

June 4, 2025

Via Electronic Delivery

The Honorable Greg Abbott
Governor, State of Texas
Office of the Governor
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RE: Veto Request for Senate Bill 12 and Senate Bill 37

Dear Governor Abbott:

The NAACP Legal Defense and Educational Fund, Inc. (“LDF”) writes to respectfully request that you veto Senate Bill 12 (“SB 12”) and Senate Bill 37 (“SB 37”) due to our grave concerns that these bills will cause serious harm to Black students, families, and teachers in the State of Texas. Founded in 1940 under the leadership of the Thurgood Marshall, LDF has long advocated for the dignity and equality of Black people in the United States. This is especially true in the area of public education, perhaps best represented in LDF’s historic win in *Brown v. Board of Education*.¹ Senate Bills 12 and 37 contain harmful provisions that will undermine the progress made in the decades since *Brown* and prevent schools from providing the type of equitable and welcoming learning environments that all students, including Black students, deserve. Therefore, LDF respectfully urges you to veto Senate Bills 12 and 37.

I. Senate Bill 12’s Mischaracterization of Diversity, Equity, and Inclusion Will Disparately Harm Black Students.**A. Senate Bill 12 Mischaracterizes Diversity, Equity, and Inclusion.**

Senate Bill 12 is an omnibus bill that, among other things, prohibits “Diversity, Equity, and Inclusion” in Texas’ public K-12 schools. However, SB 12’s definition of “Diversity, Equity, and Inclusion” is expansive and misleading. It defines “Diversity, Equity, and Inclusion” as 1) “influencing hiring or employment practices with respect to race, sex, color, or ethnicity,” 2) “promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity,” 3) “developing or

¹ 347 U.S. 483 (1954).

implementing policies, procedures, trainings, activities, or programs that reference race, color, ethnicity, gender identity, or sexual orientation,” and 4) “compelling, requiring, inducing, or soliciting any person to provide a diversity, equity, and inclusion statement or giving preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement.”

Unfortunately, your office has contributed to confusions about Diversity, Equity, and Inclusion with its own mischaracterizations. For example, on February 4, 2023, your office inaccurately described Diversity, Equity, and Inclusion initiatives and programs as “policies that expressly favor some demographic groups to the detriment of others” and “proactively encourage discrimination in the workplace.”² This mischaracterization continued in the Executive Order, signed on January 31, 2025, which called Diversity, Equity, and Inclusion a “new form[] of racism.”³ To the contrary, diversity, equity, and inclusion initiatives are the antithesis of racism. Rather, they are important efforts to ensure equal opportunity and compliance with anti-discrimination and civil rights laws.

Diversity, equity, and inclusion practices are designed to foster inclusive educational and workplace environments and further equalize opportunities for communities that have unfairly experienced marginalization in the past and continue to face barriers today. Thus, diversity, equity, and inclusion efforts can include pathway programs that expose underrepresented students to science, technology, engineering, and math careers. They also include broad outreach and recruitment measures, which help expand the college applicant pool or the pipeline into technical schools so that all qualified students can access these educational opportunities. Voluntary affinity groups, which any student can join, sexual harassment and anti-discrimination trainings, and mentoring programs that are open to all foster a supportive environment for students, including those who may feel isolated or face unfair disadvantages because of their race, religion, gender, or socioeconomic background. Diversity, equity, and inclusion programs may also include efforts to ensure that the school creates equal employment opportunities for teachers, faculty, administrators, and other staff to ensure consideration of all qualified candidates in employment decisions.

Diversity, equity, and inclusion programs serve students of various backgrounds, including Black students and other students of color, first-generation college students, students of particular faiths, veterans, students with disabilities, adult learners, LGBTQ+ students, women, students from rural communities, international students, and students from low-income communities. Despite the wide variety of these programs, they all share

² Brian Lopez, *Texas higher education leaders say equitable access is key for graduation goals*, TEXAS TRIBUNE (Feb. 9, 2023) <https://www.texastribune.org/2023/02/09/texas-higher-education-budget/>.

