this bill is only about kindergarten through third grade is either mistaken or they’re flat out lying.”¹²² Despite numerous opportunities to clarify the bill’s language, such amendments did not occur.

Then in May 2023, Governor DeSantis and the Florida legislature expanded on the Parental Rights in Education law by passing HB1069, which extended the ban on any classroom instruction related to sexual orientation and gender identity to include 4th to 8th grade, and continued restrictions through 12th grade if the material is deemed to not be age appropriate.¹²³ The law includes two exceptions for promoting abstinence and teaching about HIV/AIDS, unless such instruction is either expressly required by state academic standards “or is part of a reproductive health course or health lesson.”¹²⁴ Any health education was required to include abstinence from sexual activity outside of marriage as the “expected standard for all school age students while teaching the benefits of monogamous heterosexual marriage.”¹²⁵ The Department of Education has to approve all materials used for any health education state-wide.¹²⁶

¹²⁰ Kelly Hayes, “We are in distress”: House Passes LGBTQ Instruction Bill Despite Pleas from Democrats,” *Florida Politics*, February 24, 2022, <https://floridapolitics.com/archives/500337-we-are-in-distress-house-passes-lgbtq-instruction-bill-despite-pleas-from-democrats/> (accessed May 14, 2024).

¹²¹ Matt Laviates, “As Florida’s ‘Don’t Say Gay’ Law Takes Effect, Schools Roll Out LGBTQ Restrictions,” *NBC News*, June 30, 2022, <https://www.nbcnews.com/nbc-out/out-news/floridas-dont-say-gay-law-takes-effect-schools-roll-lgbtq-restrictions-rcna36143> (accessed May 14, 2024).

¹²² Kelly Hayes, “We are in distress,” *Florida Politics*.

¹²³ Florida’s efforts to ban discussions of gender identity and sexual orientation also included a temporary decision to bar Florida students from taking the Advanced Placement Psychology exam, on the basis that the curriculum violated the Don’t Say Gay or Trans law; For more see, Gillian Manning, “What Actually Happened to AP Psychology in Florida?” *Best Colleges*, August 16, 2023, <https://www.bestcolleges.com/news/what-happened-to-ap-psychology-in-florida/#:~:text=Confusion%20around%20the%20%E2%80%99CDon't,the%202023%2D2024%20school%20year.&text=Gillian%20Manning%20serves%20on%20a,with%20educational%20and%20fundraising%20initiatives> (accessed April 11, 2024).

¹²⁴ The law’s exception requires instruction on “the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy” for students in grades six through twelve: Florida Statutes § 1003.42(2)(n)(3), <https://laws.flrules.org/2023/105>.

¹²⁵ Fla. Stat. § 1003.46.

¹²⁶ *Ibid.*

students with their preferred pronouns if those pronouns do not correspond with the employee's sex assigned at birth, as defined by the Florida Education Code to be related only to "sex."¹²⁹ Moreover, the law states that employees and contractors in K-12 institutions may not ask students about their pronouns.¹³⁰ Florida then amended the Principles of Professional Conduct for the Education Profession and made any violation of the statute grounds for a disciplinary violation. If teachers violated the law they could be suspended, lose their teaching accreditation, or be terminated by the school board.¹³¹

In the wake of these changes coming into force, teachers worked to adapt to the new context, but there was significant confusion. The Florida Education Association (FEA) issued information to teachers after HB1069 and noted that "[t]he number of new provisions may seem overwhelming. Teachers were already confused by what was prohibited and not prohibited by the initial Don't Say Gay or Trans law."¹³²

Educators, parents, and students interviewed for this report raised concerns about the impact of these laws on children's educational environment and their right to be free of discrimination based on their sexual orientation and gender identity.

Richard P., a teacher from Lake County, said he had removed all the material related to the history of the rights of LGBTQ people from his US history course for high school students, which previously had included such content. He said:

Being a professional and wanting to give my students a complete understanding of the world, I have gone above and beyond the standards and included the LGBTQ+ civil rights movement in my syllabus in the past. However, after these laws were passed, and on the advice of trusted school board members and colleagues, I removed these references.... In short,

¹²⁹ Section 2 of the law would place educators in the position of guessing the sex a student was assigned at birth based on stereotyping their physical appearance.

¹³⁰ Fla. Stat. § 1000.071.

¹³¹ Fla. Admin. Code R. 6A10.081(2)(a)14, <https://casetext.com/regulation/florida-administrative-code/departments-6-department-of-education/division-6a-state-board-of-education/chapter-6a-10-miscellaneous/section-6a-10081-principles-of-professional-conduct-for-the-education-profession-in-florida#:~:text=Shall%20not%20harass%20or%20discriminate,each%20student%20is%20protected%20from> (accessed Aug. 22, 2023).

¹³² "What You Need to Know about Florida's "Don't Say Gay or Trans" Bill," *National Education Association*, June 2023, https://www.nea.org/sites/default/files/2023-06/30424-know-your-rights_web_v4.pdf (accessed April 11, 2024).

until they add LGBTQ+ to the standard, it will not be officially included in my course...sad as that makes me.¹³³

Richard tried to find ways to avoid deadnaming¹³⁴ his trans students because he understood the harm it could cause. He shared that he avoided the issue “by telling all my students’ parents that I’d be calling everybody in my government classes ‘Senator’ with their last name and everybody in my US History class ‘Professor’ and their last name.”¹³⁵ Richard has, thus far, not faced any negative consequences for this approach.

The law has also harmed trans and nonbinary teachers who wish to use their pronouns in school settings. The news media reported that a science teacher in a Florida virtual school lost their job for using the gender-neutral “Mx.” in the classroom.¹³⁶ In April 2024, a federal judge found that HB1069 violates the free-speech rights of another teacher who is transgender, “by barring her from expressing her personal identity as a woman” and issued a preliminary injunction against the law being enforced against her, but declined to apply the ruling statewide.¹³⁷

Just before the 2023-2024 school year began, the Florida State Board of Education modified a rule on education records to require written parental consent for students to use any name other than their legal name.¹³⁸ As Polk County Public Schools told parents,

¹³³ Email from Richard P., March 14, 2024.

¹³⁴ “Deadnaming” is the act of calling a transgender person by the name given to them at birth, when they have changed their name as part of their gender transition.

¹³⁵ Interview with Richard P., Lake County, March 7, 2024.

¹³⁶ Jo Yurcaba, “Florida Teacher Fired for Using Gender-Neutral Honorific ‘Mx.’,” *NBC News*, November 10, 2023, <https://www.nbcnews.com/nbc-out/out-news/florida-teacher-fired-using-gender-neutral-honorific-mx-rcna124697> (accessed April 11, 2024).

¹³⁷ *Katie Woods v. Florida Department of Education*, Case No.: 4:23cv526-MW/MAF, https://fingfx.thomsonreuters.com/gfx/legaldocs/myvmkrjnkvr/EMPLOYMENT_FLORIDA_PRONOUNS_decision.pdf (accessed May 14, 2024).

¹³⁸ Florida State Board of Education, “Approval of Amendment to Rule 6A-1.0955, Education Records,” consent item, Rule 6A-1.0955 Education Records (April 1, 2020), <https://www.fldoe.org/core/fileparse.php/19864/urlt/Consent-6A-10955.pdf#:~:text=State%20Board%20of%20Education%20Rule%206A-1.0955%2C%20F.A.C.%2C%20Education,agency%20or%20institution%20defined%20in%20s.%201002.22%281%29%2C%20F.S.%E2%80%9D> (accessed May 2024); See also, Florida Department of Education, “State Board of Education Approves Rules to Protect Children,” press release, July 19, 2023, <https://www.fldoe.org/newsroom/latest-news/state-board-of-education-approves-rules-to-protect-children.shtml> (accessed May 2024).

“to be clear, this does mean that a parent or guardian must provide written consent for nicknames and shortened names.”¹³⁹

Several students interviewed for this report said teachers who complied with the provisions of this new legal framework, specifically regarding names and pronouns, caused significant psychological harm to their students. One high school senior, Kara F., who identifies as queer, said:

[F]or friends who don’t have fully supportive parents, they couldn’t go through the process [of having their parent complete the name change form] and because of that, they had to be deadnamed constantly by so many of their teachers. Their grades dropped because they were depressed. I saw that they were struggling so much. A name holds so much power and to have that be taken away from us, to be unable to claim our own identity as a young person was very unsettling and strange.¹⁴⁰

Roman E., an 18-year-old trans student, said they told a teacher their preferred name and the teacher refused to use it. “She just told me point blank, I cannot call you that name until you and your parents fill out that form. Because if I do, I’m risking my job.”¹⁴¹

Roman continued:

[I]t was deeply unsettling to me. These are teachers that are supposed to be supportive people, supportive of my education. You can tell just by how they interact with their students that they care about teaching. No teachers are really only there for the money. They’re educating our youth, and they care about our youth. And it’s just difficult to see them not be able to do anything in this situation and have to be like, I can’t do anything. This is between you and your parents. These conversations are deeply personal,

¹³⁹ Polk County Schools, “New State Requirement for Use of Student Names,” news release, August 15, 2023, https://www.polkschoolsfl.com/news/new_state_requirement_for_use_of_student_names#:~:text=On%20July%2019%2C%202023%2C%20the,other%20than%20their%20legal%20names (accessed May 14, 2024).

¹⁴⁰ HRW, SRLIL, FL Rising interview with Kara F., Sarasota, March 14, 2014.

¹⁴¹ HRW, SRLIL, FL Rising interview with Roman E., Sarasota, February 23, 2024.

and some don't even feel comfortable having [them] with their parents at all.¹⁴²

Roman E. shared that since these laws were passed, and since they were deadnamed at school, their grades have dropped, and they have been struggling with their mental health. They said fighting against these discriminatory laws has been one way to find a supportive community and find solidarity in ways that are helping to address some of the psychological harms.¹⁴³

LGBTQ parents also have described the harmful impacts of Florida's new laws on their school-age children. The Williams Institute released a study examining concerns regarding the new laws. For example, LGBTQ parents told the Williams Institute their children had "already experienced... harassment and bullying at school because they had LGBTQ parents" and that their children were unable "to talk about their parents or their own LGBTQ identities at school or outside of school."¹⁴⁴ Over half of the 113 LGBTQ parents surveyed by the Williams Institute reported they were considering moving out of the state.¹⁴⁵

In an interview for this report, Kara F. said being an active member of her school's Gender and Sexuality Alliance (GSA)¹⁴⁶ was an important source of support and learning during her ninth grade year. As Kara began her 10th grade year, the GSA teacher sponsor retired and the students needed to find another sponsor, but Florida's new laws had just come into force. Kara said:

We were kind of scrambling to find a new teacher. And I was the president of GSA at that time. So I emailed teachers being like, "Hey, are you free? Like, would you be willing to support us." I wrote to any teacher that I thought was like an ally and said, "Hey, do you have the time to do this? Would you be willing to sponsor this?" And everyone said, no. It didn't necessarily feel like they were saying no because they were actually busy. It

¹⁴² HRW, SRLIL, FL Rising interview with Roman E., Sarasota, February 23, 2024.

¹⁴³ Ibid.

¹⁴⁴ Goldberg, "Impact of HB 1557 (Florida's Don't Say Gay Bill) on LGBTQ+ Parents in Florida," *Williams Institute, UCLA School of Law*.

¹⁴⁵ Ibid.

¹⁴⁶ Student LGBTQ school groups across the country go by a variety of names, including Gay Straight Alliances (and some go by different names entirely, like Pride Club or Spectrum).

kind of felt like there was this pressure and this fear, like, what's going to happen to my job if I do approve that GSA?¹⁴⁷

Despite federal protections for GSAs,¹⁴⁸ confusion and inconsistent policy across Florida leave these student-led groups vulnerable to discrimination. Researchers for this report heard from several Floridians about the difficulty of creating and maintaining these organizations.

One teacher from Miami who identified as LGBTQ explained that when he attempted to sponsor his school's chapter, the school administration advised him the club had to be private. "[T]hey were scared that, you know, kids might be bullied if they were known to be associated with [the GSA], which is not completely off base." The teacher worried some students might have hostility towards their LGBTQ peers.¹⁴⁹ Although discrimination against LGBTQ students occurred in schools prior to the passage of censorship laws, the teacher suggested that recent legislation would make some students feel emboldened to express anti-LGBTQ sentiments.¹⁵⁰

A school board member in Brevard County¹⁵¹ explained that student members of a GSA told her their event posters were ripped down in the hallways and they were attacked on social media with death threats. One student reportedly stole a rainbow flag from a classroom and lit it on fire on social media.¹⁵² The school board member told us some LGBTQ students hid in the music classroom during class transitions to avoid potential bullying.

Some school administrators told teachers and students to remove visual symbols such as classroom signs, posters, buttons, and flags which affirm the students' identities or indicate support for LGBTQ rights. For example, when students across Florida organized a statewide walkout to protest the law, school administrators told Bailey G., a then-high

¹⁴⁷ HRW, SRLIL, FL Rising interview with Kara F., Sarasota, March 12, 2024.

¹⁴⁸ Under the Equal Access Act (EAA) of 1984, schools that permit non-curriculum related student groups must provide equal access to all student groups, and that includes equal access for GSAs. Equal access means that the GSA must be afforded all the same rights and privileges as other student groups to use school facilities for meetings and communications. Equal Access Act, 20 U.S.C. § 4071(a).

¹⁴⁹ HRW, SRLIL, FL Rising interview with David N., Miami, January 25, 2024.

¹⁵⁰ Ibid.

¹⁵¹ HRW, SRLIL, FL Rising interview with Jennifer J., Brevard County, February 28, 2024.

¹⁵² Ibid.

school student from Flagler County, that he was not permitted to distribute Pride flags. Administrators said the flags were “political” and violated school policy. Bailey told researchers for this report:

They pulled up some policy that was like, no political communication, no political rallies. It was obviously aimed at political campaigns and included rules about how you were not allowed to have an elected official go on school grounds and solicit votes. But they kind of used that as a reason to ban our Pride flags, which was really odd to me.¹⁵³

The Fight to Overturn the “Don’t Say Gay or Trans” Law

In April 2022, in response to the “Don’t Say Gay or Trans” law, parents and advocacy groups sued the Florida Board of Education. The complaint argued that the law violated the First and Fourteenth Amendments of the US constitution and was an “unlawful attempt to stigmatize, silence, and erase LGBTQ people in Florida’s public schools” and that it “seeks to do so by imposing a sweeping, vague ban covering any instruction on ‘sexual orientation and gender identity,’ and by constructing a diffuse enforcement scheme designed to maximize the chilling effect of this prohibition.”¹⁵⁴

When Florida filed a motion to dismiss, 16 states filed an amicus brief arguing against the law, in part by explaining how policies of inclusion for LGBTQ people and topics serve a legitimate pedagogical purpose.¹⁵⁵ The 16 states argued that their own experiences “show that states have an interest in including—rather than excluding—LGBTQ people” and “when it comes to LGBTQ issues in schools, Amici States’ policies show that Florida’s resort to restricting speech and subjecting schools to litigation is extreme and unreasonable.”¹⁵⁶ Furthermore, the states argued that, “[r]esearch shows that a failure to provide LGBTQ-inclusive classroom instruction adversely affects LGBTQ students’ mental

¹⁵³ HRW, SRLIL, FL Rising interview with Bailey G., Flagler County, February 15, 2024.

