

June 20, 2025

Zachary Rogers,
U.S. Department of Education,
400 Maryland Avenue SW,
Room 7W213,
Washington, DC 20202-6450

Submitted via regulations.gov

**Re: Proposed Priorities and Definitions-Secretary's Supplemental Priorities
and Definitions on Evidence-Based Literacy, Education Choice, and
Returning Education to the States, 90 FR 21710; Docket No. ED-2025-OS-
0020**

Dear Mr. Rogers:

I. Introduction

Founded in 1940 by Thurgood Marshall, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation's oldest civil rights law organization.¹ LDF was launched at a time when America's aspirations for equality and due process of law were stifled by widespread state-sponsored racial inequality. For more eighty-five years, LDF has worked to dismantle racial segregation and ensure equal educational opportunity for all students, most prominently in the groundbreaking case, *Brown v. Board of Education*.² LDF has also represented Black students and applicants, as parties and *amici curiae*, in numerous cases regarding educational access and opportunity in education.

LDF submits this comment to raise serious concerns about the 2025 proposed priorities for the Department of Education as published in 90 FR 21710. In

¹ LDF has been fully separate from the National Association for the Advancement of Colored People (NAACP) since 1957.

² 347 U.S. 483 (1954).

particular, LDF writes to oppose the inclusion of proposed priorities 2 and 3 as well as the rescission of the Department of Education’s (ED) priorities finalized in 2021.

II. Proposed Priority 2 Is a Direct Attack on Public Education and Expands School Privatization

ED’s second proposed priority entitled “Expanding Education Choice” is an attempt to defund this nation’s public education system. The weakening of the public education system that serves the vast majority of our students will disparately harm Black students and students with disabilities. Moreover, school privatization through private voucher programs, education savings accounts, tax credit scholarships, and other programs will exacerbate educational inequity. Instead, ED must prioritize the proven techniques and programs that improve student achievement and narrows gaps in student outcomes. And just as voters in Kentucky, Nebraska, Colorado, and Mississippi have, ED should reject this reorientation of precious federal funds to the expansion of private schools.³

Under any proposed priority, it is inappropriate and counter to our national interests to redirect public taxpayer funds away from public school systems and towards private elementary and secondary institutions. More specifically, ED’s proposed priority 2(c) which expressly supports the “dissemination of information for all education choice options for students, including private school enrollment, education savings accounts, [and] tax credit scholarships” represents a drastic and new expansion of the role of the federal government in supporting private schools at the expense of public education. That language should be removed from this priority.

Additionally, truthful education – not “patriotic education” - must be the cornerstone of education in our multi-racial democracy. While not explicitly defined

³ See Bruce Schreiner, *Kentucky voters defeat a measure intended to allow tax dollar support for private school education*, ASSOC. PRESS (Nov. 5, 2024), <https://apnews.com/article/kentucky-election-school-choice-constitutional-amendment-b3acdf8fdb770b82e0263d27cedc2cc4>; Aaron Sanderford, *Nebraska voters reject state funding for students attending private K-12 schools*, NEB. EXAMINER (Nov. 5, 2024), <https://nebraskaexaminer.com/2024/11/05/nebraska-voters-reject-state-funding-for-students-attending-private-k-12-schools/>; Erica Breunlin, *Amendment 80 fails: Right to school choice won’t be added to Colorado’s constitution*, COLO. SUN (Nov. 7, 2024), <https://coloradosun.com/2024/11/07/amendment-80-results-colorado/>; Torsheta Jackson, *Private School Vouchers for Students in D or F Districts Die in Mississippi House*, MISS. FREE PRESS (Feb. 17, 2025).

in the Notice, “patriotic education” refers to the banning of educational materials and classroom discussion related to racism, sexism and other forms of systemic discrimination.⁴ As referenced in the 1776 Commission’s 2021 report, patriotic education purports to call for an honest teaching of American history; yet, it wrongly seeks to eliminate access to historically accurate instruction centering the experiences of Black Americans in the founding of the United States.⁵

Specifically, priority 2(a)(5) includes support for charter schools that focus on “patriotic education.” This language disincentivizes access to racially inclusive curricula and encourages the erasure of Black people’s history and lived experiences through curricula censorship, sweeping book bans, and other tactics to weaponize public education to undermine attempts for racial progress. The teaching of so-called “patriotic education” may negatively impact academic outcomes and school climates, and lead to possible violations of federal civil rights law. This provision should be removed. Support for LDF’s requests is detailed below.

A. Private School Voucher Programs Deepen Racial Segregation, Strip Funding from Public Schools, Do Not Improve Academic Outcomes, and Lack Transparency

1. School Voucher Programs Deepen Racial Segregation

Despite *Brown*’s clear mandate to end racial segregation in public schooling, states across the country, particularly in the South, waged campaigns of “massive resistance” to evade desegregation. Segregationists attempted to nullify *Brown* by prohibiting integrated schools from receiving state funding and promoting “Freedom of Choice” plans.⁶ Due to “massive resistance” and court-sanctioned funding disparities, many public schooling systems today fail to provide an equal and sound education to this nation’s children, particularly its Black children.⁷ Prioritizing

⁴ See Thurgood Marshall Institute, *Beyond Learning Loss*, at page 28, (Jan. 2024), <https://tminstituteldf.org/wp-content/uploads/2024/01/2023-09-19-TMI-Black-Students-Pandemic-3.pdf>.

⁵ Exec. Order No. 13950, 85 FR 60683 (Sept. 22, 2020); See also THE PRESIDENT’S ADVISORY 1776 COMM’N, THE 1776 REPORT, 17 (Jan. 2021).

⁶ Karri Peifer, *How Massive Resistance Delayed School Desegregation in Virginia*, AXIOS RICHMOND (May 16, 2024), <https://www.axios.com/local/richmond/2024/05/16/massive-resistance-virginia-delayed-school-desegregation>.

⁷ Chris Ford et al., *The Racist Origins of Private Sch. Vouchers*, CTR. AM. PROGRESS (July 12, 2017), <https://www.americanprogress.org/article/racist-origins-private-school-vouchers/>.

private school enrollment post-*Brown* was a key strategy by many states to defy integration demands.

In the South, where these disparities are most pronounced, racial and economic segregation occurs between private schools and public schools.⁸ For example, between 2023-2024, of Texas' over 5 million public school students, 25% were white and 12.8% were Black.⁹ In comparison, the state's private schools are comprised of 55.6% white students and just 6.2% Black students.¹⁰

Nationwide, the vast majority of students who receive a voucher are students who are already attending private schools, exposing the falsehood that such programs exist to expand opportunities for students with the greatest needs.¹¹ In Arkansas, 95% of voucher recipients never previously attended public schools.¹² After Florida expanded its voucher program in 2023, 69% of new recipients were already in private school.¹³ In Arizona, 70% of voucher recipients came from the state's wealthiest zip codes.¹⁴ A reprioritization of ED toward private school vouchers will have the same effect of mostly benefiting white students and students who are already attending private school.

Like their "Freedom of Choice" plan predecessors, "school choice" private school voucher programs – such as education savings accounts and tax credit scholarship proposals – are veiled attempts to maintain and expand the vestiges of racial segregation.

⁸ Halley Potter, *School Segregation in Cities Across America Mapped*, CENTURY FOUND. (May 17, 2022), <https://tcf.org/content/data/school-segregation-in-cities-across-america-mapped/>.

