

# **EXHIBIT I**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

NATIONAL EDUCATIONAL  
ASSOCIATION, et al.,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
EDUCATION, et al.,

*Defendants.*

Case No. 1:25-cv-00091-LM

**DECLARATION OF MEMBER A**

I, [REDACTED], pursuant to 28 U.S.C. § 1746, depose and say as follows:

1. I am NEA Member A as identified in the Complaint.
2. I am a high school English teacher at [REDACTED] High School in [REDACTED], New Hampshire. I teach Advanced Placement (“AP”) English Literature and Composition (“AP English”), Honors Senior English, and Grade 9 English. I have been teaching for 24 years.
3. I am a member of NEA-NH and the [REDACTED] Education Association.
4. I am offering this Declaration in my individual capacity and not on behalf of the District that employs me.
5. I have been directly impacted and harmed by the Dear Colleague Letter, the subsequent FAQs, and the “End DEI” complaint portal (together, the “Letter”), as I have experienced and will continue to experience significant chill and confusion regarding my teaching practices for fear that it might violate the Letter’s prohibitions.
6. In particular, I fear that my teaching will be considered discrimination because of the ways my courses explore themes and permit discussion of “systemic and structural racism,” “discriminatory policies and practices,” or gender roles—concepts which are explicitly or potentially implicated by the Letter’s prohibitions, including in the Letter’s prohibitions on “diversity,” “equity,” and “inclusion,” and on teaching “that certain racial groups bear unique moral burdens that others do not.” I fear that I may be subjected to complaints, investigation, discipline, or adverse employment action as a result of my teaching.

7. [REDACTED]

[REDACTED]. The district court declared that the Banned Concepts Act was unconstitutional,<sup>2</sup> but I am now facing similar apprehensions in response to the Dear Colleague Letter.

8. I am particularly concerned with the Department of Education's invocation of Moms for Liberty in the press release of the "End DEI" complaint portal, as Moms for Liberty is the group that offered a bounty in New Hampshire for complaints against teachers when the Banned Concepts Act was in effect. It is clear that a witch hunt against teachers is ensuing. If such a complaint were lodged, even if meritless, my reputation would be harmed by the allegations themselves.

9. As an AP English teacher, my course is designed to prepare students for college level courses and also the AP Exam, which focuses on reading, analyzing, and writing about imaginative literature, poetry, and drama. As they read, students consider a work's structure, style, and themes, as well as its use of figurative language, including imagery and symbolism. Writing assignments include expository, analytical, and argumentative essays that require students to analyze and interpret literary works.

10. AP English teachers select literary works that require students to read and evaluate complex text by identifying, analyzing, and applying those aforementioned literary devices, as well as a plethora of other literary elements. The AP exam does not require students to have read any specific texts, but certain literary texts are often present on the exam.

**Implications on my ability to teach literature involving themes  
of race, racism, or racial stereotypes**

11. In recent years I have assigned Joseph Conrad's *Heart of Darkness*. This is a well-known literary work which often shows up on the AP exam. It has been equally criticized and celebrated for its depiction of race and 19th Century European imperialism. It remains a staple of AP and college English courses not only in the United States but across Europe.

12. *Heart of Darkness* may not feel particularly relevant to students in 2025. Students often say things along the lines of "This book is boring, what does it have to do with me?" So I typically

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<sup>2</sup> *Loc. 8027 v. Edelblut*, No. 21-CV-1077-PB, 2024 WL 2722254, at \*18 (D.N.H. May 28, 2024).

ask students to draw on things they have seen in the news, popular culture, or their own experiences and use these frameworks to inform their analysis of the text. I do this because the state certification standards require me to teach students how to talk about experiences (both their own and others), understand different cultures and experiences other than their own, and critically examine the information they receive in the media every day.<sup>3</sup> I also do this because this is what gets students to listen and become inspired and engaged—we’re competing against TikTok for student’s attention, and they are a lot less likely to engage in the curriculum if you do not make it relevant to their lives. However, in light of the “Dear Colleague Letter,” I am concerned about doing that now.

13. Along with *Heart of Darkness*, which is the anchor text featured in a unit on imperialism, I also teach the 1899 poem by Rudyard Kipling entitled “The White Man’s Burden.” This poem reflects and reinforces 19<sup>th</sup> Century notions of imperialism, specifically as it pertains to a racial hierarchy—with the Caucasian race firmly seated atop the hierarchy, and therefore promotes and expresses a White supremacist ideology. As such, the poem is a reflection of a virulent strain of racist ideology, not only alive at the time in which Conrad’s novella was first published, but also arguably manifest in the culture in which students are reading the text.

14. Further, a technique I might have incorporated in the past during the *Heart of Darkness* unit, and with respect to “The White Man’s Burden” as well, is to ask students to identify and analyze contemporary forms of imperialism, colonialism, and/or racism. However, in light of the Dear Colleague Letter, I am no longer comfortable asking students to freely identify instances of racism or colonialism, or the movements opposing those ideologies, in contemporary society for fear that it will be perceived that I am engaging in discrimination by permitting discussion about racism or racial stereotypes in the United States.

15. Further, the FAQs specifically highlight the concept of “being oppressors in a racial hierarchy” as something that might create a “racially hostile environment,” a term that the FAQs only vaguely describe. FAQ at 6. While I certainly do not accuse anyone of any race of being

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<sup>3</sup> For example, under New Hampshire regulations for certification of educational personnel, Ed 507.24, English Language Arts Teachers for Grades 5-12 are required to:

- “Provide an environment in which students develop and support critical insights in response to literature”
- “Guide students to read, discuss, and write about literature through various critical lenses such as but not limited to gender, religion, ethnicity, or socio-economic conditions as appropriate”
- “Provide opportunities for students to practice different forms of classroom discourse, including formal and informal conversations and presentations”
- “Guide students to listen critically and speak purposefully and articulately”



oppressors in a racial hierarchy, discussion of *Heart of Darkness* and “The White Man’s Burden” necessarily requires discussion of the fact that European imperialism was in part based on the idea of racial hierarchy. I am now concerned that discussing this fact could result in me being accused of creating a racially hostile environment.

16. I have the same concerns with other classic books I assign. *Beloved* by Toni Morrison is a fictional account of an African American woman’s experience as an enslaved person and her life afterward. The theme of the book is how the destructive legacy of slavery impacts this character. *To Kill a Mockingbird* by Harper Lee explores themes of racial injustice, morality, and empathy through the eyes of a young girl, Scout Finch, in the segregated South during the 1930s as her father, Atticus Finch, a public defender, defends a Black man falsely accused of raping a white woman.

17. Prior to the Letter, a technique I would use while assigning *Beloved* would be to ask students to identify whether the legacy of slavery is evident in the modern world and if they could connect any of the characters’ stories to their own experiences or observations. When assigning *To Kill a Mockingbird*, I might ask students to research the case of Emmett Till and ask them why they think the suspects were acquitted, and how it might or might not be similar in this fashion to the case of Tom Robinson in *Mockingbird*.

18. Given the Letter’s restrictions, I feel less comfortable placing these books in a contemporary framework and asking students, for example, if they think the Black Lives Matter movement could be considered a result of the destructive legacy of slavery, or asking, “does the legacy of slavery continue and if so, how?” The Letter keeps me from engaging in that discussion because I know it could easily be misunderstood as me “indoctrinating” students to concepts of racism and racial stereotypes in a way that the Letter suggests constitutes illegal discrimination.

### **Implications on my ability to teach literature involving themes of gender roles**

19. During my tenure as a high school English teacher, I have regularly assigned classic and contemporary texts that explore the concept of gender such as in Jane Austen’s *Pride and Prejudice*, Margaret Atwood’s *Alias Grace*, and a myriad of other works by notable authors including, but certainly not limited to, Shakespeare, Shelley, Bronte, Salinger, and Vonnegut. For example, gender roles and gender discrimination are very common themes in these works. Again, to make these works relevant and engaging for students, I often ask them to juxtapose

contemporary issues in the media to the way that gender is portrayed in the novel. Indeed, these are all texts gleaned from the Western canon of literature and are regarded as, in the language of the AP, “works of great literary merit.” Subsequently, these works commonly appear on the AP Literature and Composition exam and, moreover, are staples of high school English classes wherein—contrary to any belief that students are being indoctrinated with specific political ideologies—critical and independent thinking is promoted and allowed to flourish. This critical thinking promotes the democratic principles enshrined in our Constitution, where our students are given the tools to become fully-informed participants of our society.

20. Because the Letter refers to “toxic[] indoctrinat[ion]” and DEI programs generally, which could be read to incorporate this administration’s idea of “gender ideology,” I fear that any discussion of gender discrimination and gender roles could result in me being accused of “indoctrinating” students in a way that the Letter suggests constitutes illegal discrimination.

**Implications on my ability to teach in a way that is responsive to students’ interests and individuality**

21. In my AP English course, I sometimes have assignments wherein students can identify a theme in a work we are studying and write an essay that stakes a claim and provides evidence to support that claim. Students have freedom to choose the theme they want to address in their essays, and students in the past have brought in themes of race or gender, particularly when those themes are central to their identity or life. The Letter appears to be aimed at eliminating conversations around race, diversity, or discrimination generally, so I fear that permitting students to write about these themes, even when they have chosen the theme themselves, could subject me to negative consequences.

22. This means my hands are tied. If I permit students to pursue an individualized education that is engaging and relevant to them, I risk complaints, discipline, or losing my job.

23. Further, the FAQs concerningly call out “social-emotional learning” and “culturally responsive” teaching as efforts that “veil discriminatory policies,” without providing any proof. FAQ at 5. Social-emotional learning is taught by my district and state as a best practice for teaching, and I incorporate it in my lessons. For example, I recently had students complete a group project on beauty standards where they created a collage and wrote a reflective piece as related to

the theme of healthy vs. unhealthy beauty standards. This practice falls under “social-emotional learning” but certainly does not mask any type of discriminatory policy. And yet I now will have to worry that incorporating a lesson of this nature could subject me to accusations of veiled discrimination.

**Fear of potential consequences,  
such as complaints, discipline, or adverse employment action**

24. Our students need to learn critical thinking skills such as taking in material, analyzing it, finding their own conclusions, and then formulating and defending an argument based on their conclusions. I don’t tell my students what to think, because that is not teaching. I hope they will formulate their own arguments and draw their own conclusions. I fear my students are losing valuable analytical training and will be ill-prepared at the college level if they cannot practice generating their own opinions on challenging works from our past and connecting them to their world today.

25. But in the wake of the Letter, my job is more challenging because I am concerned a complaint will be made to the Department of Education that I have attempted to indoctrinate my students to the notion that white people are inherently racist, men are inherently sexist, or “that certain racial groups bear unique moral burdens that others do not.” I do not believe this to be true in the least, but the Letter is written so that any contemporary investigation of race, gender, or any form of diversity, equity, and inclusion, invites a claim that my lessons amount to discrimination.

26. I have found that the Letter is particularly limiting because it invites any parent or student to file a complaint based on its broad and confusing prohibitions. Parents and students often misunderstand instruction techniques, such as using the Socratic method, playing devil’s advocate, or seemingly agreeing or disagreeing with a student in order to draw out analytical thinking. Because the Letter characterizes teaching about race, diversity, equity, and inclusion as discriminatory, it means a parent or anyone else could easily misunderstand a classroom exercise, or ignore the context of a particular statement, and file a complaint based on their perception of what I have said, or what students have said in class discussions based on the materials I teach. Since any new book I want to use would need to be approved by the [REDACTED], [REDACTED], comprised of teachers, administrator, and



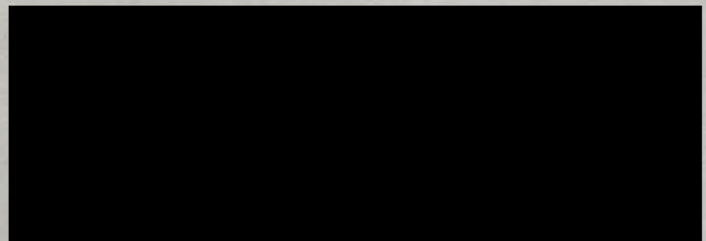
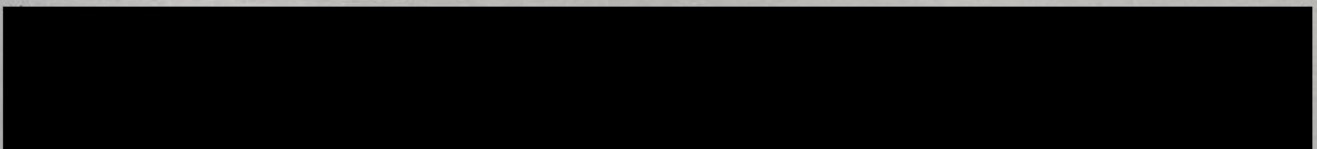
open to parents, citizens, and students,<sup>4</sup> my teaching is under particular scrutiny, subjecting me to heightened risk of complaints or discipline.