¹⁵⁴ *Equality Florida v. Florida State Board of Education*, <https://eqfl.org/sites/default/files/MTD%20Decision.pdf> (accessed April 11, 2024).

¹⁵⁵ *Equality Florida v. The Florida State Board of Education*, Brief of the District of Columbia and the States of New Jersey, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New York and Oregon as Amici Curiae in Support of Plaintiffs, Case No. 4:22-cv-134-AW-MJF, <https://clearinghouse.net/doc/137776/> (accessed April 24, 2024).

¹⁵⁶ *Ibid.* p.6.

health and learning outcomes, and that it results in increased anti-LGBTQ bias.”¹⁵⁷ The 16 states lastly argued that the harms of Florida’s law “will extend beyond Florida’s borders” because the states would need to “devote resources to counteract the Act’s harmful effects,” including by “increasing funding for programs that work to ensure the health and well-being of LGBTQ students” when children from other states are placed in Florida pursuant to federal child protection laws.¹⁵⁸

Fourteen other states filed an amicus brief in support of the state of Florida.¹⁵⁹ They argued that states have a strong interest in protecting parents’ rights in education, and “rationally using that interest to set curriculum standards.”¹⁶⁰ They argue that “a growing contingent of teachers and school administrators are promoting sexual content to children and encouraging them to hide it from their parents” and Florida uses “core state authority” to control curriculum, specifically “for sensitive subjects for young children,” among other arguments.¹⁶¹

After protracted litigation, on March 11, 2024, the parties settled the lawsuit. Contrary to the legislative debate among those who supported the law, under the terms of the settlement Florida’s State Board of Education is now required to send information on how to implement the law to all of Florida’s school districts, including explaining that under the law schools should not prohibit discussions of LGBTQ people, bar implementation of rules or policies to prevent bullying on the basis of sexual orientation and gender identity, or disallow student and teacher participation in GSA groups. The settlement terms also state that the law “does not target sexual orientations and gender identities that differ from heterosexual and cisgender identities.”¹⁶² The settlement also indicates that under the law schools should not ban “literary references to a gay or transgender person or to a same-sex couple” in classroom content.¹⁶³ However, much of the polarization the law intended to create had already occurred.

¹⁵⁷ Ibid. p.4.

¹⁵⁸ Ibid. p.4.

¹⁵⁹ *Equality Florida v. The Florida State Board of Education*, Brief of the States of Texas, Alabama, Alaska, Arkansas, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Nebraska, Oklahoma, South Carolina, Virginia, and West Virginia as Amici Curiae in Support of the Defendants, Case No. 4:22-cv-134-AW-MJF, <https://clearinghouse.net/doc/137778/> (accessed April 24, 2024).

¹⁶⁰ Ibid. p.4.

¹⁶¹ Ibid. p.5-6.

¹⁶² Terms of settlement. On File with the Authors.

¹⁶³ Ibid.

While the settlement was welcomed by both sides, it did not explicitly address all the harms related to the Don't Say Gay or Trans law's impact on teaching related to sexual orientation or gender identity. Under the terms of the settlement, students are permitted to choose to discuss sexual orientation or gender identity in their work, but instruction on these topics by teachers themselves remains largely prohibited. The settlement did not address other harms, such as the prohibition on asking for a student's pronoun without explicit parent permission.¹⁶⁴

Researchers for this report asked teachers if the recent settlement would change how they approach LGBTQ students and curricula in the classroom. One teacher said he did not think the settlement would have much of an impact and he still will not include a LGBTQ civil rights unit in his law class due to his fears that he remained prohibited from doing so under Florida law.¹⁶⁵ The lasting effects of the court settlement remain to be seen.

Impacts on Freedom of Expression and Access to Information

Today, Governor Ron DeSantis further set the record straight, debunking the mainstream media, unions and leftist activists' ...political theater pretending that Florida's schools cannot teach about topics like African American History, including topics like slavery...Exposing the 'book ban' hoax is important because it reveals that some are attempting to use our schools for indoctrination.¹⁶⁶

— Office of Governor Ron DeSantis, March 8, 2023

¹⁶⁴ It is possible that under recently updated regulations to federal civil right law which go into effect on August 1, 2024, repeated misgendering of a student or educator may be illegal sex-based harassment; See Tovia Smith, "Biden Administration Adds Title IX Protections for LGBTQ Students, Assault Victims," *NPR*, April 19, 2024, <https://www.npr.org/2024/04/19/1245858954/title-ix-changes-lgbtq-assault-victim-transgender-biden-administration>; See also, US Department of Education, US Department of Education, "U.S. Department of Education Releases Final Title IX Regulations, Providing Vital Protections Against Sex Discrimination," press release, April 19, 2024, <https://www.ed.gov/news/press-releases/us-department-education-releases-final-title-ix-regulations-providing-vital-protections-against-sex-discrimination>; 34 C.F.R. § 106.2, <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-I/part-106> (accessed May 14, 2024); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 89 Fed. Reg. 33516 (April 29, 2024), <https://www2.ed.gov/about/offices/list/ocr/docs/t9-unofficial-final-rule-2024.pdf> (accessed May 14, 2024).

¹⁶⁵ Email from Richard P., March 14, 2024.

¹⁶⁶ Office of the Florida Governor, "Governor DeSantis Debunks Book Ban Hoax," press release, March 8, 2023, <https://www.flgov.com/2023/03/08/governor-ron-desantis-debunks-book-ban-hoax/> (accessed April 30, 2024).

The human right to access and receive information is a basic component of freedom of expression. Under international human rights law, freedom of expression may only be restricted if necessary and proportionate to further a legitimate purpose. Restrictions may never be discriminatory. Florida's policies run afoul of all of these international human rights law requirements.

The Harmful Impacts of Florida's Book Bans

While curriculum standards in Florida are developed by the state's Department of Education and are mandatory for all students, students' access to books is controlled at the local level, as they are in most states, with inputs from individual teachers, media specialists (school librarians), and school boards. HB1069 expanded existing Florida law allowing for the banning of books. The new law contains a provision which expands school board oversight of classroom library books, and another which requires schools to immediately remove from shelves any book which has been "challenged," pending a review.¹⁶⁷ Book challenges, and subsequent book bans, increased after the law was enacted, primarily targeting books related to LGBTQ people or race and history.¹⁶⁸

HB1069 establishes a broad scope for challenging books. The law allows any parent or county resident—including those who have no child in the school and no affiliation with elementary education whatsoever—to object to any materials used in any classroom or made available in any school library.¹⁶⁹ Each school district is required to adopt "objection

¹⁶⁷ Education, Florida House Bill (HB) 1069 of 2023, <https://www.flsenate.gov/Session/Bill/2023/1069/BillText/er/PDF> (accessed April 11, 2024); PEN America, "'Alarming' Proposed Florida Law Heightens Oversight of Classroom Libraries, Expands Mechanism to Challenge a Book," press release, February 27, 2023, <https://pen.org/press-release/alarming-proposed-florida-law-heightens-oversight-of-classroom-libraries-expands-mechanism-to-challenge-a-book/> (accessed April 11, 2024).

¹⁶⁸ "What You Need to Know about Florida's 'Don't Say Gay or Trans' Bill," *National Education Association*; Pen America, "Summary, *America v. Escambia County School District*," January 31, 2024, <https://pen.org/pen-america-v-escambia-county/#:~:text=In%20May%202023%2C%20PEN%20America,equal%20protection%20under%20the%20law> (accessed April 11, 2024).

¹⁶⁹ The law was amended in 2024 to limit individuals without a child in the school district to filing one book challenge per month. Parents and guardians with students in the district can still file an unlimited number of challenges. Governor DeSantis said in a February 2024 press conference: "Members of the community, although we like people wanting to be involved in what's going on, to just show up and object to every single book under the sun, that is not an appropriate situation here and we've seen that occasionally;" Zac Anderson, "Gov. DeSantis Calls for Limiting School Book Challenges in Florida," *Sarasota Herald-Tribune*, February 15, 2024, <https://www.heraldtribune.com/story/news/politics/2024/02/15/florida-gov-desantis-addresses-book-ban-controversies/72613592007/> (accessed April 11, 2024); Jill Lewis-Specter, "Understanding Florida's Book Challenges in Schools and Their Consequences for Students," *League of Women Voters Florida*, August 2023, <https://lwvfl.org/wp-content/uploads/2023/08/Book-ban-white-paper-approved-by-Team-8-10-23.pdf> (accessed April 11, 2024).

forms” that are “easy to read and understand” and are “easily accessible on the homepage of the school district’s website.”¹⁷⁰ Using these forms, people can request material be removed if it is “pornographic,” defined as “[d]epict[ing] or describ[ing] sexual conduct,” “[i]s not suited to student needs and their ability to comprehend the material,” or is otherwise “inappropriate for the grade level and age group for which the material is used.”¹⁷¹ While protections are important for children, political groups have weaponized the broad language to target a wide range of age-appropriate material, critical for children’s health, safety, and social development. Each school board must also submit an annual report to the Commissioner of Education identifying challenged materials that were not removed and the rationale for not removing the material.¹⁷²

Florida’s law was interpreted and implemented rapidly at the local level, creating a burdensome new system. Media specialists, teachers, and parents told researchers that immediately following HB1069’s passage, schools removed books from shelves preemptively and shut down access to the school’s library.¹⁷³ Students said their teachers covered their classroom’s bookshelves with wrapping paper or tarps or turned the book spines around so students could only see the white paper edges of all the books.¹⁷⁴ Several media specialists reported spending time reviewing thousands of books in the library, rather than interacting directly with students to advance their education.¹⁷⁵

¹⁷⁰ Memorandum from Florida Department of Education to District Superintendents, October 13, 2023, <https://info.fl DOE.org/docushare/dsweb/Get/Document-10014/DPS-2023-90.pdf> (accessed April 11, 2024), See bullet 2; The Parental Rights in Education Act, Florida House Bill (HB) 1557 of 2022, <https://www.fl senate.gov/Session/Bill/2022/1557/BillText/er/PDF> (accessed April 11, 2024).

¹⁷¹ Challenged materials that are allegedly pornographic or sexual must be removed within five days of the objection and remain unavailable to students until the objection is resolved. Meetings for the purpose of resolving an objection must be open to the public. If a parent disagrees with the district’s determination, they may request that the commissioner of education appoint a special magistrate to review the materials and make a recommendation to the state Board of Education, which must approve or reject the recommendation within thirty days. The school district must cover costs associated with the special magistrate’s appointment; Florida HB1557; Memorandum from Florida Department of Education to District Superintendents, 2023.

¹⁷² Florida HB557; Fla. Stat. § 1006.28(6)(d)(2)(c), [https://sb.flleg.gov/nxt/gateway.dll/Statutes/fs2023/fs2023/chapters%201001%20-%201015/1006contentsindex.html/1006partcontentsindex.html/1006partifcontentsindex.html/1006.28.html?f=templates\\$fn=document-frameset.htm\\$3.0](https://sb.flleg.gov/nxt/gateway.dll/Statutes/fs2023/fs2023/chapters%201001%20-%201015/1006contentsindex.html/1006partcontentsindex.html/1006partifcontentsindex.html/1006.28.html?f=templates$fn=document-frameset.htm$3.0) (accessed April 11, 2024).

¹⁷³ HRW, SRLIL, FL Rising interview with Laura R., Tampa, February 14, 2024; HRW, SRLIL, FL Rising interview with Tina, Brevard County, February 26, 2024; HRW, SRLIL, FL Rising interview with Nick W., Jacksonville, March 7, 2024.

¹⁷⁴ HRW, SRLIL, FL Rising group interview with SEE Alliance, Sarasota, February 23, 2024.

¹⁷⁵ HRW, SRLIL, FL Rising interview with Laura R., Tampa, February 14, 2024; HRW, SRLIL, FL Rising interview with Tina, Brevard County, February 26, 2024; HRW, SRLIL, FL Rising interview with Nick W., Jacksonville, March 7, 2024.

The educators we interviewed felt a duty to err on the side of caution to avoid violating state law. A reading specialist for elementary school students told researchers that prior to HB1069, she read her first grade students a book about families that contained one page with two fathers who enjoyed singing together. She said the book was age appropriate, but the tense political climate led her to remove the book from her course.¹⁷⁶ She said:

Do I want to have the stress of a parent complaining? I don't. Right? Did I think I was gonna go to jail? Probably not. But my thought was that if I read this book I might make my next two years of life so much more stressful. Was that enough to make me not read the book [to the children]? Yeah. I had other things to worry about and I know I'm not alone in this, the self-censorship. Our jobs are stressful enough.¹⁷⁷

Gina N., a parent from Jacksonville, was at her daughter's school when she witnessed another parent complain to school officials about a book in the book "vending machine," which the complaining parent said was banned by Florida and should be removed from the school. The book was *Hair Love* by Matthew Cherry.¹⁷⁸ Gina said, "It literally just has a Black character on the front. It wasn't banned. But we're in a place where, like, if there's just a Black character on the front of a book, we assume it's supposed to be banned."¹⁷⁹

One parent shared that he was concerned about the racial targeting of the book bans.¹⁸⁰ In Miami-Dade County, for example, the first books that were challenged and subsequently banned were "The ABCs of Black History;" "The Hill We Climb" by Amanda Gorman, a spoken word poem recited at the inauguration of President Biden; "Cuban Kids" by George Ancona, a photo book about Cuban history and culture; and "Love to Langston," a book about the famous Black poet Langston Hughes.¹⁸¹ Individuals also sought to ban books with LGBTQ characters and themes, including illustrated children's books such as "A Day

¹⁷⁶ HRW, SRLIL, FL Rising interview with Erica C., Miami, February 27, 2024.

¹⁷⁷ Ibid.

¹⁷⁸ *Hair Love* is an award-winning children's book which features a Black father teaching his daughter to love her natural hair. The book was banned in Pennsylvania, according to PEN America's Index of School Book Bans (April 7, 2022) <https://docs.house.gov/meetings/GO/GO02/20220407/114616/HHRG-117-GO02-20220407-SD018.pdf> (accessed April 11, 2024)

¹⁷⁹ HRW, SRLIL, FL Rising interview with Gina N., Jacksonville, February 29, 2024.

¹⁸⁰ HRW, SRLIL, FL Rising interview with Kelvin L., Daytona, March 5, 2024.