³ Executive Order No. GA-55, Greg Abbott (January 31, 2025), https://gov.texas.gov/uploads/files/press/EO-GA-55_Prohibiting_Govt_Race_Discrim_IMAGE_2024-01-31.pdf.

the common goal of ensuring that talented, hardworking students and faculty can thrive and perform at their best. As a result, diversity, equity, inclusion, and accessibility enhances school climate, expands opportunity, and improves workforce outcomes.

B. Senate Bill 12 Will Disparately Harm Black Students and Other Students of Color.

Organizations utilize diversity, equity, and inclusion activities to equalize opportunities for people who are unfairly disadvantaged due to preexisting inequalities. Thus, banning these efforts may lead to disparate harms on those individuals subject to inequalities, including Black students and other students of color. Schools across our country remain racially segregated, and systematic underfunding of schools serving communities of color is the rule, not the exception.⁴ In Texas, “districts that have higher percentages of students of color, students from low-income backgrounds, or English learners” are “consistently underfund[ed].”⁵ Recent research shows that districts serving the most students of color receive almost 10% less state and local funding per student than the districts serving the fewest students of color.⁶ This means that districts serving the most students of color have fewer experienced teachers,⁷ high-quality instructional materials, adequate facilities,⁸ and the kinds of courses that will make a student more competitive when applying to colleges and universities. Additionally, students of color who learn in an inclusive, educational environment are more likely to develop a positive identity and succeed academically.⁹

SB 12 will make it harder for Texas’ public schools to create equal opportunity for Black students and comply with the Civil Rights Act of 1964. For example, SB 12 may constrain ongoing efforts to recruit and retain Black educators. Black educators are an

⁴ Ed. Trust, Equal is Not Good Enough (2022), <https://edtrust.org/wp-content/uploads/2014/09/Equal-Is-Not-Good-Enough-December-2022.pdf>.

⁵ *Id.* at 10.

⁶ Ed. Trust, The State of Education Funding in Texas, <https://stateofeducationfunding.org/state/texas/?category=students-of-color> (last accessed June 4, 2025).

⁷ *As Districts Face Teacher Shortages, Black and Latino Students Are More Likely to Have Novice Teachers Than Their White Peers*, Ed. Trust (Dec. 21, 2021), <https://edtrust.org/press-room/as-districts-face-teacher-shortages-black-and-latino-students-are-more-likely-to-have-novice-teachers-than-their-white-peers/>.

⁸ Chris Hacker, et. al, *Majority-Black school districts have far less money to invest in buildings — and students are feeling the impact* (Sept. 14, 2023), <https://www.cbsnews.com/news/black-school-districts-funding-state-budgets-students-impact/>.

⁹ See, e.g., Derrick R. Brooms & Arthur R. Davis, *Staying Focused On The Goal: Peer Bonding And Faculty Mentors Supporting Black Males’ Persistence In College*, 48 J. Black Studies 305 (2017), <https://doi.org/10.1177/0021934717692520>; Terrell L. Strayhorn, *The Role Of Supportive Relationships In Facilitating African American Males’ Success In College*, 45 NASAP J. 26 (2008); Sharon L. Holmes, et al., *Validating African American Students At Predominantly White Institutions*, 4 J. Coll. Student Retention: Rsch., Theory & Prac. 41 (2000), <https://doi.org/10.2190/xp0f-krqw-f547-y2xm>.

invaluable resource for improving educational equity and closing opportunity gaps among students. Increasing the number of educators who reflect the diversity of students' own communities can lead to higher test scores, improved reading and math skills, increased attendance rates and school engagement, and lower absenteeism and suspension rates for Black and Latine students.¹⁰ The National Bureau of Economic Research recently found that Black students with at least one Black teacher by third grade are 13% more likely to enroll in college.¹¹ A similar Brookings Institution study found college enrollment rates increased to 32% for Black students who had two Black teachers by the same grade.¹² Racially and ethnically diverse faculty improve academic outcomes, including graduation rates of students of color.¹³