⁹ TEX. EDUC. AGENCY, ENROLLMENT IN TEXAS PUBLIC SCHOOLS 2023-24, DIV. OF RSCH. & ANALYSIS 2023-24, 8 (Aug. 2024), <https://tea.texas.gov/reports-and-data/school-performance/accountability-research/enroll-2023-24.pdf>.

¹⁰ ProPublica, *Private Schools in Texas*, <https://projects.propublica.org/private-school-demographics/states/tx/> (last accessed June 14, 2025).

¹¹ NATIONAL COALITION FOR PUBLIC EDUCATION, MOST VOUCHER RECIPIENTS ARE WEALTHY FAMILIES WHO NEVER ATTENDED PUBLIC SCHOOLS, <https://www.ncpecoalition.org/voucher-recipients> (last accessed June 14, 2025).

¹² ARK. DEPARTMENT OF EDUCATION, EDUCATION FREEDOM ACCOUNT ANNUAL REPORT (2024), https://dese.ade.arkansas.gov/Files/2023_2024_EFA_Report_OSCPE.pdf.

¹³ Danielle Prieur, *Florida Policy Institute Asked for School Voucher Data. Here's What Step Up for Students Provided*, CENT. FLA. PUB. MEDIA (Sept. 14, 2023), <https://www.cfpublish.org/education/2023-09-14/florida-policy-institute-school-voucher-data-step-up-for-students>.

¹⁴ LZ Granderson, *Why 'school choice' was doomed when it became a cover for segregation*, L.A. TIMES (Apr. 1, 2023), <https://www.latimes.com/opinion/story/2023-08-01/arizona-school-choice-voucher-racism-segregation>.

2. School Voucher Programs Strip Funding from Public Schools

Voucher programs will hurt public school students by directing critical funding away from public schools. Public schools welcome and serve all children in local communities and neighborhoods for free. Students of color consist of the majority (55%) of the 49.6 million students in public schools.¹⁵ Federal funding already only accounts for around 10% of the budget for public elementary and secondary education.¹⁶ Expressing support for voucher programs like education savings accounts and tax credit scholarships threaten to siphon those already limited federal dollars away from public schools. Data from states like Arizona, Ohio, and Florida—which have each passed school voucher programs of their own—show that voucher programs not only siphon public money from public schools but are also more expensive than originally estimated. In Arizona, the program was estimated to cost \$33.4 million in 2023 but, in actuality, cost \$587.5 million to administer.¹⁷ To make up for the gap in the budget, Arizona was forced to make cuts to water and highway infrastructure, improvements to state prisons, and community colleges.¹⁸ In Florida, the cost of its voucher program ballooned from \$241.2 million in 2008 to \$996.3 million by 2019.¹⁹ Across the board, voucher programs have meant a drop in funding for public school students ranging from a 1.5% drop in Indiana to a 12% drop in Florida.²⁰ Indeed, research

¹⁵ See NATIONAL CENTER FOR EDUCATION STATISTICS, PUBLIC SCHOOL ENROLLMENT (May 2024), <https://nces.ed.gov/programs/coe/indicator/cga/public-school-enrollment>.

¹⁶ INSTITUTE OF EDUCATION SCIENCES, STUDY OF DISTRICT AND SCHOOL USES OF FEDERAL EDUCATION FUNDS (2024), <https://ies.ed.gov/use-work/evaluations/study-district-and-school-uses-federal-education-funds>.

¹⁷ MICHAEL GRIFFITH & DION BURNS, UNDERSTANDING THE COST OF UNIVERSAL SCHOOL VOUCHERS: AN ANALYSIS OF ARIZONA'S EMPOWERMENT SCHOLARSHIP ACCOUNT PROGRAM, LEARNING POL'Y INST. (Feb. 12, 2024), <https://learningpolicyinstitute.org/product/understanding-cost-universal-vouchers-report>.

¹⁸ Tim Walker, 'No Accountability': Vouchers Wreak Havoc on States, NAT'L EDUC. ASS'N (Feb. 2, 2024), <https://www.nea.org/nea-today/all-news-articles/no-accountability-vouchers-wreak-havoc-states>.

¹⁹ SAMUEL E. ABRAMS & STEVEN J. KOUTSAVLIS, THE FISCAL CONSEQUENCES OF PRIVATE SCHOOL VOUCHERS, S. POVERTY L. CTR. (Mar. 2, 2023), <https://www.splcenter.org/resources/reports/fiscal-consequences-private-school-vouchers/>.

²⁰ Tex. AFT, *Fact Check: Do Voucher Programs Really Increase Public School Funding?* (Apr. 26, 2024), <https://www.texasaft.org/policy/funding/fact-check-do-voucher-programs-really-increase-public-school-funding/>.

shows that school districts that are severely underfunded were strongly associated with grades of C or lower.²¹

3. School Voucher Programs Do Not Improve Academic Outcomes

Advocates for voucher programs reason that private schools teach students better than public schools. However, in this Notice, ED ignores several studies that have found that voucher programs do not provide the academic benefits that proponents insist that they do. For example, students “perform no better—and in many cases worse—than their peers” in private schools with few structures of public accountability.²² Additionally, evidence shows that students who leave public schools for private schools through voucher programs may even do worse academically than if they stayed. Indeed, studies in Washington, D.C. and Alabama show that vouchers led to no significant signs of improvement in student test scores.²³ And students in Louisiana, Indiana, and Ohio who attended private schools with vouchers actually performed worse.²⁴

²¹ Ruth N. Lopez Turley & Bradley Selsberg, *Texas School District Funding Gaps*, RICE UNIV. KINDER INST. FOR URB. RSCH. (Aug. 2024), <https://rice.app.box.com/s/s3xn1051k133oxceatwrjh8184968tn>.

²² Educ. Just. Rsch. & Org. Collaborative, *Myths and Facts About Vouchers*, NYU STEINHARDT, <https://steinhardt.nyu.edu/metrocenter/ejroc/myths-and-facts-about-vouchers> (last visited June 14, 2025).

²³ Ann Webber, et al., *Evaluation of the DC Opportunity Scholarship Program: Impacts After Three Years*, INST. OF EDUC. SCI. (May 2019), <https://ies.ed.gov/use-work/resource-library/report/evaluation-report/evaluation-dc-opportunity-scholarship-program-impacts-after-three-years-0>; JOAN M. BARTH ET AL., EVALUATION OF THE ALABAMA ACCOUNTABILITY ACT: ACADEMIC ACHIEVEMENT TEST OUTCOMES OF SCHOLARSHIP RECIPIENTS 2016 – 2017, INST. SOC. SCI. RES. U. OF ALA. (Sept. 2018), https://www.revenue.alabama.gov/wp-content/uploads/2022/03/AAA_Report_Independent_Research_2016-2017.pdf.