¹⁸¹ "We See It as a Threat to Democracy' Parents' Groups Rise Up Against Book Bans," *Miami Herald*, October 12, 2023, <https://www.miamiherald.com/news/local/education/article280045829.html> (accessed May 13, 2024).

in the Life of Marlon Bundo,” a book about a male rabbit falling in love with another male rabbit; and “And Tango Makes Three,” about two male penguins adopting an orphan penguin.¹⁸²

Some educators and officials explained that the risk of losing state funding was a reason they chose to interpret and implement laws in the most cautious manner.¹⁸³ One media specialist interviewed for this report said that she feared that if she purchased a set of books for her school library and the book was removed for review due to a parent’s challenges, she would have essentially wasted money on the text. “Every year, Florida library budgets are not that huge... we have limited funds,” she said.¹⁸⁴

Much of the focus on book challenges has centered around what is “age appropriate,” determinations educators have always had to make, guided by inputs from reading experts and library-media specialists and even publishers, who often include age guidance on book jackets. Determining age appropriateness is not a new factor in building educational environments in schools, but, in the context of book challenges under Florida’s new laws, the professional expertise of local educators and librarians is being challenged and supplanted by people with no training at all.

Library media specialists are also trained to examine the demographics of a particular classroom or school and determine which books might be age appropriate and culturally relevant. Culturally relevant literature improves literacy rates, confidence, and critical thinking for young people, especially students from racial minorities or those who identify as LGBTQ.¹⁸⁵

¹⁸² Gabi Rodriguez, “Roughly 300 Books Were Removed from School Libraries in Florida Last Year. Here’s the Full List,” *NBC Miami*, September 17, 2023, <https://www.nbcmiami.com/news/local/roughly-300-books-were-removed-from-libraries-in-florida-last-school-year-heres-the-full-list/3113184/> (accessed May 13, 2024).

¹⁸³ HRW, SRLIL, FL Rising interviews with Gina N., Tina.

¹⁸⁴ HRW, SRLIL, FL Rising interview with Tina, Brevard County, February 26, 2024.

¹⁸⁵ “Study Shows Reading Culturally Relevant Books Improves Students’ Comprehension,” *Oakland University*, October 29, 2020, <https://oakland.edu/oumagazine/news/SEHS/2020/study-shows-reading-culturally-relevant-books-improves-students-comprehension> (accessed April 11, 2024); Kate Will, “Study Shows Reading Culturally Relevant Books Improves Students’ Comprehension,” *Iowa Reading Research Center*, November 29, 2022, <https://irrc.education.uiowa.edu/blog/2022/11/celebrating-students-identities-and-experiences-culturally-relevant-texts#:~:text=By%20incorporating%20culturally%20relevant%20texts,and%20experiences%20of%20their%20students> (accessed April 11, 2024).

Laura R., a Black media specialist from Tampa, explained that, among other things, students need “mirrors and windows.” Mirrors are books where students might encounter characters or stories that resonate with their life experiences. “It will resonate with them and they can start to comprehend from that particular book the situation that the character is experiencing.” Students also need windows, which are stories that develop empathy and give students insight into parts of the world that they may not be exposed to otherwise.¹⁸⁶

Laura stressed that culturally relevant materials are especially important for the primarily Black students in the low-income community she serves. She told researchers:

Their world exists inside this small community so once you start talking about going to the beach or Switzerland or whatever in their mind, most of the time they cannot fathom that...In order for them to have exposure to those things, we need to have more books that are culturally relevant, but also books that are relevant in other aspects, because we need to give them a broader worldview.¹⁸⁷

Book bans have perhaps become one of the most politically charged battles in US public education. One Tampa resident remembered seeing a paid advertising truck drive through her community with the message that local students had access to a book that the sponsor of the ad thought should be banned.¹⁸⁸ The advertisement seemed to invite parental challenges to the book.

Rather than creating a system that allows individual parents with concerns about certain books or materials to ask that their child opt out of the exposure, the practice in many other jurisdictions, Florida now permits a small number of citizens to challenge learning materials and force schools to remove critically important cultural content for all students. The majority of book challenges are brought forward by a small number of parents.¹⁸⁹ Some parents told researchers they feel their own parental rights are undermined when one or two parents are allowed to determine which books their children have access to in public

¹⁸⁶ HRW, SRLIL, FL Rising interview with Laura R., Tampa, February 14, 2024.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

¹⁸⁹ PEN America, *Banned in the USA: The Mounting Pressure to Censor*, report, 2023, <https://pen.org/report/book-bans-pressure-to-censor/> (accessed April 11, 2024).

schools. Some of these parents said they work to supplement the education of their children through home libraries or the public library but acknowledged not all students have access to this supplemental material, raising discrimination and equity concerns.¹⁹⁰ A unique set of concerns exist for LGBTQ youth, who may have parents who restrict their access to information that supports their health and wellbeing.

After national and international outcry over the overuse of the book challenge policies, Florida leaders recently began to walk back the laws.¹⁹¹ During a February 2024 news conference, Governor DeSantis suggested that the book bans might have gone too far. He said that media reports about book bans are a “hoax,” but he admitted there were some “bad actors” who had abused the book challenge system.¹⁹² In April 2024, Florida passed a law limiting individuals without children enrolled in the school district to one challenge to instructional material per month. Parents can still file an unlimited number of challenges.¹⁹³ The impacts of this modest reform remain to be seen. Still, hundreds of books by LGBTQ authors and authors of color remain banned from Florida classrooms and school libraries.

Impacts on Student Health

International human rights law requires states to progressively realize, “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”¹⁹⁴ The recent Florida laws on school curricula bear on that right in at least two important ways. First, the provisions and policies limiting curriculum content on gender and sexuality have limited sexuality education in damaging ways, particularly for LGBTQ students. Second, the policies and provisions constraining curriculum that includes sexual orientation, gender expression and accuracy in Black history, compounded by the fear of reprisals for discussing such topics, impact students’ mental health. This includes but is

¹⁹⁰ Interviews with Celeste O., Erica C., Nick W., Patricia T.

¹⁹¹ PEN America, *Banned in the USA: The Mounting Pressure to Censor*, 2023.

¹⁹² Leslie Postal, “DeSantis Again Calls Book Banning a ‘Hoax’ but Wants Laws Tweaked,” *Orlando Sentinel*, February 15, 2024, <https://www.orlandosentinel.com/2024/02/15/desantis-again-calls-book-banning-a-hoax-but-wants-laws-tweaked/> (accessed April 11, 2024).

¹⁹³ Fla. Stat. § 1006.28; Education, Florida House Bill (HB) 1285 of 2024, <https://www.flsenate.gov/Session/Bill/2024/1285/BillText/er/PDF> (accessed May 13, 2024), p. 34; Carlos Suarez, Denise Royal, and Nicole Chavez, “Gov. Ron DeSantis Signs Education Bill Limiting Book Challenges,” *CNN*, April 16, 2024, <https://www.cnn.com/2024/04/16/politics/desantis-education-book-challenges-reaj/index.html> (accessed May 13, 2024).

¹⁹⁴ ICESCR, art. 12.

not limited to Black students and LGBTQ students who have reason to feel their larger community is being intentionally excluded from their education and the broader educational environment. Such exclusion and ensuing harm may in some instances create or contribute to a hostile environment, which may amount to a violation of federal civil rights law.¹⁹⁵

Harm to Health and Sex Education

The internationally recognized right to health, has been interpreted to include children's right to comprehensive sexuality education (CSE):¹⁹⁶ age-appropriate learning material that can help foster safe and informed practices to prevent gender-based violence, gender inequality, sexually transmitted infections, and unintended pregnancies. CSE also has been recognized as an essential element of the right to education.¹⁹⁷

In Florida, families have faced a “concerted push by legislators at the local, state, and federal level to restrict sex education” through the introduction of “bills that target the

¹⁹⁵ The Department of Education updated Title IX regulations in 2024 to clarify that under federal law schools must protect students, employees, and applicants against discrimination based on sex stereotypes, sexual orientation, gender identity, and sex characteristics: US Department of Education, “U.S. Department of Education Releases Final Title IX Regulations, Providing Vital Protections Against Sex Discrimination,” press release, April 19, 2024, <https://www.ed.gov/news/press-releases/us-department-education-releases-final-title-ix-regulations-providing-vital-protections-against-sex-discrimination#:~:text=The%20final%20regulations%3A,and%20other%20sex%2Dbased%20harassment> (accessed May 13, 2024).

¹⁹⁶ UN Committee on the Rights of the Child, General Comment No. 20 (2016), Implementation of the Rights of the Child During Adolescence, U.N. Doc. CRC/C/GC/20 (2016), <https://www.refworld.org/docid/589dad3d4.html> (accessed June 5, 2024), para. 61: The Committee on the Rights of the Child has said that “[a]ge-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards and developed with adolescents, should be part of the mandatory school curriculum and reach out-of-school adolescents.” The committee has also said that governments must “refrain from censoring, withholding, or intentionally misrepresenting health-related information, including sexual education and information, and [...] ensure children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.”

¹⁹⁷ UN Committee on the Rights of the Child, General Comment No. 15 (2013), Right of the Child to the Enjoyment of the Highest Attainable Standard of Health (art. 24), U.N. Doc. CRC/GC/15 (2013), <https://www.refworld.org/docid/51ef9e134.html> (accessed June 5, 2024), para. 60; In 2010, the UN special rapporteur on the right to education described sexual education as “both a human right in itself and an indispensable means of realizing other human rights, such as the right to health, the right to information and sexual and reproductive rights.” UN Human Rights Council, Report of the United Nations Special Rapporteur on the right to education, Vernor Muñoz Villalobos, U.N. Doc. A/65/162, July 23, 2010, <https://undocs.org/A/65/162> (accessed July 13, 2021), para. 19; Evidence indicates that comprehensive sexuality education is five times more likely to be successful in preventing unintended pregnancy and sexually transmitted infections when it pays explicit attention to the topics of gender and power: Nicole Haberland, “The Case for Addressing Gender and Power in Sexuality and HIV Education: A Comprehensive Review of Evaluation Studies,” *International Perspectives on Sexual and Reproductive Health* (2015): 41:1, accessed June 5, 2024, doi: 10.1363/4103115, p. 31-4.

rights of young people, especially LGBTQIA youth.”¹⁹⁸ Under current Florida laws, teaching sex education is not required, but if a school chooses to provide further instruction on health education, all materials must be submitted to the Florida Department of Education for approval. Moreover, under Florida law sex education instruction must emphasize the benefits of heterosexual marriage, which discriminates against LGBTQ teachers and students based on their sexual orientation.¹⁹⁹ HB1069 restricts classroom education for students below ninth grade about topics of sexuality and reproductive health, including menstruation, despite the fact that a majority of girls begin to menstruate before ninth grade. This caused some to label the law, “Don’t Say Period.”²⁰⁰

Harm to Mental Health

Florida’s educators and school administrators confirm that the politicized environment in Florida schools today is taking a psychological toll on youth. One mental health professional told researchers:

[T]here seems to be this sort of societal cultural permission to be bigoted, to be hateful, you know you’ve got 7-year-olds that are like ‘oh, well, even though you’re a Jew. I’ll still be friends with you.’... Or you’ve got parents walking in saying, ‘oh, isn’t that a banned book because there’s a Black character on the front.’... The culture that we’re seeing inside of our schools is creating a space that’s not safe emotionally, psychologically... It’s certainly impacting children’s mental health and their well-being.²⁰¹

¹⁹⁸ SIECUS, “Florida State Profile,” <https://siecus.org/stateprofiles/florida-state-profile-23/> (accessed May 13, 2024); LGBTQIA includes individuals who may identify as intersex or asexual. Intersex is an umbrella term that refers to a range of traits and conditions that cause individuals to be born with chromosomes, gonads, and/or genitals that vary from what is considered typical for female or male bodies. A former medical term, “intersex” has been reclaimed by some as a personal and political identity. Intersex is not the same as transgender, which describes individuals whose gender differs from the sex they were assigned or presumed at birth. Asexual, sometimes called “ace” for short, refers to a complete or partial lack of sexual attraction or lack of interest in sexual activity with others. Asexuality exists on a spectrum, and asexual people may experience no, little, or conditional sexual attraction.

¹⁹⁹ HB1069 states, “Teach Abstinence from Sexual Activity Outside of Marriage as the Expected Standard for All School-Age Students While Teaching the Benefits of Monogamous Heterosexual Marriage,” Florida HB1069, Section 5, 1003.46 b, <http://laws.flrules.org/2023/105>.

²⁰⁰ Ibid: An earlier version of the bill restricted sexuality education before sixth grade. The final law restricted sexuality education before ninth grade; Elizabeth Heubeck, “‘Don’t Say Period’ Bill Is Latest Example of States’ Efforts to Limit Sex Education,” *Education Week*, April 5, 2023, <https://www.edweek.org/teaching-learning/dont-say-period-bill-is-latest-example-of-states-efforts-to-limit-sex-education/2023/04> (accessed April 26, 2024).

²⁰¹ HRW, SRLIL, FL Rising interview with Gina N., Jacksonville, February 29, 2024.

Research by The Trevor Project, a suicide prevention organization for LGBTQ young people, found that debates around state laws to obstruct LGBTQ rights have had a negative impact on youth mental health, including increased rates of stress and anxiety; they were also associated with cyberbullying.²⁰²

An 18-year-old Florida student, Roman M., told researchers that when he was in middle school and trying to decide how to tell his family about his sexual orientation, he had been fortunate to have the support of some teachers at school. As a high school student under the new laws, Roman said he struggled with depression as he felt the environment shift and faced more social and academic pressure. He said he found it even more difficult to get through high school with the added distress of school board members and legislators debating laws and policies that prevent discussions of LGBTQ people. Roman has been hospitalized twice for mental health treatment and is now feeling better. He shared:

[M]y parents always say, you can just not make yourself a target [by being out at school]. But I don't want to filter myself for someone else's comfort. I'm going to be me unapologetically. And that way I can, if something does happen to me, I know at least I lived a life that was like, true to me.²⁰³

Refusal to Collect Data Bearing on Mental Health

On April 29, 2022, after 13 years, the Florida Department of Education told the CDC that it was withdrawing Florida's participation in the CDC's Youth Risk Behavior Survey (YRBS). Since 1991, the Centers for Disease Control and Prevention (CDC) has conducted the survey to measure "health-related behaviors and experiences that can lead to death and disability among youth and adults."²⁰⁴ A wide range of stakeholders, including federal and state governments, school districts, doctors, lawmakers, and private foundations rely on the data to monitor health trends among adolescents and develop programs to improve adolescent health.²⁰⁵ According to the CDC, "from 1991 through 2021, the YRBSS...

²⁰² The Trevor Project, "New Poll Emphasizes Negative Impacts of Anti-LGBTQ Policies on LGBTQ Youth," press release, January 19, 2023, <https://www.thetrevorproject.org/blog/new-poll-emphasizes-negative-impacts-of-anti-lgbtq-policies-on-lgbtq-youth/> (accessed April 26, 2024).