27. This also means it would be quite burdensome for me to revise my curriculum. To revise my curriculum, I would have to consult with the other English teachers at my school, seek approval for changes from the curriculum director at the school, and then also seek Committee approval. This is typically done over the summer prior to the school year starting. Doing so during the school year would be akin to fixing a plane while flying, which would take a toll on me as an instructor and also the students because I could not be the best instructor possible if forced to modify my curriculum on short notice. Students preparing for the AP Exam would be most affected, as it would be difficult to modify the curriculum quickly enough to cover all the necessary components that the AP Exam tests.

28. I wish to have personally identifiable information concerning this declaration not made public. Given the climate we are currently in with educators constantly being under attack, I fear that, if my name were to become public in a lawsuit challenging the President's education policies, I could be harassed or experience unwarranted employment consequences.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20 day of March, 2025.

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# **EXHIBIT J**

**DECLARATION OF VALERIE WOLFSON**

I, Valerie Wolfson, pursuant to 28 U.S.C. § 1746, depose and say as follows:

1. I am NEA Member B as identified in the Complaint.
2. I am an 8<sup>th</sup> Grade Social Studies teacher at Oyster River Middle School in Durham, New Hampshire. I have been teaching for 26 years.
3. I am a member of NEA-NH and the Oyster River Teacher's Guild.
4. I am offering this Declaration in my individual capacity and not on behalf of the District that employs me.
5. I have been directly impacted and harmed by the Dear Colleague Letter (the "Letter") as I have experienced significant chill and confusion regarding my teaching practices for fear that it might violate the Letter's prohibitions.
6. In particular, I fear that my teaching will be considered discrimination because of the ways my courses explore themes and permit discussion of "systemic and structural racism," "discriminatory policies and practices," or gender roles, concepts which are explicitly or potentially implicated by the Letter's prohibitions, including in the Letter's prohibitions on "diversity," "equity," and "inclusion," and on teaching "that certain racial groups bear unique moral burdens that others do not." I fear that I may be subjected to complaints, investigation, discipline, or adverse employment action as a result of my teaching.
7. The February 28, 2025 FAQ only adds to the uncertainty, as it makes vague references to "creating hostile environments" and suggests that educational institutions are seeking out "loopholes," "laundering" racial preferences, and engaging in "covert discrimination." The FAQ thus invites distrust in the ethics and professionalism of schools and educators, compounding the risk of complaints invited by the Letter.
8. I expressed similar fears as a public advocate<sup>1</sup> against New Hampshire's Banned Concepts Act, which purported to ban education around similar concepts. A court declared that the Banned Concepts Act was unconstitutional, but I am now facing similar fears in response to the Dear Colleague Letter.

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<sup>1</sup> See, e.g., *Opinion: The culture wars have come to the classroom. Now what?*, CNN, Nov. 3, 2022, <https://perma.cc/S79G-2LE2>; Haley Yamada, *Teachers in New Hampshire face new legal threats for teaching so-called 'divisive concepts' on race: "It's psychological warfare,"* ABC NEWS, Nov. 16, 2021, <https://perma.cc/73CR-RVAT>.



9. My role as a social studies teacher is to provide as complete and well-rounded of a history education as possible. I am passionate about education for everyone and have committed myself to continued learning and growth, regularly updating my pedagogical practices and curriculum to ensure that students are engaged in learning history. This often involves having complex conversations with students of varying backgrounds and opinions. My students disagree with each other during discussions and may at times feel challenged and uncomfortable when confronting aspects of U.S. history, but this is all necessary to developing students' sense of critical thinking and logic—not indoctrination or political intention.

10. To be successful in this endeavor, I must create a foundation of trust, joy, understanding, respectful discourse, care, and acceptance in my classroom. Being inclusive in my approach to education brings in multiple voices that create a robust learning environment. My fellow teachers and I are being accused of indoctrination when in fact we approach the profession with only love, kindness, and compassion. In no sense are we discriminating against students or teaching that any group is inferior or superior, but the Letter opens the door to accusing us of doing so, putting our certifications and jobs at risk.

**Implications on my ability to teach history involving references to race, ethnicity, racism, or racial stereotypes**

11. Until recently, I taught early American history beginning with the founding of the United States of America. I structured my curriculum to teach this history from three perspectives: the Indigenous perspective, the European perspective, and the African perspective. Objectively, there is history students should learn about each of these groups. That history requires acknowledgement and discussion of the concepts of race, genocide, slavery, and colonialism—it is impossible to accurately teach this portion of history without reference to those concepts.

12. In teaching this history, I do not tell students what to believe or how to feel about history. I also do not tell them that any group is inherently inferior or superior to another group or that anyone should feel any guilt or shame because of their race, ethnicity, or national origin. Rather, I present resources and create space for discussions, questions, and further research around topics that students are passionate about and align with best teaching practices, including focusing on skill development and broad themes as a vehicle for critical thinking rather than specific topics



and require me to present multiple sides of an issue, promote discussion, and develop students' critical thinking.

13. However, I fear that these lessons would leave me vulnerable to accusations of discrimination under the Letter's interpretation of what constitutes discrimination since these lessons could lead to discussions around "systemic and structural racism" or "discriminatory policies and practices," which the Letter takes issue with. Such accusations could threaten my certification and my job.

14. In the past two years, I have shifted my curriculum forward in time to focus on the time period from the Civil War to the modern era to ensure that I include sufficient instruction on genocide and antisemitism as required by RSA § 189:11(I-c(j)), a New Hampshire law that went into effect before the 2023–24 school year. I fear that it is not possible to teach about the Holocaust or other examples of antisemitism without reference to concepts like white privilege or racial oppression which might open me up to accusations of discrimination under the Letter.

15. This curriculum also includes the history of the Reconstruction era. In this unit, I include lessons on Juneteenth, the Civil Rights Act of 1866, and the Fourteenth and Fifteenth Amendments, leading up to the Black Codes, the founding of the KKK, the Jim Crow Era, and the Compromise of 1877, among other historical events. All of this history is directly tied to concepts of race, racism, and slavery, and I do not know how I could discuss them without creating a risk of being accused of presenting a narrative of the United States as racist.

16. I also now worry about having to change how I teach incidents like the Tulsa race massacre of 1921, in which white residents of Oklahoma attacked Black businesses and homes, destroying a wealthy Black community known as "Black Wall Street." I discuss the Tulsa massacre to, among other reasons, help students understand the idea of generational wealth, its connections to slavery and race, and its impact on today's economy, not at all to inculcate feelings of shame, superiority, or inferiority. However, I fear this lesson leaves me vulnerable to accusation of discrimination under the Letter because of the Letter's vague and expansive theory of what constitutes illegal discrimination.

17. Given the Letter's restrictions and reporting mechanism, I feel as if I am being held hostage to students and parents' feelings and vague conceptions of discrimination and DEI. I would be risking my career to continue to teach these topics in the manner that I have. I have met



and advocated alongside teachers that have lost their jobs for far less in other states that have attempted to impose curriculum censorship.

**Implications on my ability to teach history involving reference to gender roles or LGBTQ history**

18. Class time is limited, and it is impossible to cover all aspects of history over the course of a year. For this reason, I encourage and permit students to pursue “passion projects” wherein they research, create a project outcome of their choosing, and present to their classmates an aspect of history that I haven’t covered in my syllabus. These projects are often where students are most engaged in their learning, since it often links history to their personal lives and modern times. I have had many students work on projects related to feminism and the question of how one’s identity is impacted by one’s sex. I have also had many students research LGBTQ history. Gender roles and sex discrimination are very common themes in these projects.

19. Because the Letter refers to “toxic[] indoctrinat[ion]” and DEI programs generally, which could be read to incorporate this administration’s idea of “gender ideology,” I fear that any discussion of gender discrimination and gender roles could result in me being accused of “indoctrinating” students in a way that the Letter suggests constitutes illegal discrimination.

**Implications on my ability to respond to student questions and provide culturally responsive teaching**

20. In my courses, particularly when learning about the Civil War and slavery, past students have asked out loud “why were we so racist back then?” In response, I always note that no one in the room is personally responsible for any aspect of history, but that the lessons of the past help us understand where we came from so that we can better understand today. However, I understand that even responding to this question, which is inflammatory, creates a risk for me.

21. I have always been committed to respectfully answering students’ questions to encourage their continued curiosity and engagement. I sometimes provide neutral academic resources to unpack difficult concepts further without imposing any particular viewpoint. But the truth is that slavery is difficult for a 13- or 14-year-old to understand, and they have emotions and questions



around the issue. It is my responsibility to help them think through difficult questions and critically examine their thoughts and the arguments of others, which I can't do without fear of being accused of indoctrination.

22. This is a particular issue because it is common for students to misrepresent what happens in the classroom. For example, a student might go home at the end of the day and say that I presented a particular conclusion that they did not agree with when really it may have been a peer that said something they disagreed with and all I did was facilitate a discussion to help students think critically, without affirmatively stating any position for or against whatever is being discussed. This reality puts me at great risk under the Letter's interpretation of discrimination.

23. Further, I am concerned about the Letter and subsequent FAQ's labeling of effective and important practices like social-emotional learning and culturally responsive teaching as "veil[ed] discriminatory policies." In my school, if I have a student who is fasting for Ramadan when a test is scheduled, that student can reschedule their exam as a matter of "culturally responsive teaching" with the goal of building relationships, appreciation for other cultures, sensitivity, and inclusion—quite the opposite of discrimination. Similarly, we teach social-emotional learning to help students solve problems, identify conflicts, manage stress, and build resilience. Now we are vulnerable to accusations that these important lessons might be disguising discriminatory motives.

**Fear of potential consequences, such as complaints, discipline, or adverse employment action**

24. When the government threatens to censor teachers and their curriculum, it hurts students the most by removing tools from a teacher's toolbox that help us develop students into informed, compassionate scholars. And of course, the threat I face of investigation, discipline, or adverse employment action is existential to my career.

25. Whereas in the past, if a parent or student had a concern about a particular topic I was teaching, they would come directly to me and my school to discuss their concerns and potential solutions, the Letter now gives an opportunity for anyone to allege that I am illegally



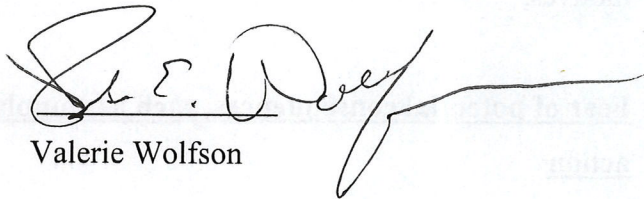
discriminating under the Letter's vague conception of discrimination in a way that threatens to destroy my livelihood.

26. I put my heart into my lesson plans. It takes a lot of time to create a cohesive narrative, find sources, and organize a syllabus, which is done in collaboration with colleagues and with the approval of my assistant superintendent. I even meet with students before they take my class to let them know what they will be learning about. Students often get excited to learn particular topics from me. I fear that any changes I would have to make would be extremely disruptive to not only my time but also to students, who look forward to learning and expect cohesive, organized lessons. The quality of my teaching would suffer if I had to suddenly change plans, for example by having to skip essential topics to accommodate a sudden change, ultimately impacting the students' educational experience.

27. English language learner students and students with disabilities would suffer the most, as it is difficult to quickly pivot to inform the English Language Learner ("ELL") teacher of alternate lesson plans, or to find accessible resources for students with disabilities and work with the special education teacher to support students with disabilities.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3<sup>rd</sup> day of March, 2025.

  
Valerie Wolfson

# **EXHIBIT K**



**DECLARATION OF SARAH GAHM**

I, Sarah Gahm, pursuant to 28 U.S.C. § 1746, depose and say as follows:

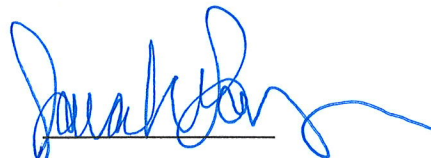
1. I am NEA Member C as identified in the Complaint.
2. I am a middle school counselor at Oyster River Middle School in Durham, New Hampshire. I have been teaching for 7 years.
3. I am a member of NEA-NH and the Oyster River Teacher's Guild.
4. I am offering this Declaration in my individual capacity and not on behalf of the District that employs me.
5. I have been directly impacted and harmed by the Dear Colleague Letter (the "Letter") as I have experienced significant chill and confusion regarding my teaching practices for fear that it might violate the Letter's prohibitions.
6. In particular, I fear that my teaching will be considered discrimination because of the ways my curriculum, both in an advisory capacity and during "SEL (social-emotional learning) takeover" sessions, and work as a counselor requires me to discuss issues related to "systemic and structural racism" and "discriminatory policies and practices," concepts which are explicitly implicated by the Letter's prohibitions, including in the Letter's prohibitions on "diversity," "equity," and "inclusion," and on teaching "that certain racial groups bear unique moral burdens that others do not." I fear that I may be subjected to complaints, investigation, discipline, or adverse employment action as a result of my teaching.
7. My role as a counselor is to prepare students to be successful learners and members of our society. This requires that students have a well-developed sense of self and an honest and accurate understanding of the broader world and how their actions and the actions of others might be received. I worry that the Letter's broad conception of discrimination actually presents a biased and censored view of reality by prohibiting accurate instruction, which ultimately will hurt students by not giving them knowledge and tools they need.
8. For example, a common topic of conversation with middle schoolers is hurtful language. There have been instances where students use the word "monkey" to describe a student of color. It is my job to educate students on the history and racist connotations of the word "monkey" as a slur for people of color to teach students why that term is hurtful to others.