²⁴ HEIDI H. ERICKSON, ET AL., THE EFFECTS OF THE LOUISIANA SCHOLARSHIP PROGRAM ON STUDENT ACHIEVEMENT AND COLLEGE ENTRANCE, 14 J. RES EDUC. EFFECTIVENESS 861-899 (2021), <https://eric.ed.gov/?id=EJ1314473>; MEGAN AUSTIN, VOUCHER PATHWAYS AND STUDENT ACHIEVEMENT IN INDIANA’S CHOICE SCHOLARSHIP PROGRAM, RUSSELL SAGE FOUND. J. SOC. SCI. (March 2019), <https://www.jstor.org/stable/10.7758/rsf.2019.5.3.02?seq=1>; DAVID FIGLIO AND KRZYSZTOF KARBOWNIK, EVALUATION OF OHIO’S EDCHOICE SCHOLARSHIP PROGRAM: SELECTION, COMPETITION, AND PERFORMANCE EFFECTS, THOMAS B. FORDHAM INST. (July 2016), <https://fordhaminstitute.org/ohio/research/evaluation-ohios-edchoice-scholarship-program-selection-competition-and-performance>.

B. Teachers and Students Must Focus on the Truth and Expanding Access to College – Not Forcing Favored Political Viewpoints

1. Truthful Teaching Is Integral to High-Quality Education

The Department of Education must prioritize courses and curricula that are culturally inclusive and expand access to advanced coursework, which are proven to improve academic outcomes for all students. Culturally inclusive school curricula improve the academic performance of Black students, other students of color, and white students alike.²⁵ 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.²⁶ Moreover, courses that are typically favored by colleges for admissions purposes, like Advanced Placement (AP) courses, must be offered to all students. Black and Latino students are disproportionately locked out of AP courses, which means they will often lose opportunities that prepare them for college.²⁷ As ED endeavors to prioritize course choice, it must account for disparities in access to inclusive and advanced coursework, which can themselves raise civil rights concerns.

2. “Patriotic Education” Forces Favored Political Viewpoints

The Department of Education must prioritize courses that faithfully teach the truth – not forcing favored political viewpoints on students. To start, the 1776 Commission’s report, the genesis of “patriotic education,” is filled with errors and inaccuracies. For example, it mischaracterizes the Civil Rights Movement as having “abandon[ed] nondiscrimination and equal opportunity . . . in favor of ‘group rights’

²⁵ CHRISTINE E. SLEETER & MIGUEL ZAVALA, WHAT THE RESEARCH SAYS ABOUT ETHNIC STUDIES - CHAPTER 3 FROM TRANSFORMATIVE ETHNIC STUDIES IN SCHOOLS: CURRICULUM, PEDAGOGY, AND RESEARCH, NAT’L EDUC. ASSOC. (2020) <https://www.nea.org/sites/default/files/2020-10/What%20the%20Research%20Says%20About%20Ethnic%20Studies.pdf>.

²⁶ Thomas S. Dee & Emily K. Penner, *The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum*, 54(1) Am. Educ. Rsch. J. 127 (2017), <https://cepa.stanford.edu/content/causal-effects-cultural-relevance-evidence-ethnic-studies-curriculum>.

²⁷ Ed Trust, *Black and Latino Students Shut Out of Advanced Coursework Opportunities* (Jan. 9, 2020), <https://edtrust.org/press-room/black-and-latino-students-shut-out-of-advanced-coursework-opportunities/#:~:text=A%20new%20report%20and%20state-by-state%20data%20tool%20from,do%20to%20increase%20students%E2%80%99%20access%20to%20advanced%20learning..>

and preferential treatment.²⁸ Moreover, the report distorts Martin Luther King Jr.’s own words by insisting that his dream was for a colorblind society.²⁹ Indeed, this administration’s emphasis on “patriotic education” has often resulted in the erasure of Black history and the Black experience in America and attacks on free speech.³⁰ Denying students an accurate education that reflects diverse perspectives has negative consequences for student engagement and academic achievement, including student attendance, grade point averages, and graduation rates.³¹ Concerns about the elimination of academic courses about Black people, which are often an academic focus of Black students and professors, are reinforced by recent denunciations of Critical Race Theory and similar scholarship.³² Critical race theory is an area of scholarship that seeks to dismantle racism by “recogniz[ing] that racism is 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.’”³³

Advancing misrepresentations about American history, and particularly the role of Black Americans in that history, could lead to hostile environments in schools which could give rise to civil rights violations. Additionally, this proposed priority language oversteps the role of the federal government in curriculum matters. Under federal law, the Department of Education has an extremely limited role in curriculum.³⁴ Traditionally federal grant programs administered by ED have

²⁸ PRESIDENT’S ADVISORY 1776 COMMISSION, THE 1776 REPORT, 31 (Jan. 2021), <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/The-Presidents-Advisory-1776-Commission-Final-Report.pdf>.

²⁹ *Id.* at 16.

³⁰ NAACP Legal Defense Fund, *In Defense of Truth*, <https://www.naacpldf.org/truth/> (last accessed June 14, 2025).

³¹ Thomas S. Dee & Emily K. Penner, *The Causal Effects of Cultural Relevance: Evidence from an Ethnic Studies Curriculum*, 54(1) Am. Educ. Rsch. J. 127 (2017), <https://cepa.stanford.edu/content/causal-effects-cultural-relevance-evidence-ethnic-studies-curriculum> ; Thomas Dee & Emily Penner, *My Brother’s Keeper? The Impact of Targeted Educational Supports*, (Ctr. Educ. Pol’y. Analysis, CEPA Working Paper No. 19-07, 2019), <https://cepa.stanford.edu/sites/default/files/wp19-07-v201910.pdf>.

³² Kiara Alfonseca, *Map: Where anti-critical race theory efforts have reached*, ABC NEWS (March 24, 2022) <https://abcnews.go.com/Politics/map-anti-critical-race-theory-efforts-reached/story?id=83619715>.

³³ Critical Race Theory, NAACP Legal Defense and Educational Fund, Inc., <https://www.naacpldf.org/critical-race-theory-faq/>.

³⁴ Section 103(b) of the Department of Education Organization Act, 20 U.S.C. § 3403(b) (“No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or

helped state and local education agencies develop their own curriculum and implement them effectively, and ED OCR has also enforced civil rights laws to ensure curricula do not create hostile environments for students.³⁵ This priority does something novel. It includes specific viewpoints that the federal government says should be incorporated into curriculum in order to receive federal money. That overreach not only runs counter to later proposed priorities in this announcement focused on diminishing the role of the federal government in education, but it also possibly violates statutory restrictions on ED dictating or controlling curriculum.³⁶

III. Proposed Priority 3 Seeks to Abdicate the Federal Government’s Critical Role in Education and Civil Rights

The Department of Education’s third proposed priority entitled “Returning Education to the States” mischaracterizes the federal government’s role as “add[ing] unnecessary layers of bureaucracy.”³⁷ This priority trades on misconceptions about the current role of the federal government in education. Issues like curriculum, teacher hiring and compensation, student assessment, and school programming all currently rest with state and local authorities.³⁸ The federal government’s role in education is, in fact, limited. Importantly, the federal government through the Department of Education provides critical funding to supplement state and local funding as well as enforcement of federal civil rights laws. Indeed, the federal government’s role in protecting all students’ civil rights is especially paramount now. Even as this administration uses its executive power to curb equal opportunity

school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.”); Section 438 of the General Education Provisions Act, 20 U.S.C. § 1232a (“No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.”).

³⁵ See U.S. Department of Education, Office for Civil Rights, Race and School Programming Dear Colleague Letter (August 2023), <https://www.naacpldf.org/wp-content/uploads/Race-and-School-Programming-Dear-Colleague-Letter-2023.pdf> (archived).

³⁶ See *supra* note 34.