²⁰³ HRW, SRLIL, FL Rising interview with Interview with Roman E., February 24, 2024.

²⁰⁴ "YRBSS Overview," Center for Disease Control and Prevention, <https://www.cdc.gov/healthyyouth/data/yrbs/overview.htm> (accessed April 11, 2024).

²⁰⁵ Ibid.

collected data from more than 5 million high school students in more than 2,200 separate surveys.”²⁰⁶

Florida advocates pushed to maintain the state’s participation in the survey, arguing that “[e]nding the YRBS has implications for understanding the effects of recent legislation, including HB 1557... Part of the power of the YRBS is that it allows for the analysis of data by sub-groups, including LGBTQ youth.”²⁰⁷

Florida’s Duval County School District wanted to continue the YRBS under its contract with the CDC, but it received a stern warning letter from the Florida education commissioner, who expressed “grave concerns” with Duval’s continued participation. The commissioner wrote that such an “inflammatory and sexualized survey is not in the best interests of Florida students” and that the CDC “asks leading questions ... that may actually introduce risky behaviors to students, prompting them to engage in potentially detrimental activities.”²⁰⁸ There is no valid evidence that risky behavior is prompted through engagement in risk assessment studies, as some Florida officials claimed. The survey instead gives public health officials, educators, and policymakers the data required to develop meaningful health interventions for students. The Florida Department of Health, however, informed Duval County that the department—which was supposed to work with the schools to collect the data—was terminating its contract with its public schools to provide any data collection and evaluation.²⁰⁹

Ultimately, Florida’s Department of Health stated that it would implement its own Florida-specific survey²¹⁰ and then later announced that it would establish a Florida-Specific Youth Survey Workgroup to develop the survey.

²⁰⁶ Ibid.

²⁰⁷ Dr. Norin Dollard, “Action is Needed to Stop Florida’s Withdrawal from the Youth Risk Behavior Survey,” *Florida Policy Institute*, April 18, 2022, <https://www.floridapolicy.org/posts/action-is-needed-to-stop-floridas-withdrawal-from-the-youth-risk-behavior-survey> (accessed April 11, 2024).

²⁰⁸ Letter from Florida Education Commissioner Manny Diaz to Dr. Diana Greene, superintendent of the Duval County School District, February 9, 2023. On file with the authors.

²⁰⁹ Beth Reese Cravey, “After ‘Grave Concerns’ from State Education Commissioner, Duval Schools Cancel 2023 Youth Survey,” *Florida Times Union*, February 10, 2023, <https://www.jacksonville.com/story/news/education/2023/02/10/florida-education-commissioner-manny-diaz-blasts-duval-for-youth-survey/69894045007/> (accessed April 11, 2024).

²¹⁰ Jeffrey Solocheck, “Florida will Track Youth Behavior on its Own After rejecting CDC survey,” *Tampa Bay Times*, May 6, 2022, <https://www.tampabay.com/news/education/2022/05/06/florida-will-track-youth-behavior-on-its-own-after-rejecting-cdc-survey/> (accessed April 11, 2024).

A coalition of rights and policy advocates and medical doctors sought to encourage Florida to maintain its involvement in the survey. Dr. Norín Dollard, a senior policy analyst at Florida Policy Institute (FPI), wrote:

The YRBS data is widely used across Florida by the education and public health community to ensure we attend to the physical and mental well-being of Florida’s young people. This data provides unique and critical insight into how risk behaviors are changing over time and how students of color and LGBTQ students are faring. Changing surveys in mid-stream starts a new baseline and disrupts our ability to have strong public health policy that meets the needs of all of Florida’s youth.²¹¹

Some members of the working group also raised concerns for both the process and the substance of the state-based survey. Importantly, the state-based survey does not ask for key demographic information from respondents. One working group member raised these concerns in a letter to the Florida Department of Health. She wrote:

By failing to ask whether students identify as a person with a disability or a member of the LGBTQ+ community, we can learn far less about any differences or changes in the behaviors and mental health status of these groups of students. Each year, laws and policies affecting these groups are changed and we have now lost a valuable tool in measuring the impact and effectiveness of those changes. I cannot think of a single situation where less information is better as far as evaluating outcomes. I realize some might feel these are sensitive topics, but that is all the more reason to want to know how our laws and policies are affecting these students.²¹²

Currently, Florida has not indicated if it will return to participation in the CDC’s YRBS.

²¹¹ Dr. Norin Dollard, “Action is Needed to Stop Florida’s Withdrawal from the Youth Risk Behavior Survey,” *Florida Policy Institute*.

²¹² Letter from Disability Rights Florida to Dr. Peggy Aune, Vice Chancellor for Strategic Improvement, May 17, 2023. On file with authors.



Students and others attend a “Walkout 2 Learn” rally to protest Florida education policies outside Orlando City Hall in Florida on April 21, 2023. © 2023 Paul Hennessy/Anadolu Agency via Getty Images

Self-Censorship, Intimidation, and Culture of Fear

In recent years, state leaders have retaliated against teachers and school administrators who challenged discriminatory censorship laws and policies and their implementation. At the same time, Black students and LGBTQ students report feeling alienated and targeted by the state government. This environment has taken a tremendous toll on Floridians.

Jennifer J., a school board member in Brevard County who ran for office on a platform for more inclusive schools, became a target of political campaigns and extremist groups. Jennifer told us how she faced daily harassment, including being followed, receiving death threats, and having her elementary-aged daughter’s location publicized online. This extended beyond verbal abuse, with reports of property damage to Jennifer’s home, false reports of child abuse, and armed intimidation. Some activists who opposed Jennifer’s support of LGBTQ people on the school board organized a protest outside her home. This protest kept Jennifer’s daughter awake as she was trying to read her a bedtime story.

Jennifer told researchers for this report, “I could hear them. And [my daughter] said, ‘Mommy, when are these loud mean people going to go away?’”²¹³

The extreme tensions at school board meetings also impact Florida students and parents. An LGBTQ student who attended a school board meeting in Flagler County, where armed Proud Boy members were intimidating attendees, told a researcher for this report, “[y]ou know, I was called the f-slur more times than I could imagine that night. My friends who are people of color were called horrific racial slurs. We had students being followed to their cars.”²¹⁴

One former school board member told us that the culture of fear is also pervasive among educators. “You don’t know what’s going to get your hand slapped. You don’t know what’s going to get your job taken. You know your character will be smeared in a campaign.”²¹⁵ She explained that the politicization of education has devastating consequences for teacher morale:

We’ve got people coming and saying that teachers are indoctrinators and teachers are groomers and they’re trying to subversively mind control your children into being trans or thinking that they are oppressed or an oppressor? Teachers don’t get paid enough [to withstand attacks like] that.²¹⁶

One substitute teacher told a researcher that “teachers are literally living in fear, and they’re not willing to lose everything. You lose your teacher certificate, you lose your career, your pension, everything.”²¹⁷

²¹³ HRW, SRLIL, FL Rising interview with Jennifer J., Brevard County, FL, February 28, 2024.

²¹⁴ HRW, SRLIL, FL Rising interview with Austin R., Flagler County, FL, February 12, 2024.

²¹⁵ HRW, SRLIL, FL Rising interview with Gina N., Jacksonville, February 29, 2024.

²¹⁶ Ibid.

²¹⁷ HRW, SRLIL, FL Rising interview with Nick W., Jacksonville, March 7, 2024.



A sign advertising job openings for teachers outside a school in Orlando, Florida, August 29, 2023. © 2023 Phelan M. Ebenhack via AP

Florida faces a severe teacher shortage, with some sources reporting over 4,000 teacher vacancies.²¹⁸ This shortage is a result of educators leaving the profession and the state, in many cases due to fear and exhaustion, impeding Florida’s ability to deliver a high-quality education for its students.²¹⁹ One educator told a researcher:

We see this mass exodus of teachers leaving. That creates more pressure on school districts to over self-censor to create even more restrictive

²¹⁸ Danielle Prieur, “Where Have All the Teachers Gone? Florida Needs More Than 4,000,” *WFSU Public Media*, January 19, 2024, <https://news.wfsu.org/state-news/2024-01-19/where-have-all-the-teachers-gone-florida-needs-more-than-4-000> (accessed April 11, 2024).

²¹⁹ Steven Greenhouse, “‘The Point is Intimidation’: Florida Teachers Besieged by Draconian Laws,” *Guardian*, May 13, 2023, <https://www.theguardian.com/us-news/2023/may/13/florida-teachers-woke-law-ron-desantis> (accessed April 11, 2024); Janelle Griffith, “Florida Teachers are Worried New Policies Could Get Them Fired — Or Even Criminally Charged,” *NBC News*, August 15, 2023, <https://www.nbcnews.com/news/us-news/florida-teachers-start-school-year-uncertainty-new-policies-take-effect-rcna99243> (accessed April 11, 2024); Caleb Ecarma, “I Can’t Teach Like This: Florida’s Education Brain Drain Is Hitting Public Schools Hard,” *Vanity Fair*, May 22, 2023, <https://www.vanityfair.com/news/2023/05/florida-education-brain-drain-hitting-schools-hard> (accessed April 11, 2024).

internal policies, because you have to retain your staff. Because you don't want them to feel at risk.²²⁰

Some school leaders implement the strictest interpretation of Florida's laws to avoid exposing themselves to lawsuits. As a result, teachers must comply with increasingly bureaucratic processes.²²¹ School districts are now required to obtain parental permission forms to use a students' preferred gender pronoun or even just a nickname.²²² One report said that a school in Miami required students to get explicit parental permission in writing to attend a Black History Month program.²²³ Teachers navigate this system with awareness of stories of their peers across the state who have been reprimanded, placed under investigation, or even fired after being accused of violating state policy.²²⁴

The culture of fear is not only driving out Florida's teachers. Recent policies have created a hostile environment for some Black and LGBTQ families with whom we spoke, who question their ability to thrive in the state. Many parents told researchers they do not know if they will stay in Florida, because they do not know if they can provide their children a future free from discrimination under the current laws.²²⁵

²²⁰ Human Rights Interview with Gina N., Jacksonville, February 29, 2024.

²²¹ Dana Goldstein, "In Florida, New School Laws Have an Unintended Consequence: Bureaucracy," *New York Times*, January 10, 2024, <https://www.nytimes.com/2024/01/10/us/florida-education-schools-laws.html> (accessed May 14, 2024).

²²² Polk County Schools, "New State Requirement for Use of Student Names," news release.

²²³ Ana Ceballos and Jimena Tavel, "Black historians, Holocaust survivors: Miami Schools Seek Parental Permission for More Events," *Miami Herald*, <https://www.miamiherald.com/news/local/education/article285250687.html> (accessed May 14, 2024).

²²⁴ HRW, SRLIL, FL Rising interview with James Q., a former Florida professor who was fired and now lives in Chicago, February 27, 2024; In 2021, a Duval County teacher was fired for refusing to remove a Black Lives Matter flag from her classroom: Emily Bloch, "Duval County Teacher Amy Donofrio Terminated, Settles Lawsuit With School District," *Florida Times-Union, Jacksonville*, August 6, 2021, <https://www.jacksonville.com/story/news/education/2021/08/03/duval-schools-agrees-settlement-lawsuit-regarding-teacher-blm-flag/5477872001/> (accessed May 14, 2024); In Spring 2023, the state launched an investigation into a teacher for showing a film with a gay character: Elizabeth Wolfe, "Florida Teacher Under Investigation for Showing Disney Movie With Gay Character Says She Didn't Know LGBTQ Restriction Applied to Her Class," *CNN*, May 16, 2023, <https://www.cnn.com/2023/05/16/us/florida-teacher-lgbtq-disney-movie-investigation-tuesday/index.html> (accessed May 14, 2024); In April 2023, a substitute teacher in Jacksonville was fired for posting a social media video of empty library bookshelves, commenting on the impacts of rising book bans: Colleen Connolly, "Florida Teacher Fired After Tweets About Book Removals Continues Fight Against Censorship," *School Library Journal*, April 4, 2023, <https://www.slj.com/story/Florida-Teacher-Fired-for-Tweets-About-Book-Removals-Continues-Fight-Against-Censorship> (accessed May 14, 2024); In October 2023, a Florida teacher was fired for using the gender-neutral honorific "Mx.:" Yurcaba, "Florida Teacher Fired for Using Gender-Neutral Honorific 'Mx.:,'" *NBC News*.

²²⁵ HRW, SRLIL, FL Rising interview with Nick W., Celeste O., Naomi O.

National civil and human rights groups share these concerns. The NAACP, the largest advocacy group for Black Americans, and Human Rights Campaign, the largest LGBTQ advocacy group in the United States, both issued travel advisories in 2023, warning Black people and LGBTQ people that they may not be safe in Florida.²²⁶ The groups cited recent discriminatory educational censorship laws as contributing to the hostile environment.²²⁷

²²⁶ NAACP, “NAACP Issues Travel Advisory in Florida,” press release, May 20, 2023, <https://naacp.org/articles/naacp-issues-travel-advisory-florida> (accessed April 11, 2024); Equality Florida, “Nation’s Largest LGBTQ Advocacy Group Joins Equality Florida In Issuing Updated Florida Travel Advisory,” press release, May 23, 2023, <https://eqfl.org/updated-travel-advisory-HRC> (accessed April 11, 2024).

²²⁷ Ibid.

The Role of the Federal Government

It felt bewildering that the federal government could see such egregious violations happening and basically [do] nothing... [The federal government] has been fairly reticent to go out there and vigorously defend these rights. And it's not unnoticed by the folks who are on the other end of this, having their rights deprived from them.

— Joseph, Florida parent in Orlando, March 2024

We've been really privileged to be able to have a conversation with US Secretary (of Education) Cardona. Quite frankly, the vibe in our conversations with Secretary Cardona is that their hands are tied because public education is a state issue. I think what they need to look at is in what ways are our constitutional rights are being violated within our public education. That's a national issue. That's where we need to see our national government say, hey, line crossed, automatically. No, we're not seeing that and that's tremendously disappointing.

— Anderson, former Florida high school student, February 2024

Inadequate US Federal Government Response to Educational Censorship Laws

In the United States, education is primarily the responsibility of state and local governments, which provide most of the funding for and administrative oversight of K-12 public schools. However, the federal government plays an important role in enforcing civil rights laws in state education programs or activities receiving federal financial assistance. Since about 87 percent of kindergarten to 12th grade students in the US are enrolled in public schools²²⁸ (all of which receive some federal funds), the federal government's authority to enforce nondiscrimination laws is far-reaching. The federal government also has an obligation to ensure states comply with international human rights law.

²²⁸ Jacob Fabina, Erik L. Hernandez, and Kevin McElrath, *School Enrollment in the United States: 2021*, report, American Community Survey Reports, <https://www.census.gov/content/dam/Census/library/publications/2023/acs/acs-55.pdf> (accessed April 11, 2024).