9. As another example, in my advisory curriculum, I provide instruction on social-emotional learning. I have facilitated classroom and advisory lessons on hurtful language, identity, gender inclusivity, developing empathy, understanding bullying, and diversity. The hurtful language lessons focus on understanding the power of words and where they come from, including language specific to marginalized groups of people. Lessons on identity focus on increasing a deeper level of self-awareness of the characteristics individuals have, and who they are and want to be. The gender inclusivity lesson focuses on stereotypes, where they come from, and how to challenge them. The developing empathy lessons focus on building natural empathy by actively imagining the feelings of others and exploring why it is important to do so. Students identify and discuss other students' emotions and imagine how people in different situations may feel. Understanding bullying lessons focus on understanding what bullying is, how it impacts individuals, and their community. Lessons about diversity focus on fostering the students' capacity to understand and appreciate diversity. The students explore how they are similar to and different from one another, how diversity helps the community, and how to be respectful of others' differences. The goal of these lessons is to foster students with the social and emotional competencies they need to feel successful as learners and citizens of their communities.

10. I approach these conversations with sensitivity to all students involved and always aim not to cast blame or shame on anyone. My goal is to educate students to help them make their own decisions, not to indoctrinate. However, I worry that broaching conversations like this at all will put me at risk of complaints that I am engaging in illegal "toxic[] indoctrinat[ion]," DEI, or stigmatizing of students based on racial stereotypes. I am particularly worried given the FAQ regarding the Letter, which specifically identifies social-emotional learning as a practice that "veil[s] discriminatory policies." Beyond impacting my ability to engage in effective teaching practices and prepare students to understand the world, such complaints could subject me to investigation, discipline, or impact my job.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 4 day of March, 2025.

  
Sarah Gahm

# **EXHIBIT L**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION;

*et. al.,*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.,*

Defendants.

Case No.: 1:25-cv-00091

**DECLARATION OF MEMBER D IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

**DECLARATION OF MEMBER D IN SUPPORT OF PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

I, Member D, hereby declare that

1. My name is Member D. I am over the age of 18 years. I have personal knowledge of the following facts and if called to testify could and would competently do so.
2. I currently serve as an Assistant Professor without tenure at a university in the southwest United States, which receives federal funding.
3. I am a member of the National Education Association.



4. I received a BA and MA in English, and I am a Ph.D Candidate in Composition and Applied Linguistics.
5. I have 14 years of professional experience in higher education, including teaching at several community colleges and universities. I joined my current university in 2024.
6. My coursework and research center on Indigenous research and narrative inquiry, the latter of which is a research method that involves discussing how researchers and others think narratively about their life experiences of learning at the intersection of Indigenous and Western knowledge frameworks. I teach courses in first and second year composition. My teaching has included the topics of settlerism and colonialism. I also taught La Llorona and spoke about it as a metaphor for Maliche, Mexican colonialism, feminist power and representation. I also have a course that won a teaching award from my graduate school about Indigenous identity, activism, and storytelling.
7. I am aware that the U.S. Department of Education issued a Dear Colleague letter on February 14, 2025, which threatens investigation and enforcement of civil rights laws based on teaching and scholarship related to diversity, equity and inclusion.
8. Since February 14, 2025, I have self-censored some topics in the courses I teach, including feminist theory and Indigenous worldviews.
9. I continue to fear that teaching content related to race, diversity, equity and inclusion will have negative impacts on my career and limit conversations in class thus impede student growth and understanding of alternative perspectives.
10. I am worried that a student in my classes, or anyone who might hear about my classes or my scholarship might report me for violating the Dear Colleague Letter's prohibitions on DEI programming. For example, my teaching and scholarship focuses on Indigenous

narratives and identity. I believe that all students can learn and engage in this subject matter and I have students from many backgrounds in my courses. However, I worry that someone could view this as an impermissible preference for a certain racial group. I teach about topics of colonialism and settlerism where white European settlers oppressed Native peoples. I worry that students could perceive this to teach that “certain racial groups bear unique moral burdens,” or draw this conclusion on their own behalf.

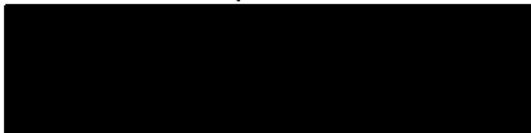
11. Teaching about this history, we also discuss how certain government systems and structures were used to advance racism against Indigenous people and cultures. I worry that this could be construed as impermissibly teaching about systemic or structural racism.
12. Students in my courses often bring into their written assignments and classroom discussions their own personal experiences with race, diversity, equity, or inclusion. Under the Dear Colleague Letter’s prohibitions, I am not sure whether I should continue encouraging my students to engage with the material in my class through written assignments that invite this discussion or can give credit to student assignments that address their own experiences and viewpoints related to race, diversity, equity and inclusion. I am not sure how I can respond to questions or classroom discussions that touch on these issues.
13. For these reasons, I have been chilled in my speech on a topic of critical importance and changed my courses and altered my research pursuits to the detriment of me and my students.
14. My students no longer have the chance to learn about certain aspects of diversity, equity and inclusion or hear their classmates’ viewpoints, to understand the sheer breadth of possible arguments related to diversity, equity and inclusion, and to learn to respectfully debate this subject with their peers. My syllabus states that a peaceful world begins with

positive personal interactions. I am committed to hearing all my students' voices. I am concerned that this commitment will become illegal. I am worried that I will need to substantially revise my syllabus, course materials, and approaches to teaching, which will take significant time and resources.

15. The Dear Colleague letter has impacted me outside the classroom as well, including my research focusing on the Mescalero Apache through a TribalCrit, narrative inquiry and feminist lens. I worry that someone will file a complaint against me and that I could face investigation and my school risk the loss of federal funds, based on an allegation that my teaching constitutes "indoctrination" related to systemic or structural racism. I am worried that I may not be able to continue this scholarship, or that if I do, I will lose opportunities for advancement within my university and my field.
16. The Dear Colleague letter and the Department of Education's related guidance should not be permitted to stifle my academic speech related to diversity, equity and inclusion. As long as the letter is effective, I will be unable to fully perform my role as an educator and speak freely on these important topics.
17. I am submitting this declaration anonymously because I fear retaliation from my employer as well as harassment and threats from members of the public for challenging the policies of the Trump administration restricting teaching and discussion that deals with issues of race and gender.

I declare under penalty of perjury that the above is true and correct.

Executed this 14 day of March, 2025.

A large black rectangular redaction box covering the signature area.





# **EXHIBIT M**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION;

*et al.,*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.,*

Defendants.

Case No.: 1:25-cv-00091-LM

**DECLARATION OF NADIA BEHIZADEH  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

**DECLARATION OF NADIA BEHIZADEH IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

I, Nadia Behizadeh, hereby declare that

1. My name is Nadia Behizadeh. I am over the age of 18 years. I have personal knowledge of the following facts and if called to testify could and would competently do so.
2. I am offering this Declaration in my individual capacity and not on behalf of the institution that employs me.
3. I currently serve as a Full Professor with tenure at Georgia State University, which receives federal funding. I am an NEA member.

4. I received a bachelor's degree in English from the University of Georgia in 2002, a master's degree in Educational Studies from Emory University in 2011, and a Ph.D. in Educational Studies from Emory University in 2012.
5. I have more than 12 years of professional experience in higher education. In 2012, I joined the faculty at Georgia State University as an Assistant Professor in the Department of Middle and Secondary Education in the College of Education and Human Development. In 2018, I was promoted to Associate Professor, and in 2024, I was promoted to Full Professor.
6. My coursework and research center on social justice teacher education. I teach courses on English language arts methods to preservice teachers (undergraduates) and also research courses for doctoral students in the Ed. D. and Ph.D. programs. My research focuses on writing instruction, critical pedagogy, English language arts ("ELA"), ELA classrooms, and teachers as policy advocates.
7. I have authored more than 50 publications including Behizadeh, N. (2017), Reframing for Social Justice: The Influence of Critical Friendship Groups on Preservice Teachers' Reflective Practice, *Journal of Teacher Education*, and Behizadeh, N. (2023). Complexities in social justice teacher preparation: A CHAT analysis of a preservice teacher navigating university and school contexts. *Teaching and Teacher Education*.
8. I am aware that the U.S. Department of Education issued a Dear Colleague Letter on February 14, 2025, which threatens colleges with investigations and the loss of federal funding based on teaching and scholarship related to diversity, equity and inclusion.
9. My scholarship and teaching include themes related to social justice. I also teach and write about issues of systemic and structural racism, for example critiquing White hegemonic narratives taught in schools and pushing for teacher preparation programs to be more



responsive to the assets and experiences of preservice teachers of color (e.g., Behizadeh, Davis, & Williams, 2023). I teach about equity and inclusion, for example the importance of including LGBTQIA+ literature and experiences in ELA curricula (e.g., Behizadeh & Rabalais, 2024). I worry that a student or anyone else could perceive my scholarship and classroom instruction to teach that people of some races or gender/sexuality carry a moral burden that others do not in violation of the Dear Colleague Letter.

10. I am concerned that the Dear Colleague Letter will affect student expression in the courses I teach. For example, students may feel like they cannot discuss their own or others' experiences with ableism, racism, sexism, and other forms of discrimination because of a perceived ban on discussing topics related to diversity and equity.
11. I am concerned that the Dear Colleague Letter will affect the methods of student assessment that I use in my courses. For example, I ask preservice teachers to develop a critical literacy unit plan that they could use in a middle school classroom. Because critical literacy involves analyzing power and representation in texts and society, I worry that my administration will seek to restrict this form of assessment to comply with the Dear Colleague Letter.
12. I am concerned that the Dear Colleague Letter prohibits the methods of instruction that I use in my courses. For example, I often assign readings that center on the experiences of marginalized peoples in the U.S. and that take a social justice approach, such as Linda Christensen's (2017) *Reading, Writing and Rising Up*. I worry that readings such as these will be perceived as discriminatory as (mis)defined by the Dear Colleague Letter and subject to censorship.

13. My work has already been subject to negative consequences by the federal government because it related to diversity, equity, and inclusion. I have received numerous grants related to education, including U.S. Department of Education grants on “Collaboration and Reflection Enhancing Atlanta Teacher Effectiveness (CREATE).” The CREATE grant, which focused on creating a pipeline of highly qualified teachers for Atlanta area schools with a focus on increasing racial diversity, was recently terminated as part of the Trump administration’s \$900 million cut to contracts funded by the U.S. Department of Education. This experience makes me fear that the Dear Colleague Letter will be used against me in the same way.
14. In 2019, I was appointed as co-director for the Center for Equity and Justice in Teacher Education, for which I have received a course release in the past and credit as service to the college.
15. The Center has provided resources such as teaching tools and research on best practices in teaching. The Center for Equity and Justice in Teacher Education has also sponsored regular Learning Hours for students, faculty, and the community that highlight essential theory and practices for teaching and teacher education. During these learning hours, speakers with expertise in pedagogy, research, and policy related to teaching and teacher education share their expertise with the purpose of sharing knowledge with a broad community of stakeholders in education. The Center’s website included resources for teachers in teacher education as well as students at Georgia State. As an example of the work of the Center, in 2021 when rhetoric around Critical Race Theory was being used to stifle culturally responsive teaching, we hosted a “Dialogue Circle on Critical Race Theory in Teaching and Teacher Education” in 2021, and I served as a co-facilitator of this event. As another



example, in 2023 the Center hosted Dr. Francesca López to discuss the National Education Policy Center Report from 2021 entitled “Understanding the Attacks on Critical Race Theory” that she co-authored.

16. After the issuance of the Dear Colleague Letter, the website for the Center for Equity and Justice in Teacher Education no longer appears on the Georgia State website. I did not receive any communication from school administrators regarding the removal of the website and to my knowledge, none of my other co-directors received any communication.
17. After February 14, 2025, the resources of the Center for Equity and Justice in Teacher Education’s website are no longer available for students at Georgia State University and the broader education community.
18. On February 28, 2025, I was told by the Dean of my college that we need to rework the name and website for the Center for Equity and Justice in Teacher Education at Georgia State University. The Dean also told the Center leaders, including me, that we needed to include a conservative or opposing viewpoint in an upcoming event on teaching the Black freedom struggle scheduled for April 2025. As a result of these changes to the Center and its work, my expertise as a social justice scholar is being undermined, and I feel disturbed by this interference with my academic freedom. These actions send a message that anything related to diversity or inclusion is being censored and have a chilling effect on my and others’ speech. I have also lost the opportunity to fully participate in this service for my college, which is part of my academic responsibilities on which I am evaluated, because Center activities have fully paused as we are being required to focus our energies on developing a new name and mission statement for the Center that does not include diversity, equity, and inclusion.

19. The Dear Colleague letter and the Department of Education's related guidance should not be permitted to stifle my academic speech related to diversity, equity and inclusion. As long as the letter is enforced, I will be unable to fully perform my role as an educator and speak freely on these important topics.

I declare under penalty of perjury that the above is true and correct.

Executed this 13 day of March, 2025.

A handwritten signature in blue ink, appearing to be "MBH", written over a horizontal line.



# EXHIBIT N

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

NATIONAL EDUCATION  
ASSOCIATION; *et. al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.*,

Defendants.