³⁷ Proposed Priorities and Definitions-Secretary's Supplemental Priorities and Definitions on Evidence-Based Literacy, Education Choice, and Returning Education to the States, 90 Fed. Reg. 97, 21710 (May 21, 2025), <https://www.federalregister.gov/documents/2025/05/21/2025-09093/proposed-priorities-and-definitions-secretarys-supplemental-priorities-and-definitions-on#citation-3-p21711>.

³⁸ See *supra* note 34.

for students, current laws require the federal government to faithfully abide by and enforce anti-discrimination laws like Title IV and Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973. Likewise, through programs like Title I and Title III of Every Student Succeeds Act and the Individuals with Disabilities Education Act, the federal government plays an important role in targeting critical funding to areas of greatest need. The federal government's vital role in education must not and cannot be abdicated.

The preamble for priority 3 must be corrected to acknowledge the current limited role of the federal government in education and why those roles must remain important. Furthermore, proposed priority 3 seems to subvert a traditional understanding of education decision-making. The priority language currently would prioritize projects led by state entities over others. In many instances, the applicants for ED grants are local education agencies, schools, or individual institutions of higher education. As stated, this priority language would prioritize state applicants over local ones, taking decision-making further away from students and families. LDF, therefore, requests that priority 3 be removed in its entirety as it makes fundamental misstatements of the role of the federal government in education and would illogically preference states over localities.

Further, LDF writes to remind ED of the commitments it must maintain in our education system.

A. The Department of Education Must Enforce Federal Civil Rights Law

In the wake of the *Brown* decision, states across the South resisted desegregation. Techniques including the closing of schools and school districts and the institution of voucher programs were used to evade desegregation.³⁹ Likewise, violence was used as a tool to intimidate and prevent Black students from desegregating schools.⁴⁰ Left to their own, states have demonstrated their reluctance and unwillingness to appropriately and faithfully execute civil rights laws. Indeed, the recent increase in state legislatures adopting bills that attack free

³⁹ Gainsboro History Project, *Massive Resistance to Desegregation in Virginia*, <https://gainsborohistoryproject.org/chapters/chapter-7/massive-resistance-to-desegregation-in-virginia> (last visited June 14, 2025).

⁴⁰ Brad Daniel, *U.S. v. Texas (1970)*, E. Tex. Hist., <https://easttexashistory.org/items/show/370> (last visited June 14, 2025).

speech in education, the truthful teaching of history and diversity, equity, inclusion and accessibility initiatives underscores the need for the federal government to fulfill its important role in enforcing the country's civil rights laws.⁴¹ From the issuance of federal orders to force segregationist state and school district leaders to comply with *Brown* to the investigation of thousands of complaints alleging race-based discrimination in schools, the federal role in education has proven to be consequential for Black students, parents and educators. The robust enforcement of federal education and civil rights law must continue to provide necessary protection and remedies where Black students' rights may have been violated by state and local entities. As previously mentioned, Black students continue to face inequities in education funding and equal access to educational opportunities. Therefore, ED must not, and cannot, abdicate its role in enforcing federal civil rights laws that protect all students' right to equal educational opportunities.

B. The Department of Education Must Continue to Provide Critical School Funding

The federal government plays a vital role in ensuring the most impoverished and marginalized students are able to access quality education. Even though the federal government only provides about 10% of educational spending for public elementary and secondary education, those federal dollars significantly increase educational opportunities for all students.⁴² For example, under Title I of the Elementary and Secondary Education Act, ED provides \$18.4 billion in funding for high-poverty schools.⁴³ This money is a lifeline to many schools in high poverty areas, including rural schools and schools and districts across the country that serve the highest rates of Black students and other students of color. In some states like Mississippi, there is a concentration of school districts with strong links between race and income where enrollment consists of 90% Black students and more than 80% of students are from low-income families.⁴⁴ In these school districts, per

⁴¹ NAACP Legal Defense Fund, *Case: Pernell v. Lamb: Lawsuit Challenging Florida's Stop WOKE Act*, <https://www.naacpldf.org/case-issue/pernell-v-lamb-stop-woke-act/> (last accessed June 14, 2025).

⁴² See *supra* note 16.

⁴³ See U.S. Department of Education, Title I, Part A: Improving Basic Programs Operated by Local Educational Agencies, <https://www.ed.gov/grants-and-programs/formula-grants/school-improvement/improving-basic-programs-operated-by-local-educational-agencies-esea-title-i-part-a#funding-status-awards>.

⁴⁴ MISSISSIPPI CENTER FOR JUSTICE, COVID-19 & EDUCATION IMPACT REPORT (2022), mscenterforjustice.org/wp-content/uploads/2023/09/COVID-19-Education-Impact-Report-2023.pdf.

student spending is nearly \$13,500 less than the estimated adequate spending amount.⁴⁵ Federal funding is critical to close these funding gaps.

Additionally, contrary to the Department of Education’s messaging about cuts to critical funding, any cuts to funding for public education will actually result in less flexibility for states, not more. Under-resourcing education may strip states of the flexibility they currently enjoy to appropriately establish academic programming and other student-centered support. Indeed, when a Tennessee joint legislative panel conducted a study to determine the impact of refusing to accept federal funding, it found “the decision to reject and replace recurring federal funding for K-12 education would come at the expense of other potential investments.”⁴⁶ Of note, Tennessee’s effort to reject federal funding originated from some legislators’ objections to compliance with federal civil rights laws as a requirement of accepting federal funding.⁴⁷ Cutting funding will result in less student achievement, not more; less literacy, not more.

IV. Previous Priorities Remain Critical for Students

In addition to opposing the new proposed priorities, LDF writes to vocalize support for the previous supplemental priorities that this action proposes to rescind. The supplemental priorities promulgated in 2021 provide significant incentives for grantees to advance equal educational opportunities for all students and to specifically address historical and current disparities in educational outcomes for Black and other underserved students. The currently proposed priorities fail to address the breadth and depth of issues covered by the previous priorities, and that gap in coverage may deny students, particularly Black students, equitable access to educational resources. The 2021 priorities are not political. They advance important goals that all schools, districts, states, and postsecondary institutions should be pursuing in their efforts to ensure that all students in this country have access to high quality educations that prepare them for the workforce and to be active members of our multiracial democracy.

⁴⁵ *Id.*

⁴⁶ TENN. S., JOINT WORKING GROUP ON FEDERAL EDUCATION FUNDING – SENATE, S. 113TH GEN. ASSEMBLY (Jan. 9, 2024), https://www.wkrn.com/wp-content/uploads/sites/73/2024/01/FILE_3281.pdf.

⁴⁷ Marta W. Waldrich, *Tennessee senators’ report highlights risks of rejecting federal education funding*, CHALKBEAT (Jan. 9, 2024), <https://www.chalkbeat.org/tennessee/2024/01/09/tennessee-senate-report-on-rejecting-federal-education-funding/>.

LDF requests that the Department of Education reinstate each of the supplemental priorities from 2021 including:

- Priority 1—Addressing the Impact of COVID-19 on Students, Educators, and Faculty
- Priority 2—Promoting Equity in Student Access to Educational Resources, Opportunities, and Welcoming Environments
- Priority 3—Supporting a Diverse Educator Workforce and Professional Growth to Strengthen Student Learning
- Priority 4—Meeting Student Social, Emotional, and Academic Needs
- Priority 5—Increasing Postsecondary Education Access, Affordability, Completion, and Post-Enrollment Success
- Priority 6—Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change

At the very least, LDF requests the Department of Education to consider new priorities that capture the important values that the 2021 supplemental priorities address and that the 2025 proposed priorities fail to cover. LDF provides support for each of the 2021 supplemental priorities in turn below.