Many interviewees said they did not think that the federal government had been as responsive as the situation required, but many also had not fully considered the federal government as a possible source of solutions.

Executive Branch

The US Department of Education

I would like to see more actions from the Biden administration. I've been placed in countless listening calls with Secretary Cardona and others, and they're just trying to listen to the situation that's going on in Florida and simply say to us, we hear you and we're sorry this is happening and we're monitoring the situation. But I don't need their sympathy. I need them to take action. So what I would ask is for the Department of Education to go through the Office of Civil Rights. And really recognize that this is discrimination.

— Bailey, former high school student who attended Flagler County Public Schools, February 2024

The US Department of Education (DOE) has regularly expressed public concern about the censorship laws being passed in various states, including Florida. In March 2022, Secretary of Education Miguel Cardona issued a public statement criticizing Florida's "Don't Say Gay or Trans" bill being signed into law. He said: "[W]e will be monitoring this law upon implementation to evaluate whether it violates federal civil rights law," and explained that students and parents could file discrimination complaints with the DOE's Office of Civil Rights (OCR).²²⁹ In a July 2023 speech to the American Federation of Teachers, Secretary Cardona criticized "so-called 'anti-woke' laws, which censor teachers and librarians and strip them of their agency, trying to rewrite history and promote exclusion and bigotry."²³⁰

OCR is a "law enforcement agency charged with enforcing federal civil rights laws to ensure that educational institutions receiving federal financial assistance do not engage in

²²⁹ US Department of Education, "Statement by Secretary of Education Miguel Cardona on Newly Signed Florida State Legislation," press release, Mar. 28, 2022, <https://www.ed.gov/news/press-releases/statement-secretary-education-miguel-cardona-newly-signed-florida-state-legislation> (accessed April 11, 2024).

²³⁰ US Department of Education, "Secretary Cardona Defends Public Education in Speech to American Federation of Teachers," press release, July 24, 2023, <https://www.ed.gov/news/speeches/secretary-cardona-defends-public-education-speech-american-federation-teachers> (accessed April 11, 2024).

discriminatory conduct.”²³¹ These civil rights laws include Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin by recipients of federal funds, and Title IX of the Education Amendments of 1972, which prohibits sex discrimination in education programs and activities by recipients of federal funds, such as public elementary and high schools. OCR implements its mission by receiving and potentially investigating civil rights complaints²³² and by engaging in “periodic compliance reviews” to assess whether recipients of federal financial assistance are complying with Title VI and Title IX,²³³ providing “policy guidance on US civil rights laws”²³⁴ and “technical assistance” to help recipients of federal financial assistance comply with civil rights obligations,²³⁵ conducting “directed investigations” of noncompliance claims,²³⁶ and collecting and analyzing data on civil rights issues in public schools.²³⁷

Thus far, OCR has issued a single key decision on the national trend of educational censorship. In May 2023, the office issued a resolution agreement with Forsyth County, Georgia, regarding its book ban policy. OCR found that the county likely violated students’ civil rights under federal law by banning books that primarily featured Black or LGBTQ characters and themes, and may have created a hostile environment for students.²³⁸ OCR stated that “[T]he District’s responsive steps related to the book screening process were not designed to, and were insufficient to, ameliorate any resultant racially and sexually hostile environment.”²³⁹ Among other commitments, Forsyth County agreed to post public notices indicating that “the District strives to provide a global perspective and promote

²³¹ US Department of Education, Office of Civil Rights, p. 7, https://www2.ed.gov/about/offices/list/ocr/docs/ensure03_pg7.html (accessed April 11, 2024): Students and employees in public schools are covered by these laws because public schools receive federal financial assistance.

²³² US Department of Education, Office of Civil Rights, How the Office for Civil Rights Handles Complaints, <https://www2.ed.gov/about/offices/list/ocr/complaints-how.html>, (accessed April 11, 2024).

²³³ US Department of Education, Office of Civil Rights, Case Processing Manual, <https://www2.ed.gov/about/offices/list/ocr/docs/ocrpm.pdf> (accessed April 11, 2024), p. 22.

²³⁴ US Department of Education, Office of Civil Rights Policy Guidance Portal, <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/index.html> (accessed April 11, 2024).

²³⁵ US Department of Education, Office of Civil Rights.

²³⁶ US Department of Education, Office of Civil Rights, Case Processing Manual, p. 22.

²³⁷ US Department of Education, Office of Civil Rights, Civil Rights Data Collection (CRDC), <https://www2.ed.gov/about/offices/list/ocr/data.html> (accessed April 11, 2024).

²³⁸ US Department of Education, “U.S. Department of Education’s Office for Civil Rights Resolves Investigation of the Removal of Library Books in Forsyth County Schools in Georgia,” press release, May 19, 2023, <https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-resolves-investigation-removal-library-books-forsyth-county-schools-georgia> (accessed April 11, 2024).

²³⁹ Letter from OCR to Forsyth County, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/o4221281-a.pdf> (accessed April 28, 2024), p. 3.

diversity by including in school libraries materials about and by authors and illustrators of all cultures and that the District’s book review criteria for library books includes evaluating whether books promote diversity by including materials about and by authors and illustrators of all cultures.”²⁴⁰

Human Rights Watch wrote to OCR seeking comment on this report but did not receive a response. However, the White House Domestic Policy Council (DPC) replied to questions regarding the federal response to educational censorship laws both generally and in Florida. In its response, the DPC stated that “OCR is fully committed to protecting the civil rights of all students, including LGBTQI+ and Black students, consistent with OCR’s mission to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights.”²⁴¹ The White House Domestic Policy Council further explained that:

In August [2023], OCR released a Dear Colleague Letter on Race and School Programming, which clarifies the circumstances under which schools lawfully may – consistent with Title VI – develop curricula and programs or engage in activities that promote racially inclusive school communities. The Dear Colleague Letter explains that schools may be in violation of Title VI when they create, encourage, accept, tolerate, or fail to correct a racially hostile educational environment... OCR continues to consider information from stakeholders, from OCR’s Civil Right Data Collection (CRDC), and from OCR’s enforcement experience to determine areas in which additional guidance and technical assistance would be helpful to school communities.²⁴²

The Department of Education should issue national guidance clarifying that laws distorting Black American history, restricting LGBTQ content in curricula, or banning books in a way

²⁴⁰ Resolution Agreement Forsyth County Schools Complaint No. 04-22-1281, <https://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/04221281-b.pdf> (accessed April 29, 2024), p. 1.

²⁴¹ Written Response from The White House Domestic Policy Counsel to Florida Rising, HRW and Stanford RLIL, Received May 19, 2024.

²⁴² Ibid.

which harms students from protected classes may deny them educational opportunities or create a hostile environment, which may amount to civil rights violations.²⁴³

Researchers for this report spoke with community members in North Carolina who filed an OCR complaint regarding local educational censorship laws.²⁴⁴ These individuals shared correspondence from OCR with researchers and described their experiences. Community members expressed frustration at the lack of guidance regarding their complaint, and a lack of information about the timeline for investigation and resolution.²⁴⁵

Interviewees in Florida suggested that better publicizing the OCR complaint process and doing significantly more outreach via traditional and social media to explain the procedures and objectives of the complaints process is one tangible way the federal government could assist directly impacted people. “I just haven’t seen it publicized anywhere or it being known to students that this is an opportunity for you to... try to really make a difference,” one student said.²⁴⁶

US Department of Justice Civil Rights Division

The Educational Opportunities Section of the Civil Rights Division of the US Department of Justice is responsible for enforcing Title IV of the Civil Rights Act of 1964. This gives the Attorney General authority to address certain complaints of discrimination regarding alleged denials of equal protection to students, based on race, color, national origin, sex, and religion, by public schools and institutions of higher learning.²⁴⁷ The section also plays a significant role in enforcing Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972, with respect to recipients of funding from the Department of Justice.²⁴⁸

²⁴³ The Department of Education and Department of Justice have previously issued joint guidance to clarify which school policies may amount to discrimination under federal law: “Guidance and Resources,” US Department of Justice, Civil Rights Division, <https://www.justice.gov/crt/guidance-and-resources> (accessed April 30, 2024).

²⁴⁴ HRW, SRLIL, FL Rising interview with Keith, Jacob, Rachel, Cahaba County, North Carolina, March 13, 2024.

²⁴⁵ HRW, SRLIL, FL Rising interview with Kristie H., Tampa, January 24, 2024.

²⁴⁶ HRW, SRLIL, FL Rising interview with Bailey G., Flagler County, February 15, 2024.

²⁴⁷ “Educational Opportunities Section,” US Department of Justice, <https://www.justice.gov/crt/educational-opportunities-section> (accessed April 11, 2024).

²⁴⁸ Ibid.

The Justice Department enforces these laws by conducting investigations into alleged violations of these laws; bringing litigation to enforce the civil rights at issue; filing statements of interest or amicus briefs in ongoing litigation relating to these issues; and intervening in private suits alleging violations of education-related anti-discrimination statutes and the Fourteenth Amendment to the US Constitution.²⁴⁹ Thus far, the Department of Justice and its civil rights leaders have issued few public statements regarding discriminatory educational censorship in Florida.

Human Rights Watch wrote to the Department of Justice and received no response.

The President and the White House

President Joe Biden has issued some public statements and executive orders which indicate they are monitoring discriminatory educational censorship. On July 1, 2022, President Biden tweeted:

Florida’s “Don’t Say Gay” law takes effect today – the latest attempt by Republicans in state houses to target LGBTQ students, teachers, and families. Legislators shouldn’t be in the business of censoring educators, and @usedgov will do all in its power to protect students.²⁵⁰

President Biden issued an Executive Order in June 2022, directing the Secretary of Education to establish a new Working Group on LGBTQ Students and Families, which would advance policies for states, school districts, and other educational institutions to promote safe and inclusive learning environments in which all students thrive.²⁵¹ Thus far, this working group has not affected the policies in effect in states like Florida. The Executive Order also charged the Secretary of Health and Human Services to “increase

²⁴⁹ Ibid.

²⁵⁰ July 1, 2022, tweet from President Joe Biden. <https://twitter.com/POTUS/status/1542951573353029632> (accessed April 11, 2024).

²⁵¹ Ibid; The White House, *Fact Sheet: President Biden to Sign Historic Executive Order Advancing LGBTQI+ Equality During Pride Month*, June 15, 2022, <https://www.whitehouse.gov/briefing-room/statementsreleases/2022/06/15/fact-sheet-president-biden-to-sign-historic-executive-order-advancing-lgbtqi-equalityduring-pride-month/> (accessed April, 2024); The White House, *Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals*, June 15, 2022, <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/15/executive-order-on-advancing-equality-for-lesbian-gay-bisexual-transgender-queer-and-intersex-individuals/> (accessed April 11, 2024).

technical assistance and training to health providers on evidence-informed promising practices for supporting the health, including mental health, of LGBTQI youth.”²⁵²

Vice President Kamala Harris has also criticized discriminatory censorship laws, saying:

Extremists here in Florida passed a law, “Don’t Say Gay,” trying to instill fear in our teachers that they should not live their full life and love who they love. And now, on top of all of that, they want to replace history with lies. Middle school students in Florida to be told that enslaved people benefited from slavery.²⁵³

She added, “how is it that anyone could suggest that in the midst of these atrocities, that there was any benefit to being subjected to this level of dehumanization?”²⁵⁴

Researchers interviewed a Florida education leader who met with the vice president during this visit. She recounted:

[The vice president] legitimately sat in this circle with eight of us, leaned in and listened almost the entire time, versus talking. Everyone’s plea basically was please don’t forget about Florida. Please fight for Florida. We are alone. We feel alone and I felt like she heard that message.²⁵⁵

The education leader reported that she told Vice President Harris, “Please don’t forget about us.” And the Vice President replied, “I won’t. You’re not alone.”²⁵⁶

In response to a Human Rights Watch request for comment, the White House Domestic Policy Council emphasized the role of the Office of Civil Rights in the Department of

²⁵² The White House, *Executive Order on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals*.

²⁵³ Remarks by Vice President Harris on the Florida State Board of Education Curriculum Updates, July 21, 2023, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/07/21/remarks-by-vice-president-harris-on-the-florida-state-board-of-education-curriculum-updates/> (accessed April 11, 2024).

²⁵⁴ Ibid.

²⁵⁵ HRW, SRLIL, FL Rising interview with Jennifer J., Brevard, February 28, 2024.

²⁵⁶ Ibid.

Education. The White House noted that President Biden has proposed a budget increase for OCR to increase capacity amidst its rising complaint caseloads.²⁵⁷

Recently, after significant delays,²⁵⁸ the administration released updated regulations for Title IX on April 19, 2024, explicitly extending Title IX's reach to prohibit discrimination and harassment based on sexual orientation and gender identity.²⁵⁹ Secretary of Education Cardona said that the regulations clarify “that all our nation’s students can access schools that are safe, welcoming, and respect their rights.”²⁶⁰ The US states of Florida, Alabama, Georgia, and South Carolina have filed a lawsuit to block implementation of the new rules, arguing the Biden administration overstepped its authority.²⁶¹ Both DeSantis and Florida’s Education Commissioner, Manny Diaz, have said that Florida will not implement the new regulations.²⁶² DeSantis labeled the new regulations a “radical rewrite” and said they would “impose gender ideology on K-12 schools all across the country.”²⁶³

While the new regulations are a welcome step forward, there remains a long fight ahead and the federal government should do more to address discriminatory educational censorship laws. The Title IX regulations do not directly address the racial discrimination outlined in this report, which the administration should address through updated Title VI guidance. The regulations also do not clarify how discriminatory censorship in curriculum and books may create a hostile environment for students. Many interviewees stated that Biden administration officials should make good on their many statements and promises to directly impacted people, by convening a national summit on ending discriminatory

²⁵⁷ Email to Human Rights Watch, Rule of Law Impact Lab, and Florida Rising from White House Domestic Policy Council on May 19, 2024. See report annex.

²⁵⁸ Naaz Modan, “Final Title IX Rules Delayed Once More as Ed Dept Misses Deadline,” *K-12 Dive*, October 31, 2023, <https://www.k12dive.com/news/final-title-ix-rules-delayed-again/698406/>, (accessed April 11, 2024).

²⁵⁹ 34 C.F.R. § Part 106, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” <https://public-inspection.federalregister.gov/2024-07915.pdf> (accessed April 28, 2024), executive summary.

²⁶⁰ U.S. Department of Education, “U.S. Department of Education Releases Final Title IX Regulations, Providing Vital Protections Against Sex Discrimination,” press release, April 19, 2024, <https://www.ed.gov/news/press-releases/us-department-education-releases-final-title-ix-regulations-providing-vital-protections-against-sex-discrimination> (accessed May 14, 2024).

²⁶¹ CBS Miami Team, “Florida Joins Other States to Challenge Title IX Rule,” *CBS News*, April 29, 2024, <https://www.cbsnews.com/miami/news/florida-joins-other-states-to-challenge-title-ix-rule/> (accessed May 14, 2024).