Case No.: 1:25-cv-00091

**DECLARATION OF MEMBER E IN  
SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY INJUNCTION**

**DECLARATION OF MEMBER E IN SUPPORT OF PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

I, [REDACTED], hereby declare that:

1. My name is Member E. I am over the age of 18 and have personal knowledge of the facts stated herein. If called to testify, I could and would do so competently.
2. I submit this Declaration in my individual capacity and not on behalf of the institution that employs me.
3. I am a member of NEA.

4. I am a professor at a university in the southeastern United States. My university receives funding from the Department of Education.
5. I hold a bachelor's degree in social science education, a master's degree in instruction and curriculum leadership with an emphasis in special education, and a doctorate in instruction and curriculum leadership with an emphasis in special education and applied behavior analysis.
6. I have 13 years of professional experience in higher education and 13 years of experience as a middle and high school special education teacher. I teach courses in special education, preparing pre-service special education teachers on topics such as learning disabilities, autism, ADHD, intellectual disabilities, sensory impairments, physical disabilities, and emotional/behavioral disorders. My instruction includes inclusive strategies such as Universal Design for Learning (UDL), differentiated instruction, assistive technology, Positive Behavior Interventions and Supports (PBIS), social-emotional learning, and trauma-informed teaching. Additionally, I educate future educators on the history of disability and principles of inclusive education to help them understand systemic barriers that marginalize students with disabilities and to equip them with the tools needed to support students academically and socially. We often have class discussions that revolve around racial disparities within treatment of students with disabilities as well as discussing the 1954 case Brown vs Board being foundational for the civil rights for those with disabilities. We also discuss the fight for civil rights when we discuss the passing of the Vocational Rehabilitation Act in 1973 and the work of Judy Heumann and others who fought for their rights in the workplace.



7. I am aware that on February 14, 2025, the U.S. Department of Education issued a Dear Colleague Letter and related guidance threatening colleges with investigation and the potential loss of federal funding for teaching or scholarship related to diversity, equity and inclusion (DEI).
8. Since February 14, 2025, my teaching has been impacted by concerns that my students will no longer have the opportunity to learn about diversity, equity, and inclusion (DEI) in the context of working with students with disabilities. My courses foster a culture of belonging, reduces stigma, helping students understand that perceptions matter and how to change perceptions, and increasing disability awareness. My fear is that the Dear Colleague Letter will restrict or eliminate these important conversations.
9. I worry that these programs, including the programs I teach, will be targeted as impermissible DEI because, for example, they involve social-emotional learning, learning about systemic barriers, and inclusion. The demand for special education services continues to grow due to factors such as improved identification of disabilities, increased autism diagnoses, and heightened awareness of learning differences. Special education teachers require training in differentiated instruction, behavior management, assistive technology, and inclusive practices. However, there is a nationwide shortage of special education teachers, exacerbated by high burnout rates, lower retention, and fewer graduates entering the field. The need for qualified professionals is critical to ensuring that students with disabilities receive the support necessary to succeed academically, socially, and emotionally.
10. On March 7, 2025, my Provost instructed department chairs and faculty in my department to revise course descriptions to remove any language related to DEI. It is my

understanding that this directive was in response to the Dear Colleague Letter. As a result of the Dear Colleague Letter, we have had to revise our course descriptions, removing terms such as “disability,” “inclusion,” and “culturally responsive.”

11. The Provost’s directive to follow the Dear Colleague Letter has directly affected my role as a professor, as it conflicts with national standards set by the Council for Exceptional Children, which I use in designing my courses and instruction. These standards require that beginning special education professionals demonstrate understanding of “the multiple influences on development, individual difference, diversity, including exceptionalities, and families and communicates to plan and implement inclusive learning environments.”<sup>1</sup> For example, CEC Initial Preparation Standard 1.1 states, “Beginning special education professionals understand how language, culture, and family background influence the learning of individuals with exceptionalities. Additionally, CEC Initial Preparation Standard 2.1 states, “Beginning special education professionals, through collaboration with general educators and other colleagues, create safe, inclusive, culturally responsive learning environments to engage individuals with exceptionalities in meaningful learning activities and social interactions.” The directive also conflicts with the standards of the Council for the Accreditation of Educator Preparation (CAEP), another set of standards that I incorporate in my teaching and instruction, which establish, for example, that teaching candidates should demonstrate competency in “creating safe and supportive learning environments . . . in order to work effectively with diverse P-12 students and their families,”<sup>2</sup> skills associated with diversity, equity, and inclusion.. My

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<sup>1</sup> <https://exceptionalchildren.org/standards/initial-practice-based-professional-preparation-standards-special-educators>

<sup>2</sup> <https://caepnet.org/standards/2022-itp/standard-1>

teaching is designed to train students to meet these standards, but the changes I am required to make undermine my ability to prepare students to meet the standards set by the profession.

12. I fear that additional changes to our curriculum related to DEI will be required, further diminishing the quality of education we provide to future special educators. There is a widespread misunderstanding of how DEI practices support all students. Eliminating DEI-related coursework and terminology will negatively impact student success. The majority of our students are economically disadvantaged, and the potential loss of resources due to restrictions on DEI instruction is a significant concern. These funds are critical to ensuring that students receive the support they need to succeed.
13. As a result of these restrictions, I have been compelled to alter my speech, modify course descriptions, and fear that I will need to further change my assignments and curriculum. For example, I typically assign a reflection based on the movie Crip Camp which allows students to see the fight for social justice for people with disabilities as they tried to build a movement to pass the Vocation Rehabilitation Act in 1973. I am considering removing this assignment from my course from this point forward because topics of diversity, equity, and inclusion in the movement, the film, and student reflections, could be prohibited by the Dear Colleague Letter. These changes will ultimately harm my students, leaving them unprepared to become effective special education teachers.
14. The Dear Colleague Letter and related guidance from the Department of Education should not be permitted to suppress academic speech on DEI. As long as these restrictions remain in place, I fear I will be unable to fully fulfill my role as an educator or speak freely on this essential topic.



15. I am submitting this declaration anonymously because I fear retaliation from my employer as well as harassment and threats from members of the public for challenging the policies of the Trump administration restricting teaching and discussion that deals with issues of race, disability, and gender.

I declare under penalty of perjury that the above is true and correct.

Executed this 18 day of March 2025.



# EXHIBIT O

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

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NATIONAL EDUCATION ASSOCIATION et al.,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF  
EDUCATION et al.,

*Defendants.*

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Case No. 1:25-cv-00091

**DECLARATION OF NATIONAL EDUCATION ASSOCIATION-NEW HAMPSHIRE  
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Rick Trombly, pursuant to 28 U.S.C. § 1746, declare the following:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.

2. I am the Executive Director of National Education Association-New Hampshire ("NEA-NH"). I am authorized to provide this declaration on behalf of the NEA-NH, which is a plaintiff in the above captioned matter. I have held the position of Executive Director since May of 2012.

3. I make this declaration to describe the effects that the Dear Colleague Letter issued on February 14, 2025 (the "Letter") by the Defendant U.S. Department of Education (the "Department"), is having, and will continue to have, on NEA-NH and its members.

**Background on NEA-NH**

4. Plaintiff National Education Association-New Hampshire (NEA-NH) is one of the "founding ten" state education associations that formed the National Education Association in 1857. At that time, NEA-NH was called the New Hampshire Teachers Association.



5. As currently comprised, NEA-NH represents the majority of all public-school employees in NEA Hampshire and has more than 17,000 members. NEA-NH members are public school educators including classroom teachers and other certified professionals, education support personnel, instructors and staff at public higher education institutions, as well as students preparing for a teaching career, and those retired from the profession.

6. NEA-NH's mission is to strengthen and support public education and serve their members' professional, political, economic, and advocacy needs.

7. NEA-NH is the state affiliate of the National Education Association (NEA) for the State of New Hampshire. NEA-NH is a legally separate entity that is incorporated as a domestic non-profit under New Hampshire law, and it is headquartered in Concord, New Hampshire.

**Impact of the Letter on NEA-NH and Its Members**

8. The Letter harms NEA-NH and its members in multiple ongoing ways.

9. The Letter has a direct and immediate impact on NEA-NH members, who fear arbitrary and discriminatory enforcement under the Letter because it threatens enforcement actions against educational institutions within days, which effectively coerces the state and local school districts to attempt to abide by its terms or risk a substantial amount of federal funding critical to the provision of education for their students. Even with clear guidelines, this timeline would not allow educational institutions to carefully evaluate programs. The Letter provides no standards for states or educational institutions to determine what conduct is prohibited or permissible under the Letter, and, accordingly, NEA-NH members fear it will result in discipline across a variety of common practices that NEA-NH members engage in every day as part of their professional practice and interactions with their colleagues and their students.

10. NEA-NH members are particularly attuned to how threats to enforce vague standards of censorship can cause confusion and chill classroom instruction, given their experience with the state law invalidated by the U.S. District Court for the District of New Hampshire in *Local 8027 v. Edelblut*, No. 21-CV-1077-PB, 2024 WL 2722254 (D.N.H. May 28, 2024). While that law was in effect, many NEA-NH members self-censored and changed a wide range of their day-to-day professional activities both inside and outside of the classroom. For example:

- A. A middle school teacher stopped using Tiffany Jewell’s 2020 book entitled *This Book is Anti-Racist* and Beverly Daniel Tatum’s 2017 book *Why are All the Black Kids Sitting Together in the Cafeteria (Revised and Updated edition)*, which were being used by a teacher group for professional development.<sup>1</sup>
- B. A former World History high school teacher identified the state’s censorship law as one of the reasons why she left the profession. The teacher had to change her teaching methods significantly out of fear that she would be accused of violating the law. For example, she significantly reduced open discussion and debate of ideas in her classroom because her World History units covered topics like Marxism, Stalinism, Naziism, and other dictatorship regimes, and she feared that allowing students to analyze and critique these dictatorships may raise discussions that would run afoul of the laws’ prohibitions. For similar reasons, she shifted from assessing students’ comprehension of material by using essays and open-ended short answer responses to multiple-choice questions out of fear that students would analyze her course’s topics in ways that would implicate the banned concepts.<sup>2</sup>
- C. An AP high school English teacher changed the way he teaches several core texts in his classroom. He also changed a variety of practices he employed to develop his students’ ability to meet state standards requiring students to be able to write about both their own and others’ experiences, understand different cultures and experiences, and critically examine information they receive in the media each day.<sup>3</sup>
- D. An eighth-grade social studies teacher abandoned his efforts to plan for grade-wide engagement with *Stamped: Racism, Antiracism, and You: A REMIX of the National Book Award-winning ‘Stamped from the Beginning’* as part of teaching about American history and addressing the history of racism in America. He understood

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<sup>1</sup> See ECF No. 85-111, at 68, *Local 8027 v. Edelblut*, No. 21-CV-1077-PB (D.N.H. Aug. 14, 2023)

<sup>2</sup> *Id.* at 68–69.

<sup>3</sup> *Id.* at 69–70.

that school administrators had asked educators to put the project aside.<sup>4</sup> In New Hampshire, one teacher restricted access to his Twitter feed following a New Hampshire Department of Education presentation regarding the law.<sup>5</sup>

11. The release of the Letter has had similar effects. The individuals identified as Member A, Member B, and Member C are members of NEA-NH. They are examples of NEA-NH members directly affected by the Letter:

- A. Member A teaches high school English in New Hampshire and often teaches literature that touches on topics related to race and gender. He is concerned that he could be accused of discrimination under the Letter's vague descriptions because of the ways issues related to diversity, systemic racism, and moral burdens come up in his classroom, subjecting him to potential risk of investigation, discipline, or adverse employment action.
- B. Member B teaches 8th Grade Social Studies in New Hampshire, including United States history from the Civil War to modern day. Member B is concerned that classroom discussions about matters of race and discrimination, important parts of teaching certain aspects of American history, could be construed to violate the Letter's prohibitions related to "systemic and structural racism" or "discriminatory policies and practices," Letter at 2, leaving her vulnerable to allegations of discrimination under the Letter.
- C. Member C is a middle school counselor in New Hampshire. An important part of her work is creating a school culture that fosters safe and positive identity development for middle schoolers. Member C is concerned that she might be accused of violating the Letter's vague prohibitions on toxic indoctrination and discrimination.

12. It is unavoidable that educators will experience substantial confusion regarding whether and how to continue exercising effective pedagogical approaches because of the Letter and, as a result, fear about whether their teaching may subject them to enforcement actions. For example, educators routinely invite discussion or assign work that requires students to analyze and critically engage with a variety of topics that are likely to implicate ideas related to race,

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<sup>4</sup> *Id.* at 70–71.

<sup>5</sup> *Id.* at 33.



gender, and other prohibited topics. These practices are not only required by sound educational pedagogy but are necessary for NEA-NH members to meet state and local standards, including those related to critical thinking, analyzing different perspectives, and making connections between subject matter areas and materials and their own lives and current events. The Letter will cause NEA-NH members to fear using or to stop using effective practices and methods of teaching that may result in discussions around the prohibited concepts.