A. Priority 1—Addressing the Impact of COVID-19 on Students, Educators, and Faculty

The COVID-19 Pandemic had devastating, multi-year impacts on learning outcomes for all students.⁴⁸ Black students, in particular, were disproportionately impacted by the pandemic and the accompanying economic fallout.

The data in the intervening years have been clear. All evidence supports the continued need for grantees to purposefully and intentionally direct efforts towards addressing harms and disparities brought about by the pandemic. Students, especially Black students, faced historic disruptions to learning (including lack of access to quality internet), educator turnover, caregiver losses, hunger and food insecurity, mental health challenges, and loss of connectedness to the school environment. While standardized tests are a limited and flawed tool for fully

⁴⁸ For more information, please see SANDHYA KAJEEPETA, BEYOND LEARNING LOSS, THURGOOD MARSHALL INST. (JAN. 2024), <https://tminstituteldf.org/publications/beyond-learning-loss-prioritizing-the-needs-of-black-students-as-public-education-emerges-from-a-pandemic/>.

assessing student learning outcomes,⁴⁹ evidence from the height of COVID-19 indicates how dramatic an effect the pandemic may have had. The Nation's Report Card presents the results of the National Assessment of Educational Progress (NAEP), which is a congressionally mandated, nationally representative assessment of student academic performance in reading and math. The overall findings presented for 4th and 8th graders demonstrated that average scores in both subjects declined from 2019 to 2022.⁵⁰ These declines occurred in all regions of the country. For reading, average scores for U.S. 4th and 8th graders declined by 3 points. Declines in math were larger: average scores for 4th graders declined by 5 points and average scores for 8th graders declined by 8 points. The declines in national average math scores were the largest recorded declines since the first assessment in 1990. These overall findings demonstrate the disruptive impact of the pandemic and coinciding crises on academic access and opportunity.

The consequences of the pandemic are lingering and still felt today. The Department of Education should not abandon efforts to guide grantees towards intentional thinking and planning to address the effects of the pandemic on student learning. LDF requests the inclusion of a supplemental priority that focuses on addressing learning loss and correcting for other barriers to equal educational opportunity created by the pandemic and its accompanying economic fallout.

B. Priority 2—Promoting Equity in Student Access to Educational Resources, Opportunities, and Welcoming Environments

The success of our multiracial democracy depends upon creating pathways to opportunity that are open to all.⁵¹ It has long been the case that talent and potential

⁴⁹ See e.g., NAACP Legal Defense and Educational Fund, Inc., Amicus Brief, *Students for Fair Admissions Inc. v. President and Fellows of Harvard College*, at 11-15, <https://www.naacpldf.org/wp-content/uploads/2022-07-22-FINAL-Harvard-Student-Alum-Orgs-Amicus-Brief.pdf>; David Card & Jesse Rothstein, *Racial Segregation and the Black-White Test Score Gap*, NATIONAL BUREAU OF ECONOMIC RESEARCH (2006), https://www.nber.org/system/files/working_papers/w12078/w12078.pdf; Saul Geiser & Roger Studley, *UC and the SAT: Predictive Validity and Differential Impact of the SAT I and SAT II at the University of California*, EDUCATIONAL ASSESSMENT VOL. 8 (2002).

⁵⁰ NAEP Report Card: 2022 NAEP Reading Assessment, NATION'S REP. CARD, <https://www.nationsreportcard.gov/highlights/reading/2022/> (last accessed June 14, 2025); NAEP Report Card: 2022 NAEP Mathematics Assessment, NATION'S REP. CARD, <https://www.nationsreportcard.gov/highlights/mathematics/2022/> (last accessed June 14, 2025).

⁵¹ ANTHONY P. CARNEVALE ET AL., THE COST OF ECONOMIC AND RACIAL INJUSTICE IN POSTSECONDARY EDUCATION, GEO. U. CTR. EDUC. WORKFORCE (2021), <https://files.eric.ed.gov/fulltext/ED612709.pdf>.

are distributed equally in this country, but opportunities are not. As a nation, we cannot afford to forfeit the benefits of the talents and gifts of every person in our country. It should be completely uncontroversial to want all students to have equal access to educational opportunities. It should be equally uncontroversial to want schools to be safe, inclusive, and welcoming for all students. In fact, federal civil rights laws require schools to ensure this type of equal access and a safe and inclusive school environment that can provide it.

Sadly, our country still faces segregation in PK-12 schools and systematic underfunding of majority Black schools.⁵² Black students in under-resourced schools have less access to experienced teachers,⁵³ high-quality instructional materials, adequate facilities,⁵⁴ and the kinds of courses that higher education institutions rely upon as traditional indicia of “merit.” This unequal access to educational opportunities persists even when controlling for other variables, like socioeconomic status.⁵⁵ In schools, Black students often face serious and harmful racial harassment that make them feel less safe at school and limit their ability to access the full benefits of educational programs.⁵⁶ Black students are also removed from classrooms at higher rates due to discriminatory discipline policies and practices.⁵⁷

Social science clearly indicates that programs that are specifically targeted at creating welcoming, diverse, and equitable school environments provide a meaningful boost to student success. Programs that help students develop their racial and ethnic identities have cognitive and noncognitive benefits, including an increase in their sense of competence, sense of belonging, interpersonal

⁵² See, e.g., IVY MORGAN, EQUAL IS NOT GOOD ENOUGH, ED TRUST, (2022), <https://edtrust.org/wp-content/uploads/2014/09/Equal-Is-Not-Good-Enough-December-2022.pdf>.

⁵³ Ed Trust, *As Districts Face Teacher Shortages, Black and Latino Students Are More Likely to Have Novice Teachers Than Their White Peers* (Dec. 15, 2021), <https://edtrust.org/press-release/as-districts-face-teacher-shortages-black-and-latino-students-are-more-likely-to-have-novice-teachers-than-their-white-peers/#:~:text=Not%20only%20do%20Black%20students,5%25%20first%2Dyear%20teachers>.

⁵⁴ Chris Hacker, *Majority-Black school districts have far less money to invest in buildings — and students are feeling the impact*, CBS NEWS (Sept. 14, 2023), <https://www.cbsnews.com/news/black-school-districts-funding-state-budgets-students-impact/>.

⁵⁵ NICHOLAS P. TRIPLETT & JAMES E. FORD, E(RACE)ING INEQUITIES: THE STATE OF RACIAL EQUITY IN NORTH CAROLINA PUBLIC SCHOOLS, CTR. FOR RACIAL EQUITY IN EDUC. (2019), https://www.ednc.org/wpcontent/uploads/2019/08/EducationNC_Eraceing-Inequities.pdf.