²⁶² Tara Suter, “DeSantis: Florida ‘Will Not Comply’ with New Biden Title IX Rules,” *Hill*, April 25, 2024, <https://thehill.com/homenews/lgbtq/4621642-desantis-florida-will-not-comply-with-new-biden-title-ix-rules/> (accessed May 14, 2024).

²⁶³ February 14, 2024, tweet from Governor Ron DeSantis, <https://twitter.com/GovRonDeSantis/status/1757797424200839361> (accessed May 14, 2024).

educational censorship efforts across the US and pushing for more action by both Congress and federal executive agencies to protect students' right to an education free of discrimination and censorship.²⁶⁴

US Congress

If you don't stick up for these things, it sends a pretty clear message to the impacted communities and demoralizes them. The message I received from legislators is that these things aren't really important to us. They're not important enough for us to expend political capital on or make any efforts to hold these people accountable. Therefore we don't think your concerns are worthy or real. I think it makes citizens cynical in the long run.

— Nick W., Florida parent, March 2024

In September 2023, US Congressman Jamie Raskin (MD-o8) and Senator Brian Schatz (D-HI) reintroduced a resolution that recognized Banned Books Week, a week aiming to bring national attention to the harmful effect of book bans, and condemned “the escalating attacks on books and freedom of expression in the United States.”²⁶⁵ A resolution is not a law and is a largely symbolic action. Other members of Congress have introduced, but Congress has not passed, bills to address discriminatory educational censorship laws, including the “Fight Book Bans Act,” a bill introduced in December 2023 by Congressman Maxwell Alejandro Frost (FL-10), Congresswoman Frederica Wilson (FL-24), and Congressman Raskin, which aims to take “a stand against censorship by giving school districts the funding they need to oppose challenges to educational and library materials that [have] kept over 3,000 books off school bookshelves in the last year.”²⁶⁶ The “Books

²⁶⁴ In 2011, the administration of President Obama launched an anti-bullying initiative which began with a national summit, engaged a wide variety of stakeholders, and resulted in collaboration between a number of federal agencies, including the Department of Education and the Health and Human Services Department. This model, and the stopbullying.gov campaign, offers lessons for the Biden administration about how it might address censorship and discrimination in schools: The White House, Office of the Press Secretary, “President and First Lady Call for a United Effort to Address Bullying,” press release, March 10, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/03/10/president-and-first-lady-call-united-effort-address-bullying> (accessed June 5, 2024).

²⁶⁵ Office of Congressman Jamie Raskin, “Raskin, Schatz Reintroduce Resolution Recognizing Banned Books Week,” press release, September 27, 2023, <https://raskin.house.gov/2023/9/raskin-schatz-reintroduce-resolution-recognizing-banned-books-week#:~:text=The%20Resolution%2C%20which%20comes%20amid,universities%2C%20prisons%2C%20and%20libraries> (accessed April 11, 2024).

²⁶⁶ Office of Congressman Maxwell Alejandro Frost, “As Florida Leads Nation in Book Bans, Congressman Maxwell Frost Introduces Bill to Fight Bans and Support Educators,” press release, December 5, 2023,

Save Lives Act,” which would require public schools and school libraries to have diverse book collections, classify discriminatory book bans as a violation of federal civil rights law, and direct the US Government Accountability Office (GAO) to report on the effects of book bans on underrepresented communities, was introduced by Congresswoman Ayanna Pressley (MA-07) in December 2023.²⁶⁷ The Equality Act, which has stalled in Congress, seeks to amend federal civil rights laws to expressly prohibit discrimination based on sex, sexual orientation, and gender identity, thereby protecting LGBTQ people from discrimination in education and other contexts.²⁶⁸

While important first steps, none of these bills address the full scope of discriminatory educational censorship in states like Florida, and none had passed at the time of writing.

<https://frost.house.gov/media/press-releases/florida-leads-nation-book-bans-congressman-maxwell-frost-introduces-bill-fight#:~:text=%E2%80%9CBook%20bans%20in%20Florida%20and,%2C%E2%80%9D%20said%20Congressman%20Maxwell%20Frost> (accessed April 11, 2024).

²⁶⁷ Office of Congresswoman Ayanna Pressley, “Pressley Unveils Bill to Confront Rise in Book Bans, Ensure Inclusive Learning Environments,” news release, December 14, 2023, <https://pressley.house.gov/2023/12/14/pressley-unveils-bill-to-confront-rise-in-book-bans-ensure-inclusive-learning-environments/> (accessed April 11, 2024).

²⁶⁸ Equality Act, US House Bill (HR) 5 of the 117th Congress (2021-2022), <https://www.congress.gov/bill/117th-congress/house-bill/5> (accessed April 11, 2024); Brooke Migdon, “Equality Act Backers Undeterred by Lack of Progress Three Years Later,” *Hill*, February 25, 2024, <https://thehill.com/homenews/lgbtq/4486033-equality-act-backers-undeterredlack-progress-years-later/> (accessed April 11, 2024).

International Human Rights Law Analysis

Florida's Obligations Under International Human Rights Law

The state of Florida's efforts to restrict or ban classroom instruction related to gender identity, sexual orientation, and racial discrimination violate international human rights laws. Under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and International Covenant on Civil and Political Rights (ICCPR), both of which the US has ratified, students have the right to equality before the law and an education that is free from the sort of discrimination perpetuated by educational censorship.²⁶⁹ Florida state government is obligated to uphold these rights.²⁷⁰

The ICERD and the ICCPR also guarantee all people the right to receive information and enjoy their own culture. The spate of suppressive legislation enacted in Florida runs afoul of these guarantees under international law binding on the US.

During its universal periodic review of the United States's human rights record, the UN Human Rights Committee expressed concern over educational censorship. Its report recommended that "school curriculum in each state reflect appropriately the history of the transatlantic trade in Africans, enslavement and segregation."²⁷¹ Additionally, that states should ensure "adequate, scientifically based sex education in school curricula."²⁷²

²⁶⁹ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, ratified by the US on September 8, 1992, art. 26; ICERD, art. 5: In ratifying these treaties, the US Congress stated that "the United States understands that this [convention] shall be implemented by the Federal Government to the extent that it exercises legislative and judicial jurisdiction over the matters covered therein, and otherwise by the state and local governments." 138 Cong. Rec. S4781 (daily ed. April 2, 1992) (for the International Covenant on Civil and Political Rights); 140 Cong. Rec. S7634-02 (1994) (same understanding regarding the Convention on the Elimination of All Forms of Racial Discrimination).

²⁷⁰ ICCPR, art. 50: Article 50 of the ICCPR provides that the provisions of the covenant "shall extend to all parts of federal States without any limitations or exceptions."

²⁷¹ Human Rights Council, Report of the Office of the United Nations High Commissioner for Human Rights, Universal Periodic Review of the United States, A/HRC/WG.6/36/USA/1, May 2020, <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/WG.6/36/USA/1&Lang=E> (accessed June 5, 2024), p. 63.

²⁷² *Ibid.*, p. 64.

Right to an Education Free from Discrimination

The ICERD affirms the right to equality before the law in the enjoyment of the right to education.²⁷³ In general, ICERD requires state parties to condemn and eliminate racial discrimination and “promot[e] understanding among the races.”²⁷⁴

In order to realize the right to an education, the ICERD also obligates states to “adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination.”²⁷⁵ Education about historical injustices and education about racism play a critical role in preventing future prejudice and discrimination.²⁷⁶

The Committee on the Elimination of Racial Discrimination (CERD), the expert body that interprets the obligations set forth in the ICERD, has further clarified that states must “educate the population as a whole in a spirit of non-discrimination, respect for others and tolerance, especially concerning people of African descent.”²⁷⁷ More specifically, CERD has urged State parties, like the United States, to provide students with textbooks containing chapters about the history and cultures of people of African descent and educate the public more broadly about the importance of “special measures” aimed at remedying historical discrimination, such as affirmative action programs.²⁷⁸

Policies distorting Black history, or barring instruction on historical injustices or the causes of systemic racism, are flatly inconsistent with the text and spirit of ICERD. Denying the historical and contemporary realities of racial discrimination undermines the eradication of persisting structures of racial inequality, the very purpose of ICERD.

²⁷³ ICERD, art. 5.

²⁷⁴ ICERD, art. 2; ICCPR, art. 26: ICCPR also contains general provisions against discrimination, such as article 26, which reads: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

²⁷⁵ ICERD, art. 7.

²⁷⁶ United Nations General Assembly, Report of the Working Group of Experts on People of African Descent, para. 78; Gay McDougall, “Introductory Note to International Convention on the Elimination of All Forms of Racial Discrimination,” *United Nations Audiovisual Library of International Law*, February 2021, <https://legal.un.org/avl/ha/cerd/cerd.html> (accessed April 11, 2024), see section D.

²⁷⁷ Committee on the Elimination of Racial Discrimination, General Recommendation No. 34, para. 14.

²⁷⁸ *Ibid.*, para. 66 and 20.

Right to Culturally Appropriate Education

The right to education includes the right to relevant, culturally appropriate, and good quality education.²⁷⁹ The Committee on Economic, Social and Cultural Rights (CESCR), which monitors implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), has stated that, as part of states' obligations to respect, protect, and fulfill the right to education, states must take “positive measures to ensure that education is culturally appropriate for minorities.”²⁸⁰

This right intersects with the right to culture in Article 27 of the ICCPR, which states that “[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture.”²⁸¹ Although “culture” is not defined in the ICCPR, the CESCR provided the following insight in its General Comment No. 21:

The Committee considers that culture... encompasses, inter alia, ways of life, language, oral and written literature, music and song, non-verbal communication, religion or belief system, rites and ceremonies, sport and games, methods of production or technology, natural and man-made environments, food, clothing and shelter and the arts, customs and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence, and build their world view representing their encounter with the external forces affecting their lives.²⁸²

Every member of an ethnic, religious, or linguistic minority is entitled to pursue and cultivate cultural knowledge. To fully exercise the right to culture, individuals must have access to accurate historical information, enabling them to comprehend and actively

²⁷⁹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 13, the Right to Education, E/C.12/1999/10 (1999), <https://www.refworld.org/legal/general/cescr/1999/en/37937> (accessed June 11, 2024), para. 6(c).

²⁸⁰ *Ibid.*, para. 50.

²⁸¹ ICCPR, art. 27.

²⁸² UN Committee on Economic, Social and Cultural Rights, General Comment No. 21, Right of Everyone to Take Part in Cultural Life, E/C.12/GC/21 (2009), <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1aoSzabooXTdImnsJZZVQc5ReG9hKvddWC2ML5U76E63nT%2BeY%2BtmSVIRSoynNoq4EDmpjIye7rC1DxEtC%2FGxx7WLBcmnxGwpWSXyofmnHDS> (accessed April 11, 2024), para. 13.

engage with their own culture, as well as the cultures of other communities. This information may include the cultural contributions of their community, or significant historical events which shape their community's culture.²⁸³

The eras of chattel slavery, racial terror lynchings, segregation, and the civil rights movement significantly shaped life outcomes and cultural contributions of Black Americans.²⁸⁴ Distorting the telling of these events and depriving students—particularly those belonging to racial and other minorities—of culturally responsive information in classrooms and school libraries are potential violations of the right these students possess to access their cultural heritage and enjoy their own culture. It also infringes on their right to a culturally appropriate education.

Rights to Free Expression, to Receive Information, and to Health

The ICCPR protects the right to freedom of expression, which includes the right to receive information.²⁸⁵ The Human Rights Committee has emphasized that any restriction on expressive rights must be necessary and proportionate in service of a legitimate purpose as defined in the ICCPR.²⁸⁶ Even if there is a legitimate purpose, any restrictions to that end must meet the requirements of necessity and proportionality, should not be based on beliefs derived from a single tradition, and must respect the principle of non-discrimination, which

²⁸³ Ibid, para. 11, 13, 16, 32-33: The CESR Committee wrote, “in the Committee’s view, culture is a broad, inclusive concept encompassing all manifestations of human existence. The expression ‘cultural life’ is an explicit reference to culture as a living process, historical, dynamic and evolving, with a past, a present and a future.” One element of the right to participate in cultural life includes “intangible cultural goods, such as languages, customs, traditions, beliefs, knowledge and history, well as values, which make up identity and contribute to the cultural diversity of individuals and communities.” The committee also stressed that the right includes the right of persons belonging to minorities to “development in all areas of cultural life.”

²⁸⁴ Equal Justice Initiative, *Lynching in America: Confronting the Legacy of Racial Terror*, report, Ed. 3, 2017, <https://eji.org/reports/lynching-in-america/> (accessed June 6, 2024); “1619 Project,” *New York Times Magazine*, August 14, 2019, <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html> (accessed June 6, 2024); Gwendolyn Scott Jones, “The Traumatic Impact of Structural Racism on African Americans,” *Delaware Journal of Public Health*, November 7, 2020, 6(5):80-82, doi: 10.32481/djph.2020.11.019 (accessed June 6, 2024); Juliana Horowitz, “Most Americans Say the Legacy of Slavery Still Affects Black People in the U.S. Today,” *Pew Research Center*, June 17, 2019, <https://www.pewresearch.org/short-reads/2019/06/17/most-americans-say-the-legacy-of-slavery-still-affects-black-people-in-the-u-s-today/> (accessed June 6, 2024); See also digital exhibits at the National Museum for African American History & Culture, <https://nmaahc.si.edu/explore/collection> (accessed June 6, 2024).

²⁸⁵ ICCPR, art. 19: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

²⁸⁶ UN Human Rights Committee, General Comment No. 34, para. 33-35: Legitimate purposes are described in the ICCPR, which provides that restrictions are only permissible when provided by law and necessary to respect the rights and reputations of others, or to protect national security, public order, or public health or morals; ICCPR Art. 19(3).

itself is protected within the ICCPR.²⁸⁷ A total ban on discussing gender identity and sexual orientation in the classroom, or the history and contemporary forms of racial discrimination, contradicts the prohibition on discrimination based on race, sex, or "other status" in the ICCPR, and is neither necessary nor proportionate to any legitimate purpose.

Firing teachers for questioning Florida's discriminatory laws and policies creates a concerning chilling effect.²⁸⁸ While states can regulate the speech of educators because they are government employees, this regulation should happen for legitimate pedagogical purposes and in ways that are not discriminatory. Reprimanding students for asking critical questions may violate their right to free expression.²⁸⁹

Children's right to comprehensive sexuality education (CSE), is grounded in international human rights law, particularly the right to health.²⁹⁰ Experts have said CSE can improve the health and wellbeing of young LGBTQ people.²⁹¹

The Convention on the Rights of the Child (CRC) also obligates states to uphold children's right to receive information, including instruction about sexual and reproductive health.²⁹²

²⁸⁷ UN Human Rights Committee, General Comment No. 34, Freedoms of Opinion and Expression, CCPR/C/GC/34 (2011), <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and> (accessed May 14, 2024), para. 32; ICCPR, art. 2(1).