13. Additionally, educators are professionally and legally obligated to design and implement instructional materials and approaches that ensure inclusivity and accessibility, particularly for students who are disabled and multi-lingual learners. Many of our members are special education teachers and paraprofessionals whose core job duties involve ensuring that students with disabilities are integrated with their non-disabled peers, and are included and able to equally access education. By targeting training programs related to diversity, equity, inclusion, and accessibility, the Letter leaves in doubt whether and how teachers will be able to continue key practices and programs to serve students with disabilities and multi-lingual learners, including in Integrated Co-Teaching classrooms or dual language classrooms.

14. Given the backdrop of the prior censorship law in New Hampshire, the Letter also causes substantial confusion and fear of adverse consequences with respect to core educational principles, practices, and responsibilities that NEA members have outside of the classroom and in their professional and personal interactions with one another and the students they serve. For example, many of NEA's members lead the development of curriculum or professional development for other teachers at the district or school level. The contradictions between the Letter's prohibitions, effective teaching practices, and learning and teaching standards will leave these educators guessing at a minimum, and at worse will cause them to abandon certain

practices and materials relevant to student and educator learning out of fear of adverse consequences.

15. NEA-NH members also regularly engage in activities that support student learning outside of the classroom, including through the development and instruction of extra-curricular activities, or in planning field trips to broaden and deepen student knowledge. The Letter raises questions regarding whether these activities must now meet some vague neutrality standard and not focus student attention on the experiences of particular groups of people. For example, are field trips to civil rights sites now in question? What about museums that focus on the historical and cultural experience of a particular group of people such as the National Museum of African American History or the National Museum of the American Indian?

16. Members' concerns have been exacerbated by the fact that, within a week of the Department's Letter, the Department launched a public Anti-DEI tipline, explaining that the Department "is committed to ensuring all students have access to meaningful learning free of divisive ideologies and indoctrination," and asking "students, parents, teachers, and the broader community to report illegal discriminatory practices at institutions of learning." See Department of Education website, <https://enddei.ed.gov>. The national solicitation of reports from anyone about alleged "divisive ideologies and indoctrination" in schools places NEA-NH members at risk of investigations based on complaints about their teaching and instruction that cross into the vague category of impermissible action under the Dear Colleague Letter.

17. The existence of the national tipline in itself has raised concerns among NEA-NH leaders and members, who worry that it will be used to target educators whose teaching and instruction is viewed as too inclusive. And there is no doubt that the complaints fueled by the Department's solicitation of anti-DEI submissions will result in educators' being targeted for

their teaching even though that instruction is aligned with state standards and reflects best pedagogical practice. NEA-NH has had members targeted by anti-DEI activities. NEA-NH's experience has been that such complaints against members can fuel calls for discipline or even the dismissal of educators for unprofessional conduct.

18. The Letter has also forced NEA-NH to divert its organizational resources to identify and counteract the Letter's impermissibly vague restrictions, and it has frustrated NEA-NH's mission of advocating for public school employees and for the kind of robust public education that will prepare the children of New Hampshire as citizens and members of society.

19. NEA-NH advises members regarding job security, adverse employment actions, and what would rise to the level of termination of employment or discipline, including with respect to classroom instruction and conduct. NEA-NH also advises members regarding issues related to its members' ability to teach, including under collective bargaining agreements with local school districts, and the parameters of the New Hampshire's Educator Code of Conduct. NEA-NH is unable to properly advise their members on these issues because of the Letter's impermissibly vague terms and prohibitions.

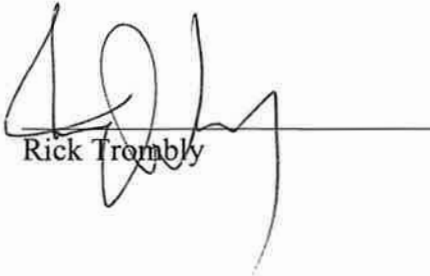
20. NEA-NH also provides its members with the benefit of extensive professional development programming, which will be affected by the Letter's vague terms and prohibitions. For example, the Letter's vague terms and prohibitions and federal and state efforts to implement it will make it impossible for NEA-NH to provide meaningful professional development about what conduct may or may not result in threats of investigation or adverse enforcement under the Letter. NEA-NH engages members in an annual professional development and leadership program which typically spans a week during the summer. During this programming members are trained on a variety of topics, including, the Code of Conduct, what conduct in the classroom

and with respect to students may give rise to employment discipline or adverse action from the Department of Education against a credential holder. Members have already expressed confusion and concern regarding how to approach classroom instruction in order to protect themselves. Given the vague nature of the Letter, it is likely that this training, and others, would need to be revised to address the additional potential bases of potential discipline that could arise related to the Letter, and its impacts.

21. NEA-NH also represents members in matters before the New Hampshire State Board of Education—both in licensure actions contesting alleged violations of the New Hampshire Educator Code of Conduct, and in actions representing educators appealing the nonrenewal of their teaching contracts. Based on NEA-NH's experience with the enforcement of state censorship efforts by the New Hampshire Department of Education, NEA-NH will likely face questions from educators about how the enforcement of the Letter may impact their credentials.

I declare under penalty of perjury that the foregoing is true and correct.

Executed the 19<sup>th</sup> of March, 2025

  
Rick Trombly



# **EXHIBIT P**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION, et. al.

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION; et al.

Defendants.

Case No.: 1:25-cv-00091

**DECLARATION OF MEMBER I IN  
SUPPORT OF PLAINTIFF'S MOTION  
FOR PRELIMINARY INJUNCTION**

**DECLARATION OF MEMBER I IN SUPPORT OF PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION**

I, [REDACTED], hereby declare that

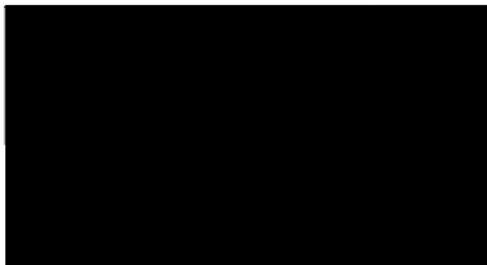
1. My name is Member I. I am over the age of 18 and have personal knowledge of the facts stated herein. If called to testify, I could and would do so competently.
2. I submit this Declaration in my individual capacity and not on behalf of the institution that I attend.
3. I am a member of NEA.

4. I am a student at a large Midwest university. My university receives funding from the Department of Education.
5. I am currently studying elementary education and will soon be entering my sixth and final year of higher education. My courses have focused on special education, methods courses, and the science of reading. My courses include information on inclusive strategies such as Universal Design for Learning (UDL), differentiated instruction, assistive technology, Positive Behavior Interventions and Supports (PBIS), social-emotional learning, and trauma-informed teaching. My curriculum encourages fostering a culture of belonging through culturally responsive teaching.
6. I am aware that on February 14, 2025, the U.S. Department of Education issued a Dear Colleague Letter and related guidance threatening colleges with investigation and the potential loss of federal funding for teaching or scholarship related to diversity, equity and inclusion (DEI).
7. Since February 14, 2025, the content of my courses have changed so as to deprive me of the opportunity to learn about diversity, equity, and inclusion (DEI) in the context of working with students from different backgrounds. The children's literature classes have removed the focus on cultural responsiveness, and my university will be removing the education DEI course. As I learn to work with children, I am aware of the different backgrounds of the students I will get to teach. I worry that these students will get less access to education by taking away the focus on how to understand and respond to different cultures and backgrounds.
8. I fear that additional changes to our curriculum related to DEI will be required, further diminishing the quality of education that I receive.

9. As part of my preparation to be a K-12 teacher, I will be student teaching this upcoming year. I worry about the impact the Dear Colleague Letter on my ability to student teach using the course content and teaching methods that will be accessible and meaningful for all students. I live in a city that has a large immigration population, with the majority being from Mexico or West Africa. I want to be able to ensure that my students are able to see themselves in the learning, and feel welcome in their class.
10. The Dear Colleague Letter and related guidance from the Department of Education should not be permitted to suppress academic speech on DEI. I personally find the Dear Colleagues Letter to be extremely concerning as the language feels accusatory and vicious towards readers. As long as these restrictions remain in place, I fear I will be unable to fully fulfill my role as an education student or an educator in the future by speaking freely on this essential topic.
11. I am submitting this declaration anonymously because I fear retaliation from my university as well as harassment and threats from members of the public for challenging the policies of the Trump administration restricting teaching and discussion that deals with issues of race, disability, and gender.

I declare under penalty of perjury that the above is true and correct.

Executed this 20th day of March, 2025.





# EXHIBIT Q

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION;

*et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.*,

Defendants.

Case No.: 1:25-cv-00091-LM

**DECLARATION OF OLGA DARLENE  
MOSLEY IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

**DECLARATION OF OLGA DARLENE MOSLEY IN SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY INJUNCTION**

I, Olga Darlene Mosley, hereby declare that

1. My name is Olga Darlene Mosley. I am over the age of 18 years. I have personal knowledge of the following facts and if called to testify could and would competently do so.
2. I currently serve as a Professor at Pensacola State College, which receives federal funds.
3. I am an NEA member.
4. I am offering this Declaration in my individual capacity and not on behalf of the institution that employs me.

5. I received a Master's degree in Counseling & Psychology from Troy University in 2004, and a Ph.D. in Psychology from Capella University in 2012.
6. I have 20 years of professional experience in higher education. From 2005 to 2010, I was an adjunct professor at Pensacola State College. In 2011, I joined the faculty at Pensacola State College as an Assistant Professor in the Humanities and Social Sciences Department. In 2022, I was promoted to Professor.
7. I teach courses on General Psychology, Human Growth & Development, and Drugs & Behavior for the purpose of fulfilling qualifications for an associate's degree.
8. My research focuses on transgenerational trauma and lynchings committed in Escambia and Santa Rosa Counties, Florida.
9. I have made several presentations at regional conferences, including *Dixieland and the Fatherland: Chosen by Nature* (2016); *The Pensacola Streetcar Strike of 1908* (2019); *Fathers are the Head of the Household, but Mothers are the Heart* (2016); *Dixieland and the Fatherland* (2017); *Strikers and Lynchers* (2018) ; *The Ghost White Stars* (2019); *Secrets or Redemption: Why it is important to talk about lynching*; (2020); *Two Lynchings in Ferdinand Plaza* (2024).
10. My department offers the opportunity for faculty to present material they are researching to the college family and the general public. These are Faculty Research Presentations given in a colloquium format. The Presentations began a year ago as an opportunity for faculty in the Humanities & Social Sciences Department to share and discuss their research projects. In the fall of 2024, they were expanded to include all college personnel, and in January 2025, they were opened to students and the general public. They have been attended by 15-20 people on average, occurring once a month. The purpose includes highlighting research and

offering an opportunity to discuss that research with colleagues and interested others.

Presenting at the colloquium is outside of my regular teaching duties.

11. I am aware that the U.S. Department of Education issued a Dear Colleague letter on February 14, 2025, which threatens colleges with investigations and the loss of federal funding based on teaching and scholarship related to diversity, equity and inclusion.
12. In February 2025, I approached the coordinator of the Faculty Research Presentations with a request to present a paper I was writing for APA Division 32 Society for Humanistic Psychology national conference at the colloquium scheduled for March 4, 2025, as a “dry run” before the conference. The APA has a number of divisions which emphasize a particular area of research or expertise. The Conference theme is *Toward a Human(us)tic Psychology: Actualizing Hope and Healing through Liberation and Justice for All*. The paper is titled, *Beyond Atticus Finch: Accepting our ancestors’ sins to achieve liberation*. It is a discussion of genealogy (my family’s history in the South), perpetrator-induced trauma, and transgenerational transmission of trauma. There are references to racism and the need to overcome a history of white supremacy. Since my paper addressed familial secrets in regard to a lynching, I cannot control how anyone will feel when confronted with the ghosts in their family heritage.
13. After the Presentation was advertised, my department chair contacted me on February 27, 2025, and asked if I would share with him the abstract for the paper. I had the rough draft complete and sent it to him. His intent was to be able to say the paper was vetted before it was presented, just in case any questions came up. The next afternoon, my department chair contacted me and said there might be some issues. On February 28, 2025, my chair and I had a meeting with the Assistant Vice President of Academic Affairs, who said, “You aren’t



crossing the legal line with this paper, but you are so close to it..." And I interjected, "Let's be honest. I'm kickin' some dust across it!" I believe that they were referring to the Florida Anti-WOKE legislation, but because the Dear Colleague Letter prohibits similar things, I later understood them to be referring as well to the Dear Colleague Letter and its prohibitions on programs and scholarship related to race, diversity, equity, and inclusion.

14. At the February 28 meeting, the Assistant Vice President and my chair decided to cancel my presentation at the colloquium. While I am disappointed I will not have the opportunity to share my research with colleagues, I understand the position to which my administration has been relegated. Both of the individuals I met with were supportive, but they had a legal mandate which requires adherence.
15. I cannot share my research in an open forum at the college where I teach and share knowledge because of a poorly written, poorly thought out law. I am gratified that individuals have asked to read the paper, and I look forward to presenting it at the conference, but I am disheartened that a much needed discussion will go unheard in MY voice.
16. Often, it is the sense of "guilt, anguish, or other forms of psychological distress because of actions" that spur individuals to make needed change. To limit research only to those spaces where everyone can emerge with their egos intact is to engage in confirmation bias of the worst kind.
17. Education is about debate, healthy debate, to cull through all the noise and find the truth. Restrictions on faculty research reduce us to an echo chamber, a voice of propaganda, which will only parrot the meme of the day. It does nothing to help us move beyond the myths which make us feel good, navigate the stormy waters of reality, and arrive on a new

shore with expanded opportunity for healing and growth. It means we tell students to avoid anything that might challenge their current worldview. We abandon them to a society in which the loudest voice wins, the snappiest comeback dominates, and truth does not matter.