⁵⁶ need supporting evidence/citation

⁵⁷ See, e.g., OFF. FOR C. R., U.S. DEP’T OF EDUC., AN OVERVIEW OF EXCLUSIONARY DISCIPLINE PRACTICES IN PUBLIC SCHOOLS FOR THE 2017-18 SCHOOL YEAR (2021), <https://ocrdata.ed.gov/assets/downloads/crde-exclusionary-school-discipline.pdf>.

relationships, and commitments.⁵⁸ As a result, programs that validate students' identities and culture during recruitment, orientation, in and outside of classes, and through student exit interviews can improve Black students' degree attainment rates.⁵⁹ Participation in affinity groups can similarly increase course completion.⁶⁰ Campus experiences in both class and extracurricular activities focused on learning and developing a positive racial identity can improve academic support and performance among students of color.⁶¹ Mentoring programs can also reduce barriers that prevent people of color from achieving success.⁶²

The prior 2021 priority encouraged grantees to propose evidence-based practices that support all students in accessing the benefits of a welcoming school environment. These practices include those that make system-wide changes to address harassment in schools or serious rethinking about how to administer fair student discipline policies. Practices that fall under this priority could also address voluntary efforts by schools and districts to pursue integration efforts and address pernicious racial isolation in their classrooms and buildings. Other grantees under this priority also may be making straightforward, and necessary, decisions to try to secure more funding to direct to schools within their districts that primarily enroll underserved students and lack the resources that other schools may have.

⁵⁸ DINA C. MARAMBA & PATRICK VELASQUEZ, INFLUENCES OF THE CAMPUS EXPERIENCE ON THE ETHNIC IDENTITY DEVELOPMENT OF STUDENTS OF COLOR, 44 ED. & URBAN SOCIETY 294 (2014), <https://doi.org/10.1177/0013124510393239>; see also AYGUL N. BATYRSHINA, ET AL., HOW DOES ETHNIC IDENTITY RELATE TO ADJUSTMENT FOR MINORITIZED STUDENTS? A TWO-SITE COMPARISON OF LARGE PUBLIC UNIVERSITIES, 25 J. C. STUDENT RETENTION: RES., THEORY & PRACTICE 768, <https://doi.org/10.1177/15210251211022649>.

⁵⁹ S.L. HOLMES, ET AL., VALIDATING AFRICAN AMERICAN STUDENTS AT PREDOMINANTLY WHITE INSTITUTIONS, 2 J. C. STUDENT RETENTION: RES., THEORY & PRACTICE 41 (2000), <https://psycnet.apa.org/record/2015-16767-004>.

⁶⁰ DERRICK R. BROOMS AND ARTHUR R. DAVIS, STAYING FOCUSED ON THE GOAL: PEER BONDING AND FACULTY MENTORS SUPPORTING BLACK MALES' PERSISTENCE IN COLLEGE, 48 J. BLACK STUDIES 3, 20 (Feb. 13, 2017) <https://journals.sagepub.com/doi/abs/10.1177/0021934717692520>.

⁶¹ LAURIE A SCHREINER, DIFFERENT PATHWAYS TO THRIVING AMONG STUDENTS OF COLOR: AN UNTAPPED OPPORTUNITY FOR SUCCESS, 15 ABOUT CAMPUS 9, 10-19 (2014), <https://doi.org/10.1002/abc.21169>; DINA C. MARAMBA & PATRICK VELASQUEZ, INFLUENCES OF THE CAMPUS EXPERIENCE ON THE ETHNIC IDENTITY DEVELOPMENT OF STUDENTS OF COLOR, 44 ED. & URB. SOC. 294, <https://doi.org/10.1177/0013124510393239>.

⁶² FRANK DOBBIN AND ALEXANDRA KALEV, *WHY DIVERSITY PROGRAMS FAIL AND WHAT WORKS BETTER*, HARV. BUS. REV. (2016), <https://hbr.org/2016/07/why-diversity-programs-fail>; DAVID F. SANTOS CASTILLO, THE SECRET RECIPE: UNPACKING THE MENTORSHIP EXPERIENCE BETWEEN THE GUARDIANS OF ACADEMY AND FIRST-GENERATION STUDENTS OF COLOR IN HIGHER EDUCATION, ACTION RES. PROJECTS (2022), <https://digital.sandiego.edu/soles-mahel-action/110/>.

Importantly, practices, including the above, that promote diversity, equity, inclusion, and accessibility are evidence-based. Contrary to some statements made by this Administration, there is no support for the proposition that these practices are categorically illegal. Under federal civil rights laws, schools that receive federal funds have a legal duty to address barriers that limit educational opportunities for students on the basis of race, sex, or disability. Many diversity, equity, inclusion, and accessibility programs comply with—and, in fact, can help advance—civil rights laws.

Nothing about anti-harassment training, additional school funding for under resourced schools, mentorship programs, student affinity groups, and fair discipline policies violate equal protection principles or antidiscrimination laws when these resources and benefits are open to all students. In fact, it has long been the case that these types of efforts often help institutions comply with civil rights law. In agreeing to resolve Department of Education Office for Civil Rights (OCR) investigations related to hostile environments based on race, schools have often implemented diversity, equity, and inclusion practices to remedy discrimination and foster a more positive and inclusive school climate.⁶³ These include resolution agreements drafted by OCR during the first Trump Administration.⁶⁴

While the Department of Education may wish to rewrite decades-old civil rights statutes, it has no authority to do so. Further, multiple federal courts have found efforts by the Department of Education to blanketly prohibit diversity, equity, inclusion, and accessibility programs to be likely unconstitutional in violation of First Amendment and due process principles.⁶⁵

Efforts by schools, districts, states, and postsecondary institutions to create equitable educational opportunities and welcoming school environments should

⁶³ See United States Department of Education, Office for Civil Rights, *Fact Sheet: Diversity & Inclusion Activities Under Title VI* (Jan. 2023), https://www.saveyourvi.org/files/ugd/fed74f_f83be2e4e31141adaffb41d1c15307c7.pdf (removed from ED OCR website).

⁶⁴ See United States Department of Education, Office for Civil Rights, *Resolution Agreement for Maple Run Unified School District* (July 2018), <https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/investigations/more/01171319-b.pdf> (requiring remedies for a racially hostile environment, including racial bias training for staff, consultation with an equity coordinator, and changes to school grievance processes).

⁶⁵ See *National Association for the Advancement of Colored People v. U.S. Department of Education*, No. 25-cv-1120 (D.D.C. 2025).

emphatically remain a priority of federal dollars administered by the Department of Education. This priority is evidence-based, legal, and necessary. The Department of Education has failed to provide any evidence to counter decades of social science research that supports these programs. Concurrently, legal arguments proffered by the Department of Education to ban these programs have been quickly refuted by federal courts. LDF requests a reinstatement of this priority or new priorities that address the importance of creating equal educational opportunities and welcoming school environments for all students.

C. Supporting a Diverse Educator Workforce and Professional Growth to Strengthen Student Learning⁶⁶

This priority recognized the importance of a diverse, well-prepared, and well-supported educator workforce for our nation's schools. Although the population of K-12 public schools is increasingly composed of students of color, the teacher workforce does not reflect the racial diversity of the students.⁶⁷ Black students are much less likely to experience a teacher of the same race and the benefits that come with same-race teachers. In 2018 and 2019, the proportion of white teachers (seventy-nine percent) was substantially larger than the proportion of white students (forty-seven percent) nationwide, while the proportion of Black teachers (seven percent) was less than half the proportion of Black students (fifteen percent).⁶⁸ The stark lack of diversity in the educator workforce and insufficient training perpetuates educational disparities and is harmful to school climate, such as contributing to racial inequalities in school discipline.

