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Judge Blocks Florida’s “Stop W.O.K.E.” Censorship Bill From Taking Effect in Higher Education

In an important victory for educators’ rights to teach free from censorship and discrimination, a federal judge issued [an order](#) that will immediately block members of the Florida Board of Governors from enforcing Florida’s HB 7 — also known as the Stop Wrongs Against Our Kids and Employees (“Stop W.O.K.E. Act) in public higher education institutions. The order granted a preliminary injunction to six plaintiffs in *Pernell v. Florida Board of Governors*, a lawsuit filed by a multi-racial group of educators and a student in Florida colleges and universities challenging the discriminatory classroom censorship law that severely restricts Florida educators and students from learning and talking about issues related to race and gender.

The plaintiffs are represented by the American Civil Liberties Union, the ACLU of Florida, the Legal Defense Fund (LDF), and *pro bono* counsel Ballard Spahr. Florida is one of over a dozen states across the country that have passed laws aimed at censoring discussions around race and gender in the classroom.

The court order found the Stop W.O.K.E. Act violates the First and Fourteenth Amendments. The judge found, “The law officially bans professors from expressing disfavored viewpoints in university classrooms while permitting unfettered expression of the opposite viewpoints. Defendants argue that, under this Act, professors enjoy ‘academic freedom’ so long as they express only those viewpoints of which the State approves. This is positively dystopian. It should go without saying that ‘[i]f liberty means anything at all it means the right to tell people what they do not want to hear.’”

“We are gratified at the court’s decision to halt this discriminatory law from causing further harm to Florida higher education students and educators and to the state at large,” said **Morenike Fajana, assistant counsel with LDF**. “Black, Brown, and LGBTQ+ youth experience systemic discrimination in their daily lives, and they should not be banned from open conversations with professors who have dedicated their lives to examining these issues and often have similar experiences.”

“This is a huge victory for anyone that values academic freedom and recognizes the value of inclusive education,” said **Emerson Sykes, senior staff attorney with the ACLU Speech, Privacy and Technology Project**. “The First Amendment broadly protects our right to share information and ideas, and this includes educators’ and students’ right to learn, discuss, and

debate issues around systemic racism and sexism. This preliminary injunction is a great step in the right direction, and we look forward to the court striking down this discriminatory classroom censorship bill once and for all.”

The lawsuit argues the Stop W.O.K.E. Act violates the First and Fourteenth Amendments by imposing viewpoint-based restrictions on instructors and students in higher education that are impermissibly vague. The complaint also argues that the law violates the Equal Protection Clause because it was enacted with a racially discriminatory purpose and will have a disparate impact on Black educators and students.

Rather than allow important issues around race and gender discrimination to be explored in public education, Florida lawmakers — working together with Gov. DeSantis — have moved to impose their own viewpoints in state higher education through the Stop W.O.K.E. Act. The law prohibits educators from expressing viewpoints around racism and sexism that are disfavored by Florida lawmakers, even where those viewpoints are widely accepted and considered foundational information in their academic disciplines. The law specifically targets and places vague restrictions on educators’ ability to teach and discuss concepts around the legacy of slavery in America, white privilege, and anti-racism.

“Today, the court sided with Florida educators’ and students’ right to teach and learn free from censorship or discrimination,” said **Jerry Edwards, staff attorney with the ACLU of Florida**. “The ability to have honest and open discussions about our history and its impact on Black and Brown communities is crucial to our democracy. When we better understand our country’s past and failures, we allow ourselves the opportunity to pave a better future for all.”

The preliminary injunction will immediately block members of the Boards of Governors from enforcing the law against public higher education institutions in Florida. And in separate litigation, Judge Walker blocked the law’s application to Florida employers. However, K-12 schools are still being impacted by this classroom censorship law. The preliminary victory in the case could bolster similar challenges to classroom censorship efforts in other states.

“It’s an honor to work with the ACLU, ACLU of Florida, and Legal Defense Fund on this matter, and in particular to represent these clients who agreed to take a public stance against injustice,” said **Jason Leckerman, Litigation Department Chair at Ballard Spahr**. “It’s vitally important that education be free from censorship and discrimination. On a larger scale, much work remains to be done, but today, we can take a moment to be proud of what we’ve come together to accomplish thus far.”

LDF continues to challenge efforts to gag speech about race and issues of discrimination that have emerged across the country following the 2020 racial justice movements. In October 2020, LDF filed a putative class action [lawsuit](#) challenging former President Trump’s Executive Order 13950, which banned recipients of federal funds from carrying out gender and diversity trainings that promoted diversity, equity and inclusion. The EO was a precursor to and model for the Stop W.O.K.E. Act and other state-level measures targeting viewpoints related to race and identity. The EO was eventually revoked on the first day of the Biden Administration.

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