18. I continue to fear that my research related to race, diversity, equity and inclusion will be restricted by my institution and the federal and state governments.

19. Those who are interested in my research no longer have the chance to learn about diversity, equity and inclusion or hear their classmates' viewpoints, to understand the sheer breadth of possible arguments related to diversity, equity and inclusion.

20. The Dear Colleague letter and the Department of Education's related guidance should not be permitted to stifle my academic speech related to diversity, equity and inclusion. As long as the letter is effective, I will be unable to fully perform my role as an educator and speak freely on this important topic. I have definite "concern" about the ramifications of the Dear Colleague Letter along the same lines as past issues caused by similar state legislation. My discipline, psychology, has had two General Learning Outcome assignments (writing assignments given and assessed by ALL faculty members in fulfillment of requirements for accreditation) challenged on the basis of current Florida anti-WOKE legislation.

Personally, my office door was vandalized in October 2024 because a custodian took issue with my anti-racist posters. I participated on a panel discussion discussing Academic Freedom in Florida last fall, and it is increasingly common for faculty to be instructed to self-censor topics that might become problematic. The Dear Colleague Letter will only exacerbate these issues and give a new avenue to attack education.

I declare under penalty of perjury that the above is true and correct.

Executed this 14<sup>th</sup> day of March, 2025.

  
Olga Darlene Mosley

# **EXHIBIT R**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION;

*et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.*,

Defendants.

Case No.: 1:25-cv-00091

**DECLARATION OF MEMBER F IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

**DECLARATION OF MEMBER F IN SUPPORT OF PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

I, Member F, hereby declare that

1. My name is Member F. I am over the age of 18 years. I have personal knowledge of the following facts and if called to testify could and would competently do so.
2. I am offering this Declaration in my individual capacity and not on behalf of the institution that employs me.
3. I currently serve as an instructor and fellow at a community college in the Midwest. My college receives funding from the Department of Education. I am an NEA member.



4. I hold a bachelor's degree in English, and a masters in writing and publishing. I am currently pursuing a Doctor of Education (Ed.D.) degree, with a focus on Leadership in Community Colleges.
5. I have 13 years of professional experience in higher education. From 2013 to 2019, I was an adjunct professor at several community colleges in the Midwest. In 2019, I joined the faculty at my current college as an Instructor.
6. I teach courses on English composition. One of the teaching methods I use is to ask students to choose a topic to write papers about. This year, one of the assignments that I gave my students was to write an argumentative paper, meaning a paper making an argument about an issue. I let students choose the topic on which they would like to write, as I have found this practice increases students' interest and engagement in the assignment.
7. I am aware that the U.S. Department of Education issued a Dear Colleague letter on February 14, 2025, and related guidance which threatens colleges with investigation and the loss of federal funding based on teaching and scholarship related to diversity, equity and inclusion.
8. Since February 14, 2025, my teaching has been affected because some students choose argumentative paper topics related to topics related to race, diversity, equity, and inclusion, and I wonder if that is going to be okay or if it will be considered to violate the Dear Colleague Letter. For example, students have chosen topics related to immigration issues, women's rights, and other similar topics.
9. I fear that my students will no longer have the chance to learn about diversity, equity and inclusion or hear their classmates' viewpoints, to understand the sheer breadth of possible

arguments related to diversity, equity and inclusion, and to lean to respectfully debate this subject with their peers.

10. In my role as a teaching fellow, I assist in developing training for faculty, staff, and administrators to help them develop best teaching and pedagogical practices in the classroom. We provide many resources, technology assistance, accessibility support, LMS (Learning Management System), best teaching practices, and other resources to improve overall instruction at the college.
11. The training that I developed has included many books that include “diversity, equity and inclusion” in the title or have practices associated with these values embodied in the best teaching practices the books describe.
12. My College’s Director of Compliance instructed the office that oversees training and where I am a fellow to identify any training potentially related to DEI to be reviewed.
13. Since February 14, 2025, my work as a Fellow has been affected because the state system of standards for technical colleges requires us to meet standards related to diversity, equity and inclusion. As the result of the Dear Colleague Letter, we have had to gut so much of the training on best teaching practices in this curriculum for faculty training. Our Director of Compliance is using this website from an organization called the Center for Renewing America<sup>1</sup> to determine what materials we have to remove from the training if they include certain words, such as diversity, equity, inclusion, and culturally responsive. I also understand that words we use with respect to best teaching practices are under scrutiny; e.g., I was told not to use “economically disadvantaged,” and anything with “diversity, equity, and inclusion” is being removed from faculty and staff training.

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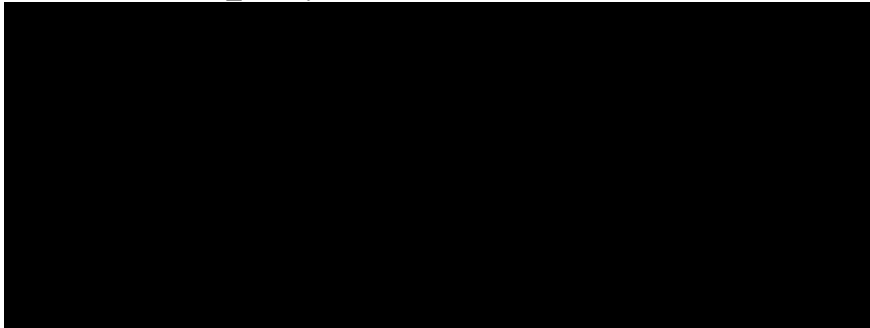
<sup>1</sup> <https://americarenewing.com/issues/defining-woke-key-definitions-and-concepts/>

14. I continue to fear that we will need to make additional changes to the content of our training related to diversity, equity and inclusion.
15. On February 20, 2025, my college decided to eliminate the position of Vice President of DEI, which oversaw different multicultural programs on campus.
16. I believe there's a great deal of misunderstanding of how diversity, equity and inclusion practices help support all students. By eliminating culturally responsive teaching at two year colleges, we are negatively impacting student success. The majority of our students are economically disadvantaged, so the loss of resources and fear of losing those additional resources is a very big concern. Those funds are needed for our institution for students to be successful.
17. In my Leadership in Community College Ed. D. program, I'm currently enrolled in a course on public policy where I'm working with a classmate to write a paper on anti-DEI legislation and its negative impact on student success. The Department of Education's guidance on diversity, equity and inclusion affects this scholarship by making me question what topics I can cover if they relate to diversity, equity and inclusion. I am worried that my scholarship will be viewed as impermissible under the Dear Colleague Letter and I will either have to stop my work or face negative outcomes in my course and in my continued enrollment in the program. In higher education, we look at equity gaps and where we can help bridge those gaps in disparities. Whether it is the searching or the solutions, will those questions and answers be considered inappropriate? If I am looking at why minority males are not successful in writing courses, could this be a problem? In most cases, the solutions help benefit all students because we help remove barriers or improve the instruction in teaching to support all students.

18. For these reasons, I have been chilled in my speech on a topic of critical importance, changed my training courses, and altered my research pursuits to the detriment of me and my students.
19. The Dear Colleague letter and the Department of Education's related guidance should not be permitted to stifle my academic speech related to diversity, equity and inclusion. As long as the letter is effective, I will be unable to fully perform my role as an educator and speak freely on these important topics.
20. I am submitting this declaration anonymously because I fear retaliation from my employer as well as harassment and threats from members of the public for challenging the policies of the Trump administration restricting teaching and discussion that deals with issues of race and gender.

I declare under penalty of perjury that the above is true and correct.

Executed this 14 day of March, 2025.



# **EXHIBIT S**



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

NATIONAL EDUCATION  
ASSOCIATION;

*et al.*,

Plaintiffs,

v.

Case No.: 1:25-cv-00091

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.*,

,

Defendants.

**DECLARATION OF NATIONAL EDUCATION ASSOCIATION PRESIDENT  
REBECCA PRINGLE IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY  
INJUNCTION**

I, Rebecca Pringle, pursuant to 28 U.S.C. § 1746, declare the following:

1. My name is Rebecca Pringle. The facts set forth in this declaration are based on my personal knowledge. If called as a witness, I could and would competently testify to the following matters under oath.
2. I am the President of the National Education Association (NEA). I am authorized to provide this declaration on behalf of the NEA, which is a plaintiff in the above captioned matter. I have served as President of NEA since 2020 and have held other national offices in NEA (initially as Secretary-Treasurer and then as Vice President) since 2008.

3. I make this declaration to describe the effects that the Dear Colleague Letter that the Department of Education (the “Department”) issued on February 14, 2025 (the “Letter”), is having, and will continue to have, on NEA and its members.

#### **Background on the NEA**

4. NEA is the nation’s oldest and largest education union, which represents nearly 3 million members who work at every level of education—from pre-school to university graduate programs. Our members include aspiring educators, K-12 classroom teachers, education support professionals, counselors, psychologists, and other professional support personnel as well as higher education faculty and staff who engage in a variety of educational activities both inside and outside of the classroom.
5. NEA has statewide and local affiliate organizations in almost 14,000 communities in every state across the United States.
6. NEA is a democratically governed union. Our mission, as adopted by the duly elected delegates to the 2006 NEA Representative Assembly, “is to advocate for education professionals and to unite our members and the nation to fulfill the promise of public education to prepare every student to succeed in a diverse and interdependent world.”
7. NEA’s work in furtherance of that mission is guided by our core values, as adopted by the NEA Representative Assembly, including that “public education is the gateway to opportunity”; is “vital to building respect for the worth, dignity, and equality of every individual in our diverse society”; and “provides individuals with the skills to be involved, informed, and engaged in our representative democracy.”
8. NEA and its members also believe, as reflected in our agreed upon core values, “that the expertise and judgment of education professionals are critical to student success,” and advocate for educators to receive the status, compensation, and respect due all professionals. NEA and its members also “believe that partnerships with parents, families, communities, and other stakeholders are essential to quality public education and student success.”
9. As our nation has grown ever more diverse with over half of the students in K-12 schools identifying as Black, Hispanic, Asian, Multiracial, Native American or Alaskan Native there has been a growing need to diversify the content and curriculum of K-12 teacher preparation, instruction, and curriculum standards and educational programs. As a result, many states have taken steps to diversify the required and provided K-12 curriculum and/or the required teacher education and certification standards including education preparation standards that guide curriculum and instruction at colleges of education.

10. NEA has worked as well to expand its support for efforts to diversify the breadth and strength of educational offerings and educator preparation in the country. That work is reflected in NEA's six overall strategic objectives for the 2024-2026 time period, which include: (i) "supporting educators' growth in the professional knowledge, skills, and competencies necessary to maximize students' academic and social-emotional learning and shape the future of learning," (ii) safeguarding "the freedom to teach in the most effective manner for their students," (iii) supporting "the development of modern, safe, and supportive public schools that are affirming to all students and employees," (iv) supporting members "in advancing racial and social justice in education," and (v) safeguarding "the rights of students" and ensuring "that students are prepared to participate fully in our democratic society."
11. NEA advances these strategic objectives through its core activities, including providing professional and leadership development to its members, funding key education improvement efforts and defending its members freedom to teach in the most effective manner possible.

#### **NEA's Professional Development Work**

12. The core of NEA's professional excellence work consists of supporting educators teaching professional skills to other educators, including skills in racial and cultural competence. This work includes many different types of professional training, including several that are primarily focused on improving the skills of educators in engaging, teaching and supporting students of different races, national origins, sexual orientations and/or gender identities.
  - a. Examples of NEA's currently offered trainings and resources include 15-hour blended learning courses on "Culture, Ability, Resilience & Effort (CARE)," "Bully Prevention," "Diversity, Equity, and Cultural Competence," "Disability, Rights, and Inclusion," "LGBTQ+ Blended Learning Series," "Trauma-Informed Pedagogy," "Mental Health Awareness" and "Social Emotional Learning."
  - b. NEA also offers stacked courses that enable educators to earn micro-credentials in certain subjects, including "Teacher Leadership: Diversity Equity and Cultural Competence Pathway," "Bully Free Schools," "Diversity, Equity, and Culture Competence," "Native Education," "Restorative Practices," "Supporting LGBTQ+ Students," and "Trauma-Informed Pedagogy."
  - c. Thousands of NEA members take these trainings and earn these micro-credentials, which in many instances are accepted by employers to fulfill continuing professional development requirements and, in some instances, qualify members for additional compensation.
  - d. Since the issuance of the Dear Colleague Letter, NEA members have raised concerns about the value of NEA's offerings given the uncertainties created by



the Letter as to what types of diversity, equity and inclusion approaches are permitted and which are not. Those concerns undermine the perceived value of NEA's professional development offerings and harm NEA's professional excellence work by deterring individuals from pursuing and completing those trainings and credentials.