There is extensive research documenting the positive benefits Black educators provide to all students by creating an educational context in which both Black and non-Black students can learn and thrive.⁶⁹ The benefits of Black teachers for Black

⁶⁶ For more information please see, KESHA MOORE, BLACK EDUCATORS AS ESSENTIAL WORKERS FOR EDUCATIONAL EQUITY, THURGOOD MARSHALL INST. (March 2025) <https://tminstituteldf.org/black-educators-as-essential-workers-for-educational-equity/>.

⁶⁷ KATHERINE SCHAEFFER, AMERICA'S PUBLIC SCHOOL TEACHERS ARE FAR LESS RACIALLY AND ETHNICALLY DIVERSE THAN THEIR STUDENTS, PEW RES. CTR. (Dec. 10, 2021), <https://www.pewresearch.org/short-reads/2021/12/10/americas-public-school-teachers-are-far-less-racially-and-ethnically-diverse-than-their-students/>.

⁶⁸ *Id.*

⁶⁹ Laura Fay, *74 Interview: Researcher Gloria Ladson-Billings on Culturally Relevant Teaching, the Role of Teachers in Trump's America & Lessons From Her Two Decades in Education Research*, THE 74 (Aug. 8, 2019), <https://www.the74million.org/article/74-interview-researcher-gloria-ladson-billings-on-culturally-relevant-teaching-the-role-of-teachers-in-trumps-america-lessons-from-her-two-decades-in->

students are well-established. Black students score higher on achievement tests when assigned to a Black teacher.⁷⁰ Having a Black teacher is associated with an improved attitude toward math and improved reading and math performance for Black students.⁷¹ Teachers of the same race or ethnicity can also increase school engagement for Black students and decrease the likelihood they will drop out of school before graduation.⁷² Research continually find benefits of having Black educators on chipping away at barriers to equal educational opportunities for Black students.

Coupled with efforts to strengthen the recruitment of diverse educators, it remains equally important to ensure they are retained and well-supported. Black teachers face the same challenges that all teachers face, such as low pay, burnout, lack of administrative support, and the painstaking work to address the impact of COVID-19 on student learning. They also face additional challenges like racially hostile school environments in integrated schools. For instance, the ongoing spate of anti-truth attacks often targets Black educators in uniquely harmful ways by limiting their ability to talk about their own lived experiences in the classroom and making them feel like their own identity is a liability that places their jobs at risk.⁷³

[education-research/](#); Emily Kaplan, *Pedro Noguera: The Work Is Not Yet Done*, EDUTOPIA (Sept. 30, 2020), <https://www.edutopia.org/article/pedronoguera-work-not-yet-done>; see also Jessenia Rivera, *Education Expert Gloria Ladson-Billings Explores Teaching 21st Century Learners in Diversity Committee Presentation*, U. S. FLA., C. EDUC. (2020), <https://www.usf.edu/education/about-us/news/2020/gloria-ladson-billings-diversity-committee-presentation.aspx>; see, e.g., Christopher Redding, *A Teacher Like Me: A Review of the Effect of Student–Teacher Racial/Ethnic Matching on Teacher Perceptions of Students and Student Academic and Behavioral Outcomes*, 89 REV. EDUC. RES. 499 (2019), doi: 10.3102/0034654319853545; Thomas S. Dee, *Teachers, Race, and Student Achievement in a Randomized Experiment* 197 NAT’L BUREAU OF ECON. RES. (2001); Kendall Ware, *The Effect of Black Educators on Black Students’ Beliefs Towards Mathematics*, 1 SN SOC. SCI. 97 (2021), doi: 10.1007/s43545-021-00099-5.

⁷⁰ See Christopher Redding, *A Teacher Like Me: A Review of the Effect of Student–Teacher Racial/Ethnic Matching on Teacher Perceptions of Students and Student Academic and Behavioral Outcomes*, 89 REV. EDUC. RES. 499 (2019), doi: 10.3102/0034654319853545.

⁷¹ See THOMAS S. DEE, *TEACHERS, RACE, AND STUDENT ACHIEVEMENT IN A RANDOMIZED EXPERIMENT* 197 NAT’L BUREAU OF ECON. RSCH., 195, 197 (Feb. 2004), <https://www.jstor.org/stable/3211667>; KENDALL WARE, *THE EFFECT OF BLACK EDUCATORS ON BLACK STUDENTS’ BELIEFS TOWARDS MATHEMATICS*, 1 SN SOC. SCIS. 97 (2021), doi: 10.1007/s43545-021-00099-5.

⁷² MICHAEL GOTTFRIED, J. JACOB KIRKSEY & TINA L. FLETCHER, *DO HIGH SCHOOL STUDENTS WITH A SAME-RACE TEACHER ATTEND CLASS MORE OFTEN?*, 44 AERA OPEN 149 (2021), doi: 10.3102/01623737211032241.

⁷³ Melinda D. Anderson, *‘These Are the Facts’: Black Educators Silenced from Teaching America’s Racist Past*, GUARDIAN (Sept. 14, 2021), <https://www.theguardian.com/education/2021/sep/14/black-us-teachers-critical-race-theory-silenced>.

It is important to note that this priority sought to increase the diversity of the educator workforce broadly, not just by increasing the number of Black teachers. The priority did so by inviting applications for grants that addressed educator preparation programs, helping high poverty districts conduct more robust hiring processes, providing educators with mentorship programs, broadening recruitment programs, and raising teacher pay to attract more candidates. To be sure, the priority, and subsequent Notices Inviting Applications for grant programs required applicants to pursue these goals in ways that comply with federal civil rights laws. Nothing about this priority requires or even encourages grantees to violate civil rights laws in pursuit of the important goal of increasing educator diversity.

LDF requests a reinstatement of this priority or new priorities that address the importance of creating a diverse, well-prepared, and well-supported educator workforce.

D. Priority 4—Meeting Student Social, Emotional, and Academic Needs

A comprehensive and supportive education is not bound by the four corners of curriculum. To best serve children, schools must recognize that a student's social and emotional needs must be met in order to create a safe, supportive environment for learning because health, safety, and learning are deeply intertwined. All students flourish in nurturing environments that support them on their paths to growth and fulfillment. Schools should be equipped with the resources and knowledge to support students' positive social-emotional development, especially by teaching students how to properly manage their emotions and respond to conflict in healthy and productive ways. These lessons could be implemented through thoughtful interrogations of what fair discipline policies could look like, directly addressing issues with common practices that lead to higher rates of exclusionary discipline for Black students.

Research suggests that students of all races benefit significantly from racially diverse educational settings through improved social-emotional learning during their formative years and enhanced cognitive and interpersonal skills during adolescence and beyond.⁷⁴

⁷⁴ But see CONSTANCE LINDSAY ET AL., TEACHER RACE AND SCHOOL DISCIPLINE, 17 EDCU. NEXT 72 (2017), <https://eric.ed.gov/?id=EJ1122057>; see e.g., ADAM WRIGHT, MICHAEL A. GOTTFRIED & VI NHUAN LE, A KINDERGARTEN TEACHER LIKE ME: THE ROLE OF STUDENT-TEACHER RACE IN SOCIAL-EMOTIONAL

Many of the evidence-based practices highlighted above also fall well within this priority. It is important to note that priority setting for competitive grants does not run afoul of the Department of Education’s limitation on setting curriculum. These priorities simply state the value of general practices, and individual states, districts, and schools are free to set their own standards, curricula and employ individualized pedagogical practices to meet these goals. LDF requests a reinstatement of this priority or new priorities that address the importance of supporting the social and emotional learning of students.

