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Florida Educators and Students Challenge Florida’s Discriminatory ‘Stop WOKE’ Act

LDF, ACLU, ACLU Florida, Ballard Spahr represent plaintiffs

Today, a group of higher education students and educators [filed a lawsuit](#) challenging Florida’s HB 7 — also known as the Stop Wrongs Against Our Kids and Employees (“Stop W.O.K.E.”) Act — a classroom censorship bill which severely restricts Florida educators and students from learning and talking about issues related to race and gender in higher education classrooms. The plaintiffs are represented by [the Legal Defense Fund](#) (LDF), the American Civil Liberties Union, ACLU of Florida, and Ballard Spahr. Florida is one of nearly 20 states across the country that have passed similar laws limiting discussions around race and gender in the classroom.

The lawsuit argues the Stop W.O.K.E. Act violates the First and Fourteenth Amendments by imposing viewpoint-based restrictions on educators (including professors, lecturers, and student teaching assistants) and students that are vague and discriminatory. Additionally, it argues the Stop W.O.K.E. Act violates the Equal Protection Clause because it was enacted with the intent to discriminate against Black educators and students. 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 H.B. 7’s passage, Black students and educators in Florida testified to legislators about the harm it would have on their ability to speak freely about issues of race and to challenge racism.

“Governor DeSantis’ nefarious attack on truth, history and public education cannot be masked by a fatuous acronym mocking a Black colloquialism. H.B.7 seeks to deprive future generations of knowledge, information, and the ability to appreciate the humanity of their fellow citizens. It is also a direct and unlawful assault on the bedrock principle of free speech in a democracy. We call on our federal court system to strike it down,” **said LDF President and Director-Counsel Janai S. Nelson.** “Florida’s dangerous anti-truth measure is part of an extremely troubling wave of legislation across the country aimed at limiting essential free exchange in classrooms, undermining facts of history, and blunting the quality of education students receive — especially as it relates to issues of race and systemic inequality. We must all reject these attacks.”

“The murders of George Floyd, Breonna Taylor, and Ahmaud Aubrey, among too many others, helped inspire a racial reckoning in Florida, and across the nation, in the summer of 2020. As part of this reckoning, Floridians engaged in protests against police brutality and systemic

racism, and colleges and universities in the state also launched initiatives to promote anti-racism, equity, and inclusion,” said **Morenike Fajana, assistant counsel with LDF**. “In response to widespread community efforts to challenge racism, the Florida legislature passed ‘Stop W.O.K.E.’, a measure that perversely co-opts Black vernacular to greatly restrict speech related to systemic injustice and anti-Blackness, and even holds taxpayer money hostage as a threat to keep Florida educators and students in higher education from speaking freely about their areas of scholarship, including their own lived experiences with discrimination and their professional commitment to advancing racial justice.”

“All educators and students have a right to teach and learn free from censorship or discrimination,” said **Leah Watson, senior staff attorney with the ACLU Racial Justice Program**. “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. In an effort to prevent progress towards racial justice, the Stop W.O.K.E. Act deprives educators and students of important tools to challenge racism and sexism. We urge the court to put an immediate stop to this discriminatory classroom censorship bill.”

Rather than allow important issues around race and gender discrimination to be debated and explored in public education, Florida lawmakers — working together with Gov. DeSantis — have moved to impose their own viewpoints in state higher education. The law prohibits educators from teaching or even 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 bill targets and places vague restrictions on educators’ ability to teach and discuss important concepts pertaining to systemic inequalities, including the legacy of slavery in America, unconscious biases, racial privilege, and anti-racism.

“The Stop W.O.K.E. Act is a shameful result of propaganda and fear mongering,” said **Jerry Edwards, staff attorney with the ACLU of Florida**. “A free state does not seek to curtail the inalienable right to free expression in its college and university classrooms. Both the passage of this law and the conversations in support of it all have one thing in common: the people in power are terrified of students learning the truth about horrific racial violence that many residents in this state either survived or perpetuated. If we do not learn from the past, we are merely damned to repeat its gruesomeness.”

The Stop W.O.K.E. Act imposes harsh penalties — including termination — for educators who have been found to violate the law. However, because the law is so vague, it is extremely difficult for educators to determine what they can or cannot discuss in their classes that might violate the law, leading to a greater chilling effect in the classroom. This has led educators to change their course offerings or avoid leading class discussions on topics around race and gender inequities for fear of punishment and losing their jobs.

Plaintiff LeRoy Pernell, a Black professor of law at Florida A&M University, fears the Stop W.O.K.E. Act will restrict his ability to effectively teach his courses and foster discussions on important topics related to race that will help prepare his students to be successful lawyers and advocates.

“As an educator, I should be able to exercise my right to share ideas, information, and knowledge with my students about critical issues that will help prepare them to become successful advocates and lawyers,” said **plaintiff Dr. LeRoy Pernell**. “The Stop W.O.K.E. act

attempts to censor discussions and erase the history and life experiences of Black people, LGBTQ folks, women, and other people of color who struggle on a daily basis to achieve racial justice and make a positive change. We deserve to have free and open exchanges about racism in the classroom.”

As a result of the bill’s passage, universities across Florida have canceled or scaled back diversity and inclusion trainings and have taken down public-facing statements denouncing racism. This creates a hostile climate that stigmatizes talking about race on campuses and generates fear among plaintiffs and other Black educators and students who teach or take coursework that discuss race and gender issues.

Plaintiff Johana Dauphin is a Black student at Florida State University and an active member of the FSU student body, working to advance social and racial justice through extracurricular activities. This fall, Dauphin is enrolled in two courses at FSU that she fears will be negatively impacted by the Stop W.O.K.E. Act. Dauphin believes that, due to the law’s restrictions, she will be denied information and instruction essential for her educational enrichment.

“I fear that this law will cause my professors to avoid discussing race and gender altogether, which will result in my perspective and lived experience as a Black, female student being effectively minimized and erased in the classroom, said **plaintiff Johana Dauphin**. “As a student, I deserve to see myself and the issues that impact me — including issues around race and gender — reflected in my classroom discussions.”

The plaintiffs are asking the court to declare the law unconstitutional under the First and Fourteenth Amendments and are urging the court to issue a preliminary injunction that would put an immediate stop to the bill and allow students and educators to have full and open discussions around race and gender in the classroom pending resolution of this case.

“Attacks like this on the ability of educators to teach and of students to learn are corrosive to the fundamental values integral to a just, informed, and equitable society,” said **Jason Leckerman, Chair of the Litigation Department at Ballard Spahr**. “We’re proud to partner with the American Civil Liberties Union, ACLU of Florida, and the Legal Defense Fund to take a stand for what’s right.”

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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Founded in 1940, the [Legal Defense Fund](#) (LDF) is the nation’s first civil rights law organization. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the

Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.