Importantly, a diverse student population has positive effects on all students' intellectual, social, and civic development.¹⁴ Students, regardless of their race, benefit from diverse learning environments because they help build critical thinking and problem-solving skills, as well as intellectual self-confidence, that can prepare students to thrive in our increasingly complex and global economy.¹⁵ Moreover, racially inclusive school curricula improve the academic performance of Black students, other students of color, and white students alike.¹⁶ In fact, for students of all racial and ethnic backgrounds, culturally responsive education can decrease dropout rates and suspensions while increasing student participation, confidence, academic achievement, and graduation rates.¹⁷

The impact of SB 12's broad definition of diversity, equity, and inclusion also may result in unintended consequences. Specifically, SB 12 prohibits any school employee

¹⁰ N.Y. State Educ. Dep't, Educator Diversity Report (Dec. 2019), <https://www.nysed.gov/sites/default/files/programs/educator-quality/educator-diversity-report-december-2019.pdf>.

¹¹ Seth Gershenson et al., *The Long-Run Impacts of Same-Race Teachers*, Nat'l Bureau Econ. Rsch. (Feb. 2021), <https://www.nber.org/papers/w25254>.

¹² Andre M. Perry, *For Better Student Outcomes, Hire More Black Teachers*, Brookings Inst. (Oct. 16, 2019), <https://www.brookings.edu/articles/for-better-student-outcomes-hire-more-black-teachers/>.

¹³ Aud, S., Hussar, W., Kena, G., Bianco, K., Frohlich, L., Kemp, J., Tahan, K. (2011). *The Condition of Education 2011* (NCES 2011-033). U.S. Department of Education, National Center for Education Statistics. Washington, DC: U.S. Government Printing Office.

¹⁴ *Id.*

¹⁵ Gretchen Guiton et al., *Student Body Diversity: Relationship o Medical Students' Experiences and Attitudes*, 82 Acad. Med. S85, S87 (Supp. 2007); See also, Somnath Saha et al., *Student Body Racial and Ethnic Composition and Diversity-Related Outcomes In US Medical Schools*, 300 JAMA 1135, 1135 (2008) (finding that non-minority students attending more racially diverse medical schools exhibited greater preparedness to care for minority patients and stronger attitudes about equitable access to healthcare).

¹⁶ Christine E. Sleeter & Miguel Zavala, *What the Research Says About Ethnic Studies at 8, 17*, in *Transformative Ethnic Studies in Schools: Curriculum Pedagogy, and Research* (Teachers Coll. Press, 2020), <https://www.nea.org/sites/default/files/2020-10/What%20the%20Research%20Says%20About%20Ethnic%20Studies.pdf>.

¹⁷ Thomas Dee and Emily Penner, *The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum*, American Ed Research J (2017), <https://cepa.stanford.edu/content/causal-effects-cultural-relevance-evidence-ethnic-studies-curriculum>.

from “developing or implementing policies, procedures, trainings, activities, or programs that reference race, color, ethnicity, gender identity, or sexual orientation except . . . as necessary to comply with state or federal law.” However, celebrations like Mother’s Day or Father’s Day are not necessary to comply with state or federal law and, thus, may fall within SB 12’s definition of diversity, equity, and inclusion due to their reference to gender identity. Likewise, activities like father-daughter dances and mother-son dances may be prohibited. SB 12’s broad language further raises concerns about whether field trips to museums that explore the history of slavery or women’s suffrage would be permitted. And the bill may require alterations of—or prohibit altogether—trainings that equip teachers and employees to recognize sexual assault or abuse if they discuss sexual identity or sexual orientation.

II. Senate Bill 37 May Have a Discriminatory Impact on Black People, Black History, and the Teaching of the Black Experience in America and Texas

Senate Bill 37 is an omnibus bill that, among other things, transfers curriculum authority from faculty to governing boards, converts elected faculty senate positions into appointed positions, and strips faculty of their due process rights during the disciplinary process. At present, the authority to determine the core curriculum of an institution rests with the Texas Higher Education Coordinating Board and the faculty of each educational institution based on workforce and enrollment demands. The faculty of each course, who are the subject matter experts, determines what is taught and how it is taught. However, SB 37 strips that power away from the faculty and bestows it on the governing board members who are very often not subject matter experts. Moreover, it gives the governing board members authority not only to add and retain courses in the core curriculum, but also to remove courses. SB 37, therefore, creates the framework to scrutinize courses focused on Black history and culture and possibly remove them from the core curriculum.