13. NEA devotes substantial resources to improving the racial and cultural competence of its members and staff. In the 2023-24 school year, for example, NEA conducted more than 50 trainings on diversity, equity, inclusion, racial and social justice for more than 1,800 members and staff. Many of the trainings for members were offered in conjunction with, or with the approval of school districts, as valuable professional development opportunities. But as a result of the Dear Colleague Letter and the threat to federal funding, NEA fears that school districts will cease their support of such training, thereby limiting the scope and reach of such trainings and further harming NEA's professional development work.

#### **NEA's Funding of Educational Improvement Efforts**

14. NEA also engages in significant work to advance professional expertise through grant programs that fund professional practice initiatives and the delivery of professional practice instruction.
  - a. Since September 2024, NEA's professional excellence work has included awarding \$3,900,000 in grants for professional excellence work including work to expand and elevate the skills of educators in engaging, teaching, and supporting students of all races, national origins, sexual orientations, and gender identities. Examples of topics funded include: grants that improved the professional practice of educators by supporting induction and mentoring resources for new educators as they enter the profession, PRAXIS test preparation supports for new educators, and after-school mentoring and meal programs for rural students.
  - b. The work to implement NEA's professional excellence grants is often done in coordination with, and with the support, of school districts, colleges and universities, who rely on the NEA grants to advance their mission of educational excellence.
15. NEA also provides a "Read Across America Grant" for state affiliates to enhance state affiliate coordinated Read Across America events and/or activities grounded in celebrating key ingredients in building a nation of diverse readers—books, reading, and the freedom to learn. This small grant program encourages proposals that use funds as a way to get books from diverse perspectives into the hands of students. Proposals that further that objective are strongly encouraged.
16. The Dear Colleague Letter will impact the purpose, execution of, and member and school interest in these grant programs. For example, it is unclear how the grant programs will

continue to work in light of the Letter's prohibition of state and school district practices related to diversity, equity, and inclusion, which are at the core of much of NEA's grant work. Similarly, as a result of the Dear Colleague Letter, NEA will need to respond to concerns that Read Across America selected books are inappropriate or at odds with the dictates of the Letter and its vague condemnation of celebrations of diversity.

17. NEA also supports increasing educational opportunities by partnering with school districts and communities to develop and support community schools, with the approval of and in coordination with school districts. In those community schools, the needs of the community surrounding a school inform the educational offerings and approach of the school. NEA is currently supporting over 750 community school practitioners in 90 school districts across 27 states in utilizing the community school strategy. Many of the schools recognize, support, and celebrate the diversity of the school community by shifting their curricula so as to be grounded in the cultural and linguistic assets of the local community. The Dear Colleague Letter undermines these arrangements as well, by pressuring school districts to shift away from efforts that could be perceived to cross into the category of activities targeted by the Letter.

### **Defending Educators' Freedom to Teach Effectively**

18. NEA also provides advice and assistance regarding labor and employment matters, individual rights, education reform, and other matters with legal implications for its members. The primary vehicle by which NEA supports the legal needs of its members is through its Unified Legal Services Program, under which NEA funds the legal representation of NEA members and affiliates in covered matters including approved employment-related matters and matters that NEA and the relevant state affiliate agrees are significant for NEA members. Such matters include advice and counsel to educators facing restrictions on how and what they teach, representation for members facing discipline or termination for their instructional choices, work to protect the rights of educators to engage in protected advocacy to advance educational opportunities and equity, and work representing members and affiliates in other education and employment related matters.
19. Since 2020, NEA's legal work has increased as a result of various censorship initiatives. At the end of his first term in office, President Trump issued Executive Order 13950 (2020), which prohibited federal agencies and federal contractors from promoting a list of so-called "divisive concepts" in workplace training and directed agency heads to identify grant programs for which grants could be conditioned on the recipient's certification that it would not use federal funds to promote the "divisive concepts," many of which related to race, gender, sexual orientation, and identity. That Order was rescinded in January of 2021 but some 20 states including Indiana, Iowa, New Hampshire, Tennessee, Florida and Oklahoma subsequently adopted similar restrictions on instruction and curriculum that barred certain instruction on race and gender in elementary, secondary, and higher education (the "State Censorship Laws").



20. NEA members in these states experienced and reported substantial confusion and concern to NEA and its affiliates regarding the meaning and implementation of the State Censorship Laws. NEA fielded questions from members about, for example:

- a. Whether the prohibitions on instruction that an individual was inherently racist prohibited instruction about institutional or systemic bias;
- b. Whether specific categories of literature or written subject matters were prohibited from assignment or dissemination to students, including whether educators could assign students the writings of certain authors that express the author's particular view or theory about discrimination, racism, or other prejudices;
- c. Whether particular books or authors were prohibited under the law;
- d. Whether topics related to racial and/or social justice were prohibited from teaching and discussion;
- e. Whether or not they could still teach or have discussions with students regarding historical racism, including, in relation to slavery, segregation, the civil rights movement, and structural racism;
- f. What parameters they must follow when answering questions from students about current events that touch upon current manifestations of racism, including the events precipitating the Black Lives Matter movement;
- g. Whether or not they could still teach about historical systems and practices which have led to discriminatory outcomes like "redlining" by the Federal Housing Administration that led to racially segregated neighborhoods and inequitably funded schools;
- h. How to adhere to the law and state and local curriculum requirements or standards that require in many instances that educators instruct students on the subjects and issues identified above.<sup>1</sup>

21. Because of this confusion and fear, many NEA members subject to these State Censorship Laws have self-censored and changed a wide range of their day-to-day professional activities both inside and outside of the classroom. In Florida, a detailed survey and interview of educators in 2024 found that over 82% of those surveyed had restricted in some way how they taught about issues of race and racism, 71% restricted

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<sup>1</sup> See ECF No. 85-111, at 29 & Ex. 42, *Loc. 8027 v. Edelblut*, No. 21 Civ. 1077 (PB) (D.N.H. Aug. 14, 2023).

how they taught Black history and 62% restricted how they taught ethnic studies.<sup>2</sup> Similarly, national surveys conducted by RAND in 2022, 2023 and 2024 all found that substantial percentages of educators reacted to state level censorship laws by restricting what and how they taught.<sup>3</sup>

22. To respond to these concerns consistent with its overall mission and strategic objectives, NEA has had to expend substantial resources to ensure its members understood their rights to continue to teach in alignment with state standards and to defend members for teaching inclusively aligned with state standards. For example, since 2020, NEA has devoted substantial staff time and funded substantial legal work to (1) win back the job of a high school contemporary issues teacher who was terminated for playing a spoken word poem addressing white privilege to his high school juniors and seniors; (2) defeat an effort to strip a teacher of her teaching credentials for declining to remove a Black Lives Matter flag from a school hallway; (3) defend the right of a teacher to assign a powerful essay by an award winning African American author to her AP English class as an example of how to write a persuasive essay; (4) challenge the termination of a middle school teacher for reading an age appropriate book *My Shadow is Purple* that her students picked for a class read aloud; and (5) challenge the termination of a music teacher for raising concerns about her school's decision to prevent the school choir from singing, "Rainbow Land." NEA also has supported litigation challenging these State Censorship laws on the ground that they are impermissibly vague.
23. The Dear Colleague Letter includes similar prohibitions to the State Censorship law prohibitions. For example the Letter prohibits "toxic[ ] indoctrination[ ] [of] students with the false premise that the United States is built upon "systemic and structural racism." Letter at 2. As a result, NEA expects that it will need to respond through its ULSP program to defend members ability to teach inclusively aligned with state standards

### **NEA & Its Members Have Been and Will Continue to Be Harmed by the February 14<sup>th</sup> Dear Colleague Letter**

24. The Dear Colleague Letter harms NEA's members and NEA itself in multiple ongoing ways.

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<sup>2</sup> M. Pollack & H. Yoshikawa, *The Limitation Effect: A White Paper* at pg. 24 (New York University & University of California at San Diego 2024).

<sup>3</sup> A. Woo, M. Dilberti, E. Steiner, *Policies Restricting Teaching about Race and Gender Spill Over into Other States and Localities* (RAND Feb. 15, 2024) (reporting based on national survey data that "65 percent of teachers nationally reported deciding to limit discussions about political and social issues in class"); A. Woo, M. Dilberti, E. Steiner, *Seven Takeaways on How Teachers Are Reacting to Restrictions on Discussing Race and Gender* (RAND May 17, 2024) (reporting based on synthesize of nationally representative surveys of K-12 public school educators that "one-third of teachers" had changed instruction or curriculum in response to state limitations and that social studies and English language arts teachers were especially likely to have made such changes).



25. By placing in doubt what educators may and may not teach and what educational programming schools and colleges may or may not offer without losing federal funding, the Letter has already resulted in and will continue to cause:
- a. Harm to NEA's core work of providing professional development training and resources by undermining the value of, and interest in, NEA's offerings;
  - b. Harm to NEA's core work of funding educational improvement work through grants by deterring schools and colleges from supporting the programs funded through such grants and thereby limiting the scale and scope of that work;
  - c. Harm to NEA's core work of advancing effective public education by addressing concerns by members about whether they can teach aligned to state standards and whether inclusive education instruction, curriculum and practices are permitted;
  - d. Harm to NEA's core work of defending educators targeted for providing effective instruction by placing in doubt whether instruction and curriculum aligned to state standards may nevertheless be prohibited for crossing into the vaguely defined category of impermissible "DEI" work described in the Dear Colleague Letter.
26. Just as the State Censorship Laws have caused confusion, fear, and self-censorship among educators, the Letter has already caused and will continue to cause substantial confusion, fear, and self-censorship for NEA's members both inside and outside of the classroom.
27. NEA has heard from higher education members, who have, for example,
- a. Have raised concerns regarding whether or not they will be able to continue to teach Indigenous studies, ethnic studies, or courses that mention diversity, equity, and inclusion in their title or course descriptions;
  - b. Have been required to remove references to diversity, equity and inclusion in their course and training materials and grant applications;
  - c. Have been directed to cease supportive programs for students from diverse backgrounds;
  - d. Have been demoted and stripped of positions advancing equity concerns in teacher preparation and had resources, websites, and programs advancing such concerns shut down and shuttered;
  - e. Fear teaching content and providing students with support related to diversity, equity and inclusion work;
  - f. Fear accurately describing their research and prior work on their C.V.'s as doing so may prevent them from obtaining employment;
  - g. Fear that funding for their research will be impacted and therefore that they will need to discontinue research that would advance topics related to race, diversity, equity and inclusion.
28. At the K-12 level, educators have raised concerns with NEA about whether they can continue to take, or provide, professional development courses aimed at increasing the

racial and cultural competence of educators, diversifying the curriculum, and educating students or staff about the impacts of conscious and unconscious racial bias. Educators have also raised concerns about whether their efforts to ensure a school's curriculum and educational programming reflects the rich diversity of the surrounding community and the country may be prohibited under the Department's newly announced views.

29. Based on NEA member educators' experiences under the State Censorship Laws, it is unavoidable that educators will experience substantial confusion regarding whether and how to continue exercising effective pedagogical approaches because of the Letter and, as a result, fear about whether their teaching may subject them to enforcement actions. For example, educators routinely invite discussion or assign work that requires students to analyze and critically engage with a variety of topics that are likely to implicate ideas related to race, gender, and other prohibited topics. These practices are not only required by sound educational pedagogy but are necessary for NEA members to meet state and local standards, including those related to critical thinking, analyzing different perspectives, and making connections between subject matter areas and materials and their own lives and current events. Like teachers censored by similar state laws, the Letter will cause teachers across the country to fear using or to stop using effective practices and methods of teaching that may result in discussions around the prohibited concepts.
30. Moreover, principles and practices of diversity, equity, inclusion, and accessibility are deeply embedded in effective practices of teaching. For example, studies have shown that teaching ethnic studies and a culturally responsive and racially inclusive curriculum is the most effective educational approach for all students, and particularly for students of color.<sup>4</sup> Such practices build critical thinking skills, prepare students for active democratic participation, instill cultural values, expose students to diverse epistemologies, and cultivate a culturally literate workforce that can compete in the global marketplace.<sup>5</sup> Similar to the confusion and fear of adverse actions experienced by educators in response to the State Censorship Laws, NEA member educators across the country have already and will continue to experience confusion regarding whether certain materials, books, and sound educational practices like culturally responsive practices are permitted under the Letter, and may abandon them altogether.
31. Additionally, educators are professionally and legally obligated to design and implement instructional materials and approaches that ensure inclusivity and accessibility, particularly for students who are disabled and multi-lingual learners. Many of our members are special education teachers and paraprofessionals whose core job duties involve ensuring that students with disabilities are integrated with their non-disabled peers, and are included and able to equally access education. By targeting training

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<sup>4</sup> *The Very Foundation of Good Citizenship: The Legal and Pedagogical Case for Culturally Inclusive and Racially Inclusive Public Education for All Students* (NEA & LFAA 2022).

<sup>5</sup> *Id.* at 6.



programs related to diversity, equity, inclusion, and accessibility, the Letter leaves in doubt whether and how teachers will be able to continue key practices and programs to serve students with disabilities and multi-lingual learners, including in Integrated Co-Teaching classrooms or dual language classrooms.

