

May 19, 2021

**Submitted Electronically via Regulations.gov**

Mia Howerton  
U.S. Department of Education  
400 Maryland Ave SW, Room 3C152  
Washington D.C. 20202

**RE: *Comments regarding Docket ID ED-2021-OESE-0033,  
U.S. Department of Education  
Proposed Priorities-American History and Civics Education***

Dear Ms. Howerton:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. ("LDF"), I submit the following comments on the proposed priorities for the American History and Civics Education programs.

LDF is the country's first and foremost civil rights law organization.<sup>1</sup> Founded in 1940 under the leadership of Thurgood Marshall, LDF was launched at a time when the nation's aspirations for equality and due process of law were stifled by widespread state-sponsored racial inequality. From that era to the present, LDF's mission has been transformative—to achieve racial justice, equality, and an inclusive society.

LDF's litigation, policy advocacy, organizing, and public education programs seek to ensure the fundamental rights of all people to quality education, economic opportunity, the right to vote and fully participate in democracy, and the right to a fair and just judicial system. As the organization that litigated *Brown v. Board of Education*,<sup>2</sup> the landmark Supreme Court case that struck down segregation in public schools, LDF has long led the struggle for equal education in the United States. That struggle continues today, in our commitment to building K-12 and higher education learning institutions that foster diversity and advance racial justice.

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<sup>1</sup> LDF has been an entirely separate organization from the NAACP since 1957.

<sup>2</sup> 347 U.S. 483 (1954).

We support the Department of Education (“Department”) Proposed Priorities to support the development of culturally responsive teaching and learning and the promotion of information literacy skills.

Over the last year, the country witnessed people of all races, ethnicities, and gender identities gather to protest the killings of George Floyd, Breonna Taylor, Ahmaud Arbery, and countless other Black individuals. Furthermore, the government was forced to reckon with deeply entrenched, structural racism during the COVID-19 pandemic, which continues to disproportionately ravage communities of color—nationwide, Black Americans are 3.4 times more likely to have died from COVID-19 than white Americans.<sup>3</sup> And, just months ago, on January 6<sup>th</sup>, the country witnessed a violent attack on the Capitol by white supremacists in an attempt to undermine our democracy and negate the votes and voices of Black communities. The January 6<sup>th</sup> insurrection was the natural consequence of years of rhetoric inciting and condoning racism and white supremacy, fostered and stoked by the former President,<sup>4</sup> which culminated in the most dangerous assault on American democracy in more than a century.

These inflection points in national consciousness, and the heightened awareness of and desire to confront racial and social injustices, demonstrates that the work to combat systemic racism and injustice is more vital than ever to the stability of our democracy. Encouraging students and teachers to engage in honest dialogue regarding the history of race in this country, learn from diverse perspectives, and build connections across communities will only strengthen the unity of our nation. A comprehensive understanding of history, civics, and government is fundamental to fostering an appreciation of diverse perspectives and the first step in addressing compounded inequalities. To learn from our history we must confront it, understand its complexity from multiple viewpoints, and embrace hard truths.

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<sup>3</sup> The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S., APM Research Lab (last updated March 5, 2021), <https://www.apmresearchlab.org/covid/deaths-by-race>; COVID-19 hospitalization and deaths by race/ethnicity, Centers for Disease Control and Prevention (last updated March 12, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-raceethnicity.html>.

<sup>4</sup> James Rainey & Melissa Gomez, *Asked to condemn white supremacists, Trump tells Proud Boys hate group to ‘stand by’*, LA Times (Sept. 29, 2020), <https://www.latimes.com/world-nation/story/2020-09-29/asked-to-condemn-whitesupremacists-trump-tells-proud-boys-hate-group-to-stand-by>.

## **Past Efforts to Suppress Marginalized Perspectives**

The United States government has a long history of criminalizing and suppressing dissent and perspectives from those opposing unjust systems.<sup>5</sup> Recent examples include COINTELPRO,<sup>6</sup> the Federal Bureau of Investigation’s decision to label Black Lives Matter activists as “Black Identity Extremists”<sup>7</sup> and the Trump Administration’s, now rescinded, Executive Order 13950 (“E.O.”).<sup>8</sup> In a blatant attempt to suppress the lived experiences of millions of Americans, the E.O. promoted a flawed, skewed, revisionist history that glorified a past rooted in white supremacy while silencing the viewpoints and experiences of those victimized by structural inequalities.

Every nation’s history includes unsettling truths that many would prefer to avoid, forget, or deny. Undertaking the difficult work of learning lessons from the past strengthens our nation’s commitment to liberty and justice for all. For the United States, that work requires reckoning with the legacy of the shameful racial subjugation of Black people in this country— from slavery and government-supported Jim Crow to mass incarceration and police violence—as well as our long history of discrimination against people of color more broadly, women, and LGBTQ persons. To deny this is to deny history. Without uninhibited discussion and examination of these legacies, we are ill-

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<sup>5</sup> Sam Levine, *FBI terrorism unit says ‘black identity extremists’ pose a violent threat*, The Guardian, (Oct. 7 2017) <https://www.theguardian.com/us-news/2017/oct/06/fbi-black-identity-extremists-racial-profiling>; Michael Kent Curtis, *The Curious History of Attempts to Suppress Antislavery Speech, Press, and Petition in 1835-37* Northwestern University Law Review 785 (1995); Aaron Robertson, *Racists politicized the US postal system when they burned abolitionist literature in 1835*, Literary Hub, (Sept. 4 2020), <https://lithub.com/racists-politicized-the-us-postal-system-when-they-burned-abolitionist-literature-in-1835/>; Adrienne LaFrance & Vann R. Newkirk II, *The Lost History of an American Coup D’État*, The Atlantic (Aug. 12, 2017), <https://www.theatlantic.com/politics/archive/2017/08/wilmington-massacre/536457/Wilmington>; Mohammed Elnaïem, *In the McCarthy Era, to Be Black Was to Be Red*, JSTOR Daily, (Nov. 13 2019), <https://daily.jstor.org/in-the-mccarthy-era-to-be-black-was-to-be-red/>.