E. Priority 5—Increasing Postsecondary Education Access, Affordability, Completion, and Post-Enrollment Success

There is no question that postsecondary education provides one of the largest drivers of social and economic mobility for people in this country. Whether that postsecondary education comes in the form of career and technical education, colleges and universities, community colleges, professional schools, or graduate studies, postsecondary opportunities allow students to build comfortable lives and more actively participate in our multiracial democracy. Equally agreed upon is that postsecondary education, particularly four-year universities, has become increasingly unaffordable and therefore inaccessible for too many students in this country.⁷⁵

Not only can many students not afford to attend institutions of higher education, but structural barriers in this country also ensure that Black students in particular attend college at lower rates than white peers. According to a 2022 McKinsey study, only “9 percent of four-year institutions [representing] 8 percent of enrolled students have both a representative student population and graduation rates for students from underrepresented populations that are the same as or

DEVELOPMENT, 54 AM. EDUC. RES. J. 78S, 81S (2017), doi: 10.3102/0002831216635733; Nora Gordon, *Disproportionality in Student Discipline: Connecting Policy to Research*, BROOKINGS INST. (Jan. 18, 2018), <https://www.brookings.edu/articles/disproportionality-in-student-discipline-connecting-policy-to-research/>; Lea Winerman, *For Black Students, Unfairly Harsh Discipline Can Lead to Lower Grades*, AM. PSYCH. ASS’N (Oct. 7, 2021), <https://www.apa.org/news/press/releases/2021/10/Black-students-harsh-discipline>.

⁷⁵ See, e.g., ALAIN POUTRE, JAMEY RORISON, AND MAMIE VOIGHT, LIMITED MEANS, LIMITED OPTIONS: COLLEGE REMAINS UNAFFORDABLE FOR MANY AMERICANS, INST. FOR HIGHER EDUC. POL’Y (March 2017), https://live-ihcp-wp.pantheonsite.io/wp-content/uploads/2017/04/uploads_docs_pubs_limited_means_limited_options_report_final.pdf.

higher than the national average.”⁷⁶ Recent data also show that Black people, aged 18-24, are over 12% less likely to be enrolled as undergraduate or graduate students in two- or four-year degree programs, compared to white people.⁷⁷ This enrollment disparity widens even further at selective colleges and universities, regardless of whether they are public or private institutions.⁷⁸

Absent unfair barriers to access and opportunity, there is no reason colleges and universities that seek to enroll diverse student bodies would not mirror the population from which they draw. However, while talent is everywhere, opportunity is not. Unfair racial barriers exist at every step, from admissions to enrollment to graduation to faculty hiring. These differences in opportunity are the result of both systemic issues in PK-12 schools and policies and practices by higher education institutions that favor other students and fail to provide all students with the resources they need to thrive on campus. As a result, talented and qualified students are excluded from our nation’s colleges and universities because of circumstances outside their own control.

It is no surprise that when the Supreme Court decided to hear a case challenging Harvard’s efforts to create a more diverse student body through the careful consideration of race as a factor in admissions, over 80 major corporations participated in the filing of an *amicus* brief in support of Harvard.⁷⁹ In its brief, these companies argued that they rely on recruiting students from diverse student bodies because:

⁷⁶ DIANA ELLSWORTH, ET AL., RACIAL AND ETHNIC EQUITY IN U.S. HIGHER EDUCATION, MCKINSEY & CO., 4 (2022),

<https://www.mckinsey.com/~media/mckinsey/industries/education/our%20insights/racial%20and%20ethnic%20equity%20in%20us%20higher%20education/racial-and-ethnic-equity-in-us-higher-education.pdf>.

⁷⁷ INST. OF ED. SCI., NAT’L CTR. FOR ED. STATISTICS, THE CONDITION OF EDUCATION 2020: COLLEGE ENROLLMENT RATES (2020), https://nces.ed.gov/programs/coe/pdf/coe_cpb.pdf.

⁷⁸ ANDREW HOWARD NICHOLS, “SEGREGATION FOREVER”?: THE CONTINUED UNDERREPRESENTATION OF BLACK AND LATINO UNDERGRADUATES AT THE NATION’S 101 MOST SELECTIVE PUBLIC COLLEGES AND UNIVERSITIES, ED. TRUST (2014), <https://edtrust.org/wp-content/uploads/2014/09/Segregation-Forever-The-Continued-Underrepresentation-of-Black-and-Latino-Undergraduates-at-the-Nations-101-Most-Selective-Public-Colleges-and-Universities-July-21-2020.pdf>.

⁷⁹ Br. for Major American Business Enterprises as Amici Curiae Supporting Respondents, *Students for Fair Admission v. President & Fellows of Harvard Coll.* and *Students for Fair Admissions v. Univ. of North Carolina*, Nos. 20-1199 & 21-707 (Aug. 1, 2022), <https://www.naacpldf.org/wp-content/uploads/Brief-for-Major-American-Business-Enterprises-Supporting-Respondents-FINAL.pdf>.

Racial and ethnic diversity enhance business performance. Research and experience demonstrate that racial diversity improves decision-making by increasing creativity, communication, and accuracy within teams. Experience in a diverse university environment prepares students to interact with and serve racially diverse client and customer bases and to work with people of all backgrounds. The result is a business community more aligned with the public, increased profits, and business success.⁸⁰

By contrast, racial disparities in higher education access do not just hurt Black, Latino, and other underrepresented students, but have a profound effect on American society and the economy. Researchers at Georgetown University estimated in 2021 that gaps in postsecondary attainment cumulatively cost the U.S. economy nearly \$1 trillion per year.⁸¹

Even when Black students are admitted and attend college, they are disproportionately saddled with debt due to rising costs and systemic economic barriers. Data from the U.S. Department of Education indicates that around 86% of Black students take out student loan debt compared with around only 68% percent of white students. Black students also typically owe more than white students. Black borrowers take out an average of \$39,500 in student loans, while white students borrow an average of \$29,900.⁸²

This 2021 priority sought to direct federal dollars towards applicants that wanted to meaningfully address issues of college access and affordability for all students. Surprisingly, none of the Department of Education's proposed priorities in this action address postsecondary education or access to higher education. That omission would have profound consequences. LDF requests a reinstatement of this priority or new priorities that address the importance of supporting postsecondary access, affordability, completion, and success.

F. Priority 6—Strengthening Cross-Agency Coordination and Community Engagement to Advance Systemic Change

⁸⁰ *Id.* at 16.

⁸¹ *Id.*

⁸² See Santul Nerkar, *Canceling Student Debt Could Help Close The Wealth Gap Between White And Black Americans*, FIVETHIRTYEIGHT (May 31, 2022) <https://fivethirtyeight.com/features/canceling-student-debt-could-help-close-the-wealth-gap-between-white-and-black-americans/>.

Robust and comprehensive partnerships between schools and their communities enrich the education of all students. This priority supported efforts to increase collaboration between schools, parents, community groups, state governments, and localities. These collaborative efforts helped support students with issues such as food insecurity, homelessness, financial hardships, transportation, public safety, and more. LDF requests a reinstatement of this priority or new priorities that address the importance of strengthening collaborations between schools and their communities.

We appreciate the opportunity to comment on the Secretary's Proposed Supplemental Priorities. If you have any questions, please do not hesitate to contact Hamida Labi at 646-527-0315 or hlabi@naacpldf.org.

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