Concerns about the elimination of courses about Black people, which are oftentimes an academic focus of Black students and professors, are reinforced by recent denouncements of Critical Race Theory and similar scholarship. For example, in your own executive order, you inaccurately call “critical race theory” as a “new form[] of racism” and describe it as “rooted in the idea that a person may be inherently good or bad; the oppressed or the oppressor, based on racial identity.”¹⁸ After the Senate passed SB 37, Lt. Governor Dan Patrick similarly tweeted that this bill was intended to prevent faculty from teaching “Critical Race Theory.”¹⁹ But contrary to these mischaracterizations, Critical Race Theory is the exact opposite of “racism.” It is instead an area of scholarship that seeks to dismantle racism by “recogniz[ing] that racism is

¹⁸ Executive Order No. GA-55, Greg Abbott (January 31, 2025), https://gov.texas.gov/uploads/files/press/EO-GA-55_Prohibiting_Govt_Race_Discrim_IMAGE_2024-01-31.pdf.

¹⁹ Lt. Governor Dan Patrick, Twitter (April 16, 2025 8:06 PM) <https://x.com/LtGovTX/status/1912674727954649383>.

more than the result of individual bias and prejudice. It is essentially an academic response to the erroneous notion that American society and institutions are ‘colorblind.’”²⁰

By banning “Critical Race Theory,” SB 37 signals to governing boards, which are appointed by state elected officials, that they should try and eliminate courses that are politically disfavored because they concern Black people, Black history, and the Black experience in America. Other disfavored topics like gender studies, LGBTQIA+ studies, Mexican American studies, and Native American studies also may be targeted for elimination. SB 37 may further infringe upon the First Amendment rights of professors in the classroom through any censorship of their courses due to a focus on Black people and Black history.

In a similar way, SB 37 targets curriculum disproportionately taught by Black professors. Black Professors are more likely to specialize in courses related to race, ethnicity, and other subject areas at risk of censorship by SB 37.²¹ This harm to Black academics are compounded by the preexisting barriers that they already face. For example, Black researchers and scientists receive less research and grant funding compared to white researchers and scientists. Black professors continue to be underrepresented at the state’s flagship higher education institutions, and the disproportionate harms from SB 37 will worsen this underrepresentation.²²

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In conclusion, LDF respectfully urges you to veto Senate Bills 12 and 37. The prohibition of diversity, equity, and inclusion initiatives is unnecessary and will cause disproportionate harm to people of color, including Black students and faculty. Moreover, transferring curriculum authority from expert faculty to political appointees jeopardizes important scholarship that may be politically disfavored, thus undermining the quality and integrity of Texas’ higher education.

Thank you for this opportunity to express our concerns. Please contact Allen Liu by

²⁰ Critical Race Theory, NAACP Legal Defense and Educational Fund, Inc., <https://www.naacpldf.org/critical-race-theory-faq/>.

²¹ Jasmine Harris, *Black on Black: The Vilification of “Me-Search,” Tenure, and the Economic Position of Black Sociologists*, J. Econ., Race, & Pol’y (June 2021), <https://link.springer.com/article/10.1007/s41996-020-00066-x>.

²² Jenna Doane & Maria Del Carmen Unda, *Texas’ Declining Diversity of the Undergraduate Class, 2015-2022: A Critical Policy Analysis of Anti-DEI Legislation in the 88th Session of the Texas State Legislature*, Tex. Ctr. for Educ. Pol’y (May 1, 2023), https://tcep.education.utexas.edu/wp-content/uploads/2023/05/DEIPaper_DoaneUnda_May9.pdf.

email at aliu@naacpldf.org with any questions or to discuss any of these concerns in detail.

Respectfully submitted,



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