²⁸⁸ In 2021, a Duval County teacher was fired for refusing to remove a Black Lives Matter flag from her classroom. Bloch, "Duval County Teacher Amy Donofrio Terminated," *Florida Times-Union, Jacksonville*; In Spring 2023, the state launched an investigation into a teacher for showing a film with a gay character: Wolfe, "Florida Teacher Under Investigation for Showing Disney Movie With Gay Character," *CNN*; In April 2023, a substitute teacher in Jacksonville was fired for posting a social media video of empty library bookshelves, commenting on the impacts of rising book bans: Connolly, "Florida Teacher Fired After Tweets About Book Removals Continues Fight Against Censorship," *School Library Journal*; In October 2023, a Florida teacher was fired for using the gender-neutral honorific "Mx.:" Yurcaba, "Florida Teacher Fired for Using Gender-Neutral Honorific 'Mx.,'" *NBC News*; Some Florida teachers have also described potential labor rights violations, which are beyond the scope of this report, but remain a serious concern.

²⁸⁹ HRW, SRLIL, FL Rising interview with Celeste and Naomi, Miami, February 16, 2024.

²⁹⁰ The Universal Declaration of Human Rights, which is widely accepted as reflecting customary international law, recognizes the right to health: Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), art. 25.1; The ICESCR, which the US has signed but not ratified, guarantees the right to the "enjoyment of the highest attainable standard of physical and mental health;" See also UNESCO et al., "The Journey Towards Comprehensive Sexuality Education, Global Status Report," 2021, <https://doi.org/10.54675/NFEK1277> (accessed April 11, 2024), p. 17-32.

²⁹¹ Jo Yurcaba, "Sex Ed That Excludes LGBTQ+ People is Tied to Worse Health Outcomes," *Forbes*, October 14, 2020, <https://www.forbes.com/sites/joyurcaba/2020/10/14/sex-ed-that-excludes-lgbtq-people-is-tied-to-worse-health-outcomes/?sh=195706c513cb> (accessed April 11, 2024): "[W]hen LGBTQ+ youth see themselves reflected in the lessons they learn at school, that type of affirmation can be life changing and, in some cases, life-saving."

²⁹² Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, signed by the US on February 16, 1995, Art. 3. The US has signed but not ratified the CRC.

The Committee on the Rights of the Child, which interprets the CRC, has called upon states to provide youth with “[a]ge-appropriate, comprehensive and inclusive sexual and reproductive health education, based on scientific evidence and human rights standards,” noting that “[a]ttention should be given to gender equality, sexual diversity, [and] sexual and reproductive health rights.”²⁹³ The committee has also stated that adolescents should have access to “nondiscriminatory sexual and reproductive health services, information and education” and urged governments to “adopt comprehensive gender and sexuality-sensitive sexual and reproductive health policies for adolescents,” as unequal access to such information amounts to discrimination and may lead to poor health outcomes.²⁹⁴

Further Guidance from International Bodies

In 2019, the UN Working Group of Experts on People of African Descent issued a report with measures that it recommends countries pursue.²⁹⁵ These include critical recommendations relevant to Florida and other states with discriminatory censorship laws. The experts recommended that states:

[A]dopt measures to combat the indirect discrimination faced by children in education systems by... ensuring the inclusion in curricula of the histories and cultures of people of African descent and the history of the transatlantic trade in enslaved Africans and ensuring the cultural or linguistic relevance of teaching for children of African descent.²⁹⁶

The working group also recommended that early childhood through adult education include knowledge about people of African descent, and their contributions to civilization and culture. This knowledge should avoid stereotypes, and people of African descent should be involved in its development. Finally, the working group acknowledged that such instruction should be developed with the aim of preventing future racial discrimination. It wrote that states should “intensify efforts in the field of education in order to promote an

²⁹³ Committee on the Rights of the Child, General Comment No. 20, The Implementation of the Rights of the Child During Adolescence, CRC/C/GC/20 (2016), docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsqIkirKQZLK2M58RF%2F5FovH%2BgoBeHNYSXl2ulaelW9Y1nEBWXdUgC9p%2Fn2WzRfn3fwsXNNC%2B2E7%2BbuK3ful8wJQP6BtAlEzFZVOz6Bnyk9OH (accessed April 11, 2024), para. 61.

²⁹⁴ Committee on the Rights of the Child, General Comment No. 20, para. 59.

²⁹⁵ United Nations General Assembly, Report of the Working Group of Experts on People of African Descent, para. 78.

²⁹⁶ *Ibid.*

understanding and awareness of the causes, consequences and evils of racism, racial discrimination, xenophobia and related intolerance.”²⁹⁷ Education of this nature is not divisive. Rather, it ensures the next generation of youth have the awareness and tools required to build a future free from discrimination.

²⁹⁷ Ibid.

Acknowledgments

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Dwight Bullard, Florida Rising senior political advisor, provided research and advocacy guidance. Katie Blankenship, PEN America Florida senior director, and Joseph Wardenski, Wardenski P.C. founder and principal attorney, provided valuable policy input. The report was edited by Alison Leal Parker, US Program deputy director; Elizabeth Calvin, Children's Rights senior advocate; Cristian Gonzalez Cabrera, LGBT rights senior researcher; Ryan Thoreson, LGBT rights specialist; Maria McFarland Sánchez-Moreno, senior legal advisor; and Joe Saunders, deputy program director.

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Human Rights Watch, The Rule of Law Impact Lab, and Florida Rising are grateful to the many students, parents, teachers, advocates, and organizers who generously shared their time and experiences throughout the research. They continue to lead inspiring efforts to guarantee the right to learn.

Appendix I: Letter to the Center for Disease Control and Prevention

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-736-1300; 917-591-3452

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DEPUTY EXECUTIVE DIRECTOR
Wisla Heneghan, *DED/Chief Operating Officer*

SENIOR LEADERSHIP

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Stanford Law School | Rule of Law Impact Lab



HRW.org

April 22, 2024

Dear Dr. Mandy Cohen, Centers for Disease Control and Prevention,

We write on behalf of Florida Rising, Human Rights Watch, and Stanford Law School's Rule of Law Impact Lab to request your response in advance of a forthcoming report based on research our organizations have conducted. We expect to publish this report in June 2024. We would like to ensure your views regarding our findings are accurately included.

In this context, we investigated Florida's decision to withdraw from the Centers for Disease Control's Annual Youth Risk Behavioral Survey (YRBS). This decision, as you are aware, will have drastic consequences for the ability of state and federal public health officials to identify and tailor effective responses to youth mental and physical health problems in the state. Since federal funding for sexual health and other public health initiatives is tied to participation in the survey, Florida's students will be harmed by this decision.

In light of these findings, we are requesting your feedback on the following:

- What steps did the CDC take to encourage Florida to maintain its participation in the YRBS?
- Has the CDC attempted to study the myriad impacts of a state withdrawing participation in the YRBS and if so, could you share your findings?
- What steps, if any, is the CDC taking or planning to take to continue gathering data for Florida and its counties regarding youth health behaviors and outcomes?
- How does the CDC plan to ensure the health of Florida students (including LGBTQ and Black students particularly impacted by discriminatory censorship laws) is monitored and protected?

We would need your response in advance of May 13 (three weeks from receiving this letter) so we may take it into account in our report. Thank you for your attention to this request for feedback.

AMMAN • AMSTERDAM • BEIRUT • BERLIN • BRUSSELS • CHICAGO • COPENHAGEN • GENEVA • GOMA • JOHANNESBURG • KYIV • KINSHASA • LONDON • LOS ANGELES • MIAMI • NAIROBI • NEW YORK • PARIS • SAN FRANCISCO • SÃO PAULO • SILICON VALLEY • STOCKHOLM • SYDNEY • TOKYO • TORONTO • WASHINGTON • ZÜRICH

Responses received after May 13 may not necessarily be included in our reporting but may, at our discretion, be posted on our websites. If you or someone on your staff would like to discuss any aspect of this report, please contact our research team members Trey Walk [REDACTED] and Maria Burnett [REDACTED].

Sincerely,

Dwight Bullard Jr., Senior Political Advisor, Florida Rising

Amrit Singh, Executive Director, Rule of Law Impact Lab, Stanford Law School

Alison Parker, Deputy Director, Human Rights Watch US Program

Appendix II: Letter to the Department of Justice Civil Rights Division

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: +1-212-290-4700
Fax: +1-212-736-1300; 917-591-3452

Tirana Hassan, *Executive Director*

DEPUTY EXECUTIVE DIRECTOR

Wisla Heneghan, *DED/Chief Operating Officer*

SENIOR LEADERSHIP

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April 22, 2024

Dear Assistant Attorney General Kristen Clarke, Department of Justice Civil Rights Division,

We write on behalf of Florida Rising, Human Rights Watch, and Stanford Law School's Rule of Law Impact Lab to request your response in advance of a forthcoming report based on research our organizations have conducted. We expect to publish this report in June 2024. We would like to ensure your views regarding our findings are accurately included.

The report specifically focuses on the harmful effects of the Stop WOKE Act (HB7), the Parental Rights in Education Act (HB1557), and HB1069, as well prohibitions on state school participation in the College Board's [AP African American Studies course](#), and Florida's participation in the Centers for Disease Control and Prevention's [Youth Behavioral Risk Survey](#).

Our findings indicate that Florida's laws and policy actions individually, and in their totality, undermine international human rights law, specifically the right to education and the right to be free of discrimination, among other rights outlined in the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Florida's actions, led by the Governor and state Department of Education, have contributed to creating an environment of censorship and discrimination, especially hostile in its impact on Black Floridians and LGBTQ Floridians. We found that the [politicization of public schools](#) in Florida has further [undermined](#) the right to education. These findings are based on our interviews with over 60 people (including teachers, parents, students, school board members, and civic organizers), consultations with education and civil rights experts, reviews of Florida laws, guidance from the state and federal Departments of Education, and news reports.

Our planned publication is one of many in recent years detailing the harmful effects of the Stop WOKE Act and other state laws restricting classroom instruction on the causes of systemic racism; the Parental Rights in Education law and other "Don't Say Gay" laws restricting classroom discussion of sexual orientation or gender

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identity; and state laws that have accelerated book banning, primarily impacting LGBTQ people and people of color.

In light of these consistent findings, we are requesting your feedback on the following:

- What steps is the Department of Justice taking or planning to take to enforce US civil rights law, particularly for LGBTQ and Black K-12 students, in Florida and other states?
- Has your office considered issuing guidance regarding how restricting LGBTQ-related content in elementary, middle, and high school curricula may damage young people, and also contribute to a hostile environment in schools for LGBTQ students? If not, would this be a possible approach given the number of state laws either in force or under consideration across the country which seek to restrict such content?
- Has your office considered investigating how laws impacting classroom instruction may contribute to increased bullying or harassment for protected groups?
- How could your office increase community engagement in Florida and other states to ensure citizens who believe they are facing civil rights violations can understand how to file complaints with your office?
- Has your office considered signing statements of interest or joining as a party in ongoing litigation to challenge laws that undermine the civil rights of Black and LGBTQ K-12 students?

We would need your response in advance of May 13 (three weeks from receiving this letter) so we may take it into account in our report. Thank you for your attention to this request for feedback. Responses received after May 13 may not necessarily be included in our reporting but may, at our discretion, be posted on our websites. If you or someone on your staff would like to discuss any aspect of this report, please contact our research team members Trey Walk [REDACTED] and Maria Burnett [REDACTED]

Sincerely,

Dwight Bullard Jr., Senior Political Advisor, Florida Rising

Amrit Singh, Executive Director, Rule of Law Impact Lab, Stanford Law School

Alison Parker, Deputy Director, Human Rights Watch US Program

Appendix III: Letter to the Florida Commissioner of Education

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April 22, 2024

Dear Office of Commissioner Manny Diaz Jr.,

We write on behalf of Florida Rising, Human Rights Watch, and Stanford Law School's Rule of Law Impact Lab to request your response in advance of a forthcoming report based on research our organizations have conducted. We expect to publish this report in June 2024. We would like to ensure your views regarding our findings are accurately included.

The report specifically focuses on the harmful effects of the Stop WOKE Act (HB7), the Parental Rights in Education Act (HB1557), and HB1069, as well prohibitions on state school participation in the College Board's [AP African American Studies course](#), and Florida's participation in the Centers for Disease Control and Prevention's [Youth Behavioral Risk Survey](#).

Our findings indicate that Florida's laws and policy actions individually, and in their totality, undermine international human rights law, specifically the right to education and the right to be free of discrimination, among other rights outlined in the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Florida's actions, led or implemented by the Florida Department of Education, have contributed to creating an environment of censorship and discrimination, especially hostile in its impact on Black Floridians and LGBTQ Floridians. We found that the [politicization of public schools](#) in Florida has further [undermined](#) the right to education. These findings are based on our interviews with over 60 people (including teachers, parents, students, school board members, and civic organizers), consultations with education and civil rights experts, reviews of Florida laws, guidance from the state and federal Departments of Education, and news reports.

In light of these consistent findings, we are requesting your feedback on the following:

- What steps is the Florida Department of Education (FL DOE) taking or planning to take to improve the quality of education provided in Florida, particularly for LGBTQ and Black students?

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- What steps is the Department taking or planning to take to ensure content of the curricula across K-12 does not contribute to the potential for discrimination on the basis of sex, gender or ethnicity against LGBTQ and Black students?
- What steps is the Department taking or planning to take to reduce the reported culture of fear of speaking out against recent laws and policies among educators and education officials in the state?

Further, we would like to ask FL DOE to provide any additional information it wishes to in relation to the following policy decisions in which FL DOE was reportedly involved:

- Decision to [forbid Florida high schools](#) from offering the College Board's AP African American Studies Course.
- Decision to [forbid Florida counties](#) from participating in the Centers for Disease Control and Prevention's Annual Youth Behavioral Risk Survey.
- Amendments to African American history instructional standards which, [according to some experts](#), contain inaccuracies and historical distortions regarding the history of race and slavery in the United States.

If there is anything further you would like to share with us about this subject matter and your office's views or actions regarding how to address discrimination and censorship in K-12 public schools, please do so.

We would need your response in advance of May 13 (three weeks from receiving this letter) so we may take it into account in our report. Thank you for your attention to this request for feedback. Responses received after May 13 may not necessarily be included in our reporting but may, at our discretion, be posted on our websites. If you or someone on your staff would like to discuss any aspect of this report, please contact our research team members Trey Walk [REDACTED] and Maria Burnett [REDACTED].

Sincerely,

Dwight Bullard Jr., Senior Political Advisor, Florida Rising

Amrit Singh, Executive Director, Rule of Law Impact Lab, Stanford Law School

Alison Parker, Deputy Director, Human Rights Watch US Program

Appendix IV: Letter to the US Department of Education, Office of Civil Rights

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April 22, 2024

Dear Catherine E. Lhamon, US Department of Education, Office of Civil Rights,

We write on behalf of Florida Rising, Human Rights Watch, and Stanford Law School's Rule of Law Impact Lab to request your response in advance of a forthcoming report based on research our organizations have conducted. We expect to publish this report in June 2024. We would like to ensure your views regarding our findings are accurately included.