<sup>6</sup> Bracko Marcetic, *The FBI’s Secret War*, Jacobian Magazine (Aug. 31, 2016), <https://www.jacobinmag.com/2016/08/fbi-cointelpro-new-left-panthers-muslim-surveillance>;

<sup>7</sup> Khaled A. Beydoun and Justin Hansford, *The F.B.I.’s Dangerous Crackdown on ‘Black Identity Extremists’*, New York Times (Nov. 15, 2017), <https://www.nytimes.com/2017/11/15/opinion/black-identity-extremism-fbi-trump.html>.

<sup>8</sup> E.O. 13950 “Combating Race and Sex Stereotyping” 85 FR 60683, 2020-21534. <https://www.federalregister.gov/documents/2020/09/28/2020-21534/combating-race-and-sex-stereotyping>.

equipped as a nation to address ongoing of discrimination and bias or reach the stated ideals of this country.

This nation’s historical record justifies, indeed demands, that Americans investigate the root causes of structural racism and injustice, and how the government contributed to such systems. The government should strive to be the most trustworthy sources of information for the public. The Department’s Proposed Priorities encourage teachers and students to seek the truth by exploring some of the most difficult and complex subjects, through critical thinking and analysis.

### **Importance of Teaching and Learning Diverse Histories**

It is through honest engagement with credible resources—whether the media or traditional education—and diverse perspectives that our society can strengthen connections across communities and advance equity.

The Department rightfully includes news literacy as a cornerstone of its focus on civics education. The country’s news media strives to maintain a commitment to open, trustworthy inquiry, including reviewing the history, biases, and exclusionary practices in all aspects of society. The Department’s Proposed Priorities appropriately support encouraging students to engage in critical thinking by:

“understanding their own biases when reviewing information as well as uncovering and recognizing bias in primary and secondary sources. [A]nd...[u]nderstanding how inaccurate information may be used to manipulate individuals, and developing strategies to recognize accurate and inaccurate information.”<sup>9</sup>

We urge the Department to additionally encourage students and teachers to learn strategies to identify media bias and distinguish fact from opinion even when accessed from established news sources. In doing so, the Department will succeed in teaching students not to assume that well-established news sources are inevitably unbiased. Critical thinking also includes teaching students to identify the perspective from which a news article is written, along with pinpointing any viewpoints or voices that may be missing.

Moreover, we support the Department’s efforts to create educational systems that teach students how to engage on difficult topics with intellectual integrity and respectful, honest discourse. Evidence clearly demonstrates that exposure to a diversity of ideas and

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<sup>9</sup> *Supra* note 1.

perspectives leads to better learning, and more fair-minded decision-making for all students and children.<sup>10</sup>

A research study, published in 2018 by the Southern Poverty Law Center,<sup>11</sup> documents that Americans know very little about the history of slavery and its impact on the United States. The Department's Proposed Priorities will help to elevate an understanding of structural racism in the United States, which is critical to its eradication. The Proposed Priorities must strive to improve instruction about American slavery and systemic racism, to fully integrate such subjects into standard curriculum, and to stress the importance of incorporating primary sources from diverse/minority backgrounds when teaching the history of slavery and its connection to the present. Without an understanding of structural racism, we will not be able to understand how historic inequalities can be reproduced across institutions.

### **Centering Racial Justice**

The Department's Proposed Priorities emphasize the importance of "educating students about the history and principles of the Constitution of the United States, including the Bill of Rights." We commend this approach and urge the Department to emphasize discussion of many of the later Constitutional amendments which are critically important to the realization of our democracy. Too often the focus on the Constitutional amendments fails to acknowledge the significance of the later amendments that expanded the franchise and acknowledged the marginalization and subjugation of Americans

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<sup>10</sup> M. J Chang, et. al., The educational benefits of sustaining cross-racial interaction among undergraduates, *Journal of Higher Education*, (2006), 430-455. <https://doi.org/10.1080/00221546.2006.11778933>; R. D. Godsil, *The Science of Equality in Education: The Impact of Implicit Bias, Racial Anxiety, and Stereotype Threat on Student Outcomes*, Perception Institute (2017), <https://perception.org/wp-content/uploads/2017/05/Science-of-Equality-Education.pdf>; C. K. Lai et. al., *Reducing implicit racial preferences: A comparative investigation of 17 interventions*, *Journal of Experimental Psychology: General* (2014), 1765-1785 <https://doi.org/10.1037/a0036260>; J. Luo, & D. Jamieson-Drake, *A retrospective assessment of the educational benefits of interaction across racial boundaries*, *Journal of College Student Development*, (2009), 67-86 <https://doi.org/10.1353/csd.0.0052>.

<sup>11</sup> *Teaching Hard History*, Southern Poverty Law Center (2018), <https://www.splcenter.org/20180131/teaching-hard-history#part-iv>.



throughout history. Specifically, emphasizing the importance and revolutionary content of the 13<sup>th</sup>, 14<sup>th</sup>, and 19<sup>th</sup> amendments is critical to understanding the promise and shortcomings of our democracy. Furthermore, the context of their adoption provides important historical perspective.

For the above reasons, we support the Department of Education's proposed rule and encourage continued engagement in this area.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Cylar Barrett". The signature is written in a cursive style and is positioned above a thin horizontal line.

Lisa Cylar Barrett  
Director of Policy