The report specifically focuses on the harmful effects of the Stop WOKE Act (HB7), the Parental Rights in Education Act (HB1557), and HB1069, as well prohibitions on state school participation in the College Board's [AP African American Studies course](#), and Florida's participation in the Centers for Disease Control and Prevention's [Youth Behavioral Risk Survey](#).

Our findings indicate that Florida's laws and policy actions individually, and in their totality, undermine international human rights law, specifically the right to education and the right to be free of discrimination, among other rights outlined in the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Florida's actions, led by the Governor and the state Department of Education, have contributed to creating an environment of censorship and discrimination, especially hostile in its impact on Black Floridians and LGBTQ Floridians. We found that the [politicization of public schools](#) in Florida has further [undermined](#) the right to education. These findings are based on our interviews with over 60 people (including teachers, parents, students, school board members, and civic organizers), consultations with education and civil rights experts, reviews of Florida laws, guidance from the state and federal Departments of Education, and news reports.

Our planned publication is one of many in recent years detailing the harmful effects of the Stop WOKE Act and other state laws restricting classroom instruction on the causes of systemic racism; the Parental Rights in Education law and other "Don't Say Gay" laws restricting classroom discussion of sexual orientation or gender

identity; and state laws that have accelerated book banning, primarily impacting LGBTQ people and people of color.

In light of these consistent findings, we are requesting your feedback on the following:

- What steps is the Department taking or planning to take to enforce US civil rights law, particularly for LGBTQ and Black K-12 students, in Florida and other states?
- Has your office considered issuing guidance regarding how restricting LGBTQ-related content in elementary, middle, and high school curricula may contribute to a hostile environment in schools for LGBTQ students? If not, would this be a possible approach given the number of state laws either in force or under consideration across the country which seek to restrict such content?
- How could your office increase community engagement in Florida and other states to ensure citizens who believe they are facing civil rights violations can understand how to file complaints with your office?
- What actions is your office planning to take in response to efforts in Florida and other states to ban books that are authored by or contain content about the experiences of LGBTQ, Black, and Brown people?

Further, we spoke with several individuals regarding their experiences with the Office of Civil Rights (OCR) complaint process. Many directly impacted people are unaware of this mechanism or find the process opaque and cumbersome.

- Given the urgency of the civil rights violations occurring, what steps is your office taking to promote access to the OCR complaint process and increase its transparency for complainants?

We would need your response in advance of May 13 (three weeks from receiving this letter) so we may take it into account in our report. Thank you for your attention to this request for feedback. Responses received after May 13 may not necessarily be included in our reporting but may, at our discretion, be posted on our websites. If you or someone on your staff would like to discuss any aspect of this report, please contact our research team members Trey Walk [REDACTED] and Maria Burnett [REDACTED]

Sincerely,

Dwight Bullard Jr., Senior Political Advisor, Florida Rising

Amrit Singh, Executive Director, Rule of Law Impact Lab, Stanford Law School

Alison Parker, Deputy Director, Human Rights Watch US Program

Appendix V: Letter to the Office of Florida Governor Ron DeSantis

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April 22, 2024

Dear Office of Governor Ron DeSantis,

We write on behalf of Florida Rising, Human Rights Watch, and Stanford Law School's Rule of Law Impact Lab to request your response in advance of a forthcoming report based on research our organizations have conducted. We expect to publish this report in June 2024. We would like to ensure that your views regarding our findings are accurately included.

The report specifically focuses on the harmful effects of the Stop WOKE Act (HB7), the Parental Rights in Education Act (HB1557), and HB1069, as well prohibitions on state school participation in the College Board's [AP African American Studies course](#), and Florida's participation in the Centers for Disease Control and Prevention's [Youth Behavioral Risk Survey](#).

Our findings indicate that Florida's laws and policy actions individually, and in their totality, undermine international human rights law, specifically the right to education and the right to be free of discrimination, among other rights outlined in the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Florida's actions, led or endorsed by the Governor, have contributed to creating an environment of censorship and discrimination, especially hostile in its impact on Black Floridians and LGBTQ Floridians. We found that the [politicization of public schools](#) in Florida has further [undermined](#) the right to education. These findings are based on our interviews with over 60 people including teachers, parents, students, school board members, and civic organizers, consultations with education and civil rights experts, and reviews of Florida laws, guidance from the state and federal Departments of Education, and news reports.

In light of these findings, we are requesting your feedback on the following:

- What steps is your administration taking or planning to take to improve the quality of education provided in Florida, particularly for LGBTQ and Black students, since these laws took effect?

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- What steps is your administration taking or planning to take to reduce the reported culture of fear and censorship among educators and education officials in the state?
- What steps will your administration take to remove potential factual inaccuracies and historical distortions from the Civics Seal of Excellence Initiative and reduce the perception that the initiative is [an attempt to politically influence](#) educators and students?

If there is anything further you would like to share with us about this subject matter and your office's views or actions regarding how to address discrimination and censorship against Black and LGBTQ K-12 public school students in particular, please do so.

We would need your response in advance of May 13 (three weeks from receiving this letter) so that we may take it into account in our report. Thank you for your attention to this request for feedback. Responses received after May 13 may not necessarily be included in our reporting but may, at our discretion, be posted on our websites. If you or someone on your staff would like to discuss any aspect of this report, please contact our research team members Trey Walk [REDACTED] and Maria Burnett [REDACTED].

Sincerely,

Dwight Bullard Jr., Senior Political Advisor, Florida Rising

Amrit Singh, Executive Director, Rule of Law Impact Lab, Stanford Law School

Alison Parker, Deputy Director, Human Rights Watch US Program

Appendix VI: Letter to the White House Domestic Policy Council

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Andrew Zolli



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LawSchool | Rule of Law
Impact Lab



HRW.org

April 22, 2024

Dear Neera Tanden, White House Domestic Policy Council,

We write on behalf of Florida Rising, Human Rights Watch, and Stanford Law School's Rule of Law Impact Lab to request your response in advance of a forthcoming report based on research our organizations have conducted. We expect to publish this report in June 2024. We would like to ensure your views regarding our findings are accurately included.

The report specifically focuses on the harmful effects of the Stop WOKE Act (HB7), the Parental Rights in Education Act (HB1557), and HB1069, as well prohibitions on state school participation in the College Board's [AP African American Studies course](#), and Florida's participation in the Centers for Disease Control and Prevention's [Youth Behavioral Risk Survey](#).

Our findings indicate that Florida's laws and policy actions individually, and in their totality, undermine international human rights law, specifically the right to education and the right to be free of discrimination, among other rights outlined in the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Florida's actions, led by the Governor and state Department of Education, have contributed to creating an environment of censorship and discrimination, especially hostile in its impact on Black Floridians and LGBTQ Floridians. We found that the [politicization of public schools](#) in Florida has further [undermined](#) the right to education. These findings are based on our interviews with over 60 people (including teachers, parents, students, school board members, and civic organizers), consultations with education and civil rights experts, reviews of Florida laws, guidance from the state and federal Departments of Education, and news reports.

Our planned publication is one of many in recent years detailing the harmful effects of the Stop WOKE Act and other state laws restricting classroom instruction on the causes of systemic racism; the Parental Rights in Education law and other "Don't Say Gay" laws restricting classroom discussion of sexual orientation or gender

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identity; and state laws that have accelerated book banning, primarily impacting LGBTQ people and people of color.

In light of these consistent findings, we are requesting your feedback on the following:

- What steps is the White House taking or planning to take to enforce US civil rights law, particularly for LGBTQ and Black K-12 students, in Florida and other states?
- Has your office considered issuing guidance regarding how restricting LGBTQ-related content in elementary, middle, and high school curricula may damage young people, and contribute to a hostile environment in schools for LGBTQ students? If not, would this be a possible approach given the number of state laws either in force or under consideration across the country which seek to restrict such content?
- How could your office increase community engagement in Florida and other states to ensure citizens who believe they are facing civil rights violations can understand how to protect their rights?
- Will the White House propose increased funding for the US Department of Education's Office for Civil Rights (OCR) to ensure the office can promote the availability of the OCR complaint mechanisms, as well as investigate and resolve complaints in a timely manner?
- Has the White House considered hosting a national summit on educational censorship and book banning that includes the involvement of multiple federal agencies?

We would need your response in advance of May 13 (three weeks from receiving this letter) so we may take it into account in our report. Thank you for your attention to this request for feedback. Responses received after May 13 may not necessarily be included in our reporting but may, at our discretion, be posted on our websites. If you or someone on your staff would like to discuss any aspect of this report, please contact our research team members Trey Walk [REDACTED] and Maria Burnett [REDACTED].

Sincerely,

Dwight Bullard Jr., Senior Political Advisor, Florida Rising

Amrit Singh, Executive Director, Rule of Law Impact Lab, Stanford Law School

Alison Parker, Deputy Director, Human Rights Watch US Program

Appendix VII: Email Response from the White House Domestic Policy Council

Dear Mr. Walk,

Apologies for the delay in our response. Please find below responses to questions included in your letter on behalf of the Administration.

Thank you,
Jessica

Jessica Cardichon

Special Assistant to the President for Education

Domestic Policy Council | The White House



- 1. What steps is the White House taking or planning to take to enforce US civil rights law, particularly for LGBTQ and Black K-12 students, in Florida and other states?**

The U.S. Department of Education's Office for Civil Rights (OCR) is a federal civil rights law enforcement office within the U.S. Department of Education. OCR is fully committed to protecting the civil rights of all students, including LGBTQI+ and Black students, consistent with OCR's mission to ensure equal access to education and to promote educational excellence through vigorous enforcement of civil rights.

The federal civil rights laws enforced by OCR protect all students' access to their education without discrimination based on race, color, national origin, sex, or disability. They also require recipients to address any hostile environment based on race, color, national origin, sex, or disability in their programs or activities.

In addition to prohibiting discrimination, each of the civil rights laws enforced by OCR also prohibits retaliation against individuals who submit a complaint of

discrimination or participate in the investigation of complaints. Specifically, schools that receive federal funds are prohibited from intimidating, threatening, coercing, or discriminating against any individual who complains about discriminatory activities. If after completion of an investigation, OCR determines that a recipient has violated the federal civil rights laws that OCR enforces, OCR will require that the recipient take actions to remedy the violation, and OCR will monitor the recipient to ensure those actions are completed.

2. **Has your office considered issuing guidance regarding how restricting LGBTQ-related content in elementary, middle, and high school curricula may damage young people, and contribute to a hostile environment in schools for LGBTQ students? If not, would this be a possible approach given the number of state laws either in force or under consideration across the country which seek to restrict such content?**

In addition to the investigation and resolution of complaints, OCR provides technical assistance to help parents, students, school officials, and others understand their rights and responsibilities. OCR provides technical assistance in various ways, including through presentations, responses to telephone and written inquiries, workshops, and webinars.

Additionally, OCR provides guidance and resources to support institutions in voluntarily complying with federal civil rights laws, and inform beneficiaries, such as students and applicants for admission to academic programs, of their rights under the federal civil rights laws that OCR enforces.

In August, OCR released a [Dear Colleague Letter on Race and School Programming](#), which clarifies the circumstances under which schools lawfully may – consistent with Title VI – develop curricula and programs or engage in activities that promote racially inclusive school communities. The Dear Colleague Letter explains that schools may be in violation of Title VI when they create, encourage, accept, tolerate, or fail to correct a racially hostile educational environment. The following type of harassment creates a hostile environment under Title VI: unwelcome conduct based on race, color, or national origin that, based on the totality of circumstances, is subjectively and objectively offensive and is so severe or pervasive, that it limits or denies a person’s ability to participate in or benefit from the recipient’s education program or activity. OCR continues to consider information from stakeholders, from OCR’s Civil Right Data Collection (CRDC), and from OCR’s enforcement experience to determine areas in which additional guidance and technical assistance would be helpful to school communities.

3. **How could your office increase community engagement in Florida and other states to ensure citizens who believe they are facing civil rights violations can understand how to protect their rights?**

The Department is providing ongoing training that addresses OCR's civil right enforcement authorities with respect to book bans that may violate civil rights. Matt Nosanchuk, who is coordinating the Education Department's outreach and training on book bans, has provided these trainings to a wide range of audiences that are connected to school communities. These have included, students, parents, teachers, school administrators, librarians, and advocates. In recent weeks, he has conducted two trainings in Florida that were organized by Rep. Lois Frankel and Rep. Debbie Wasserman-Schultz, respectively. He is available to conduct additional trainings upon request.

4. **Will the White House propose increased funding for the US Department of Education's Office for Civil Rights (OCR) to ensure the office can promote the availability of the OCR complaint mechanisms, as well as investigate and resolve complaints in a timely manner?**

In FY 2023, OCR received 19,201 complaints – the highest in history – and had 562 full-time employees – the seventh lowest in OCR history. There are currently 14,626 open cases. Compared to this time last year the office has already seen a 23% increase in complaints. President Biden's FY 25 budget request includes \$162M for OCR, a \$22 million (16%) increase. These additional funds would allow OCR to hire an additional 86 staff to increase staffing capacity to handle an increasing complaint caseload – including rising reports of antisemitism, anti-Arab discrimination, and other forms of discrimination.

“Why Do They Hate Us So Much?”

Discriminatory Censorship Harms Education in Florida

Since 2021, political leaders in the US state of Florida have reshaped K-12 schools through laws and policies that censor, distort, and discriminate. Such efforts include passing laws restricting classroom instruction about race in US history, sexual orientation and gender identity, banning books available to students, and setting inaccurate and misleading civics and history standards.

“*Why Do They Hate Us So Much?*” documents the impacts on students of Florida’s denial of access to accurate information about Black history, systemic racism, and about their health, when related to sexual orientation or gender identity. Florida leads the United States in the number of books banned from classrooms and school libraries, primarily literature written by or about LGBTQ people and people of color. Students and teachers report that new legal and curriculum changes have created an environment more conducive to harassment and discrimination in the classroom on the basis of race, sexual orientation, and gender identity. Parents and teachers describe the difficulty of providing children with an education free from discrimination in the increasingly hostile environment.

Human Rights Watch, Florida Rising, and Stanford Law School Rule of Law Impact Lab call on Florida to rescind its discriminatory policies and promote a curriculum that counters discrimination and prepares students to live healthy lives in a diverse society. They also call for a bold federal response to address this civil and human rights crisis in US public schools.



Students in Hillsborough County protest after Florida education officials voted to ban classroom instruction on gender identity and sexual orientation in all public school grades, expanding on the “Don’t Say Gay” law signed by Republican Governor Ron DeSantis in Tampa, Florida, April 21, 2023.

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