32. The Letter also causes substantial confusion and fear of adverse consequences with respect to core educational principles, practices, and responsibilities that NEA members have outside of the classroom and in their professional and personal interactions with one another and the students they serve.
33. For example, many of NEA's members lead the development of curriculum or professional development for other teachers at the district or school level. The contradictions between the Letter's prohibitions, effective teaching practices, and learning and teaching standards will leave these educators guessing at a minimum, and at worse will cause them to abandon certain practices and materials relevant to student and educator learning out of fear of adverse consequences.
34. NEA members also regularly engage in activities that support student learning outside of the classroom, including through the development and instruction of extra-curricular activities, or in planning field trips to broaden and deepen student knowledge. The Letter raises questions regarding whether these activities must now meet a new vague standard of neutrality and not focus student attention on the experiences of particular groups of people. For example, are field trips to civil rights sites now in question? What about to museums that focus on the historical and cultural experience of a particular group of people such as the National Museum of African American History or the National Museum of the American Indian?

**The Letter, Particularly Combined with the Department of Education's Anti-DEI Tipline Invites Arbitrary Enforcement Against NEA Members**

35. Within a week of the Department's Letter, the Department launched a public Anti-DEI tipline, explaining that the Department "is committed to ensuring all students have access to meaningful learning free of divisive ideologies and indoctrination," and asking "students, parents, teachers, and the broader community to report illegal discriminatory practices at institutions of learning." See Department of Education website <https://enddei.ed.gov>. The national solicitation of reports from anyone about alleged "divisive ideologies and indoctrination" in schools places educators at risk of investigations based on complaints that their teaching and instruction has crossed into the vague category of impermissible action under the Dear Colleague Letter.
36. The existence of the national tipline in itself has raised concerns among NEA leaders and members, who worry that it will be used to target educators whose teaching and instruction is viewed as too inclusive. And there is no doubt that the complaints fueled by the Department's solicitation of anti-DEI submissions will result in educators' being

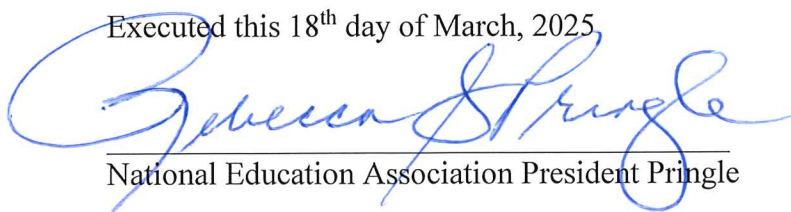


targeted for their teaching even though that instruction is aligned with state standards and reflects best pedagogical practice. NEA has had members targeted by anti-DEI activities in several states and in some educators have been terminated by school boards for their inclusive education approaches. NEA's experience has been that even anonymous complaints against members can touch off lengthy investigations during which members are placed on administrative leave with the consequent reputational injury. As teacher dismissals are usually initiated by, and often resolved as well by, local school boards – the process can be both lengthy and painful for educators who, despite stellar evaluations and lengthy records of public service, find themselves publicly targeted in culture war disputes. Even though NEA has fought such dismissals, and won several cases (see *supra* at para 22), the mere fact of the dismissal and the lengthy effort to reverse the dismissal sends a clear message to other educators not to engage in the challenged instruction or curriculum choices.

37. NEA members fear arbitrary and discriminatory enforcement under the Letter including because it threatens enforcement actions against educational institutions within days, which effectively coerces states and local school districts, colleges and universities to attempt to abide by its terms or risk a substantial amount of federal funding critical to the provision of education for their students. Even with clear guidelines, this timeline would not allow educational institutions to carefully evaluate programs. The Letter provides no standards for states or educational institutions to determine what conduct is prohibited or permissible under the Letter, and, accordingly, NEA members fear it will result in discipline across a variety of common practices that NEA members engage in every day as part of their professional practice and interactions with their colleagues and their students.

I declare under penalty of perjury that the above is true and correct.

Executed this 18<sup>th</sup> day of March, 2025



Rebecca S. Pringle

National Education Association President Pringle

# **EXHIBIT X**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION;

*et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.*,

Defendants.

Case No.: 25-cv-00091-LM

**DECLARATION OF CENTER FOR  
BLACK EDUCATOR DEVELOPMENT  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

I, Sharif El-Mekki, pursuant to 28 U.S.C. § 1746, declare the following:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the founder and Chief Executive Officer of the Center for Black Educator Development (CBED). I am authorized to provide this declaration on behalf of CBED, which is a plaintiff in the above captioned matter. I founded CBED in 2019. My experiences as a teacher of ten years, sixteen years as a principal, and as a former inaugural Principal Ambassador Fellow at the U.S. Department of Education all contributed to my decision to launch CBED. My Fellowship was particularly instructive as I was able to learn from and contribute to policies that impacted schools and districts that were generated at the U.S. Department of Education. By using in-reach and outreach strategies and best practices, my two colleagues and I were able to inform the U.S. Secretaries of Education and their cabinets about the impact of their decisions, messages, and policies on school and district leaders, and in particular, school principals and their leadership teams.
3. I make this declaration to describe the effects that the Dear Colleague Letter the Department of Education (the "Department") issued on February 14, 2025 (the "Letter"), is having, and will continue to have, on CBED. The information I provide in this declaration is based upon my best understanding of information available to my



organization, including information, data, and research that I have asked my staff to furnish and compile in support of the statements herein.

### **Background on CBED**

4. CBED is a 501(c)(3) organization founded in 2019 with the mission of achieving educational equity and racial justice by rebuilding a national pipeline of Black teachers. Presently, not enough is being done to effectively recruit, train, and retain Black teachers or to make schools and school districts successful employers of Black teachers.
5. According to our review of public data, most teachers in K-12 are white, a remnant of the fact that many Black teachers were pushed out of education when schools became desegregated. This gap is starkly evident even in districts with large Black student populations. For instance, around 49% of students in Philadelphia are Black, while less than a quarter of teachers are Black, only 4% being Black male teachers.<sup>1</sup> In the 2020-21 school year, Philadelphia schools employed nearly 1,200 fewer Black teachers than they did 20 years prior,<sup>2</sup> while the percentage of non-Black teachers has increased, highlighting the need for solutions specific to the Black teacher shortage.
6. This is critical because research has demonstrated that Black students who have just one Black teacher in K-3 are 9 percentage points more likely to graduate from high school and 6 percentage points more likely to go to college.<sup>3</sup>
7. Without examples of Black teachers, Black students are unlikely to consider a career in teaching for themselves. For example, Pennsylvania has seen a 60% decrease in Black students enrolling in teacher's colleges from 2009 to 2020.<sup>4</sup> The percentage of Black teachers in Pennsylvania is only 4%, despite the fact that Black students make up 14% of the student population.<sup>5</sup>
8. Black individuals who do become teachers face tougher worker conditions and leave the profession at higher rates than their white peers. Some of the reasons for this include the fact that Black teachers are often tasked with handling the bulk of student disciplinary

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<sup>1</sup> *Fast Facts*, The School District of Philadelphia, <https://perma.cc/V5US-YZTP> (last modified Mar. 6, 2025); Dale Mezzacappa, *Pennsylvania Changes Culturally Responsive Teaching Guidelines, Raising Concerns*, Chalkbeat Philadelphia, Nov. 27, 2024, <https://perma.cc/8KSX-3657>.

<sup>2</sup> Leana Cabral et al., *The Need for More Teachers of Color*, Research for Action, <https://www.researchforaction.org/research-resources/k-12/the-need-for-more-teachers-of-color/>.

<sup>3</sup> Seth Gershenson et al., *The Long-Run Impacts of Same-Race Teachers 1–2* (Nat'l Bureau of Econ. Rsch., Working Paper No. 25254, 2021), <https://perma.cc/PH7L-767L>.

<sup>4</sup> Ed Fuller, *Pennsylvania Teacher Staffing Challenges*, [https://ed.psu.edu/sites/default/files/inline-files/CEEPA\\_report\\_V2.pdf](https://ed.psu.edu/sites/default/files/inline-files/CEEPA_report_V2.pdf).

<sup>5</sup> *Pennsylvania Educator Diversity Research*, Research for Action, <https://www.researchforaction.org/pennsylvania-educator-diversity-research/>.

challenges and are often expected, whether formally or informally, to be spokespeople and trainers of colleagues in instructional practice that meet students' needs.<sup>6</sup>

9. Teachers who are not Black also need to be prepared to teach Black students in an engaging, effective, and culturally responsive way, but often do not receive training or instruction on best practices for doing so. Further, school districts need support and training to meet Black and non-Black teachers' needs in these areas.
10. Further, there is a national shortage of qualified teachers, so it is critical to recruit, support, and retain as many qualified teachers as possible to ensure the successful functioning of our public education system.<sup>7</sup>
11. CBED works to remedy these issues through three main categories of core activities, all of which are open to and support students and educators of all races: our "Teaching Pathways" program, our "Professional Learning" program, and our "Policy & Advocacy" work. These programs are designed to rectify past inequities by enhancing diversity within the teaching workforce, with the ultimate goal of providing all students with a more inclusive and representative educational experience. These programs have always centered fairness and equal opportunities for all candidates, regardless of race, color, religion, sex, or national origin, adhering to all relevant anti-discrimination laws and striving to create a balanced and equitable environment for everyone involved.
12. The Letter and subsequent FAQ, along with the End DEI portal, has limited our ability to do this important work by calling into question the legality of our programs through its vague and overly broad conceptions of illegal DEI work. Our partnerships with schools, curriculum materials, training and professional development programs for educators, and programs for students all relied on an understanding of federal anti-discrimination law that the Letter now departs from, threatening our partnerships and contracts with educational institutions and impacting these core services, as well as our mission to grow the Black teacher pipeline, which helps, among other things, to ensure that all students, especially Black students, are able to succeed in their education.

### **CBED's Teaching Pathways Program**

13. CBED's Teaching Pathways Program meets students where they are in high school and provides them with the tools to become successful teachers, with an emphasis on rebuilding the Black teacher pipeline. As part of Teaching Pathways, we conduct Teaching Academies that incorporate our curriculum program. We also offer a Freedom Schools Literacy Academy and a Future Teachers of Excellence Fellowship.

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<sup>6</sup> Madeline Will, *Teachers of Color Pay an "Invisible Tax" that Leads to Burnout*, Ed. Sec. Writes, Education Week, May 18, 2016, <https://perma.cc/FEF4-SKSD>.

<sup>7</sup> Tiffany S. Tan et al., *State teacher shortages 2024 update: Teaching positions left vacant or filled by teachers without full certification*, Learning Policy Institute (Jul. 31, 2024), <https://learningpolicyinstitute.org/product/state-teacher-shortages-vacancy-resource-tool-2024>.



14. The Teaching Academy is a year-round high school Career & Technical Education (CTE)<sup>8</sup> course open to all students interested in teaching, with a particular focus on recruiting Black students as future teachers. One of the roadblocks to rebuilding the Black teacher pipeline is that the pedagogy employed by schools is culturally non-responsive to Black teachers and students. This leads many Black teachers to an early exit from the profession, and deters Black students from ever considering a career as a teacher. Our CTE program, which is open to participants of all races, attempts to solve this problem through a curriculum grounded in Black pedagogy—instructional practices that center the historic frameworks, philosophy and strategies that cultivate positive racial identities and social consciousness while deepening academic knowledge and skills. Participants are matched with a course facilitator who provides targeted instructional coaching and professional development to prepare students to serve as teaching assistants and instructors in mentor classrooms.
15. CBED partners with higher education institutions to provide dual enrollment college credits to participants so that they have an opportunity to graduate with an associate's degree in education or certification as an educational paraprofessional. CBED provides guidance on course content to schools implementing the program.
16. CBED piloted the Teaching Academy program during the 2021-22 school year at four sites in three states (Pennsylvania, New Jersey, and Michigan). These sites were selected in part because the schools and districts valued CTE opportunities and had preexisting CTE success, or had a vision of putting CTE courses in place. These locations also had an interest in shaping a self-sustaining Black teacher pipeline because of its benefits in increasing workforce diversity and positive student outcomes.
17. The pilot program enrolled 160 high school students and saw a 35% rate of increase in an interest in teaching, 94% interest in attending college, and statistically significant outcomes across five targeted growth categories, including interest in teaching and higher education, knowledge of curriculum content, positive racial identity, academic self-efficacy, and social-justice orientation.<sup>9</sup>
18. Currently, CBED runs Teaching Academies in Philadelphia, Pennsylvania, Rochester, New York, and at a school in Harlem, New York. CBED has contractual partnerships with these school districts, which pay for our programming, sometimes with federal funding such as Teacher Quality Partnership grants or CTE funding. Similarly to how we selected our pilot program sites, we seek to partner with schools and districts that, among other things, value CTE opportunities and are interested in shaping a self-sustaining Black teacher pipeline due to its benefits to workforce diversity and positive student outcomes.

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<sup>8</sup> CTE courses provide academic and technical instruction to prepare students for employment opportunities in specific fields.

<sup>9</sup> Ctr. for Black Educator Dev., *2022 Program Report: Teaching Academy Pilot 18* (2022), <https://perma.cc/H2J9-9QYC>.

19. CBED has been growing our Teaching Academy programs, with an additional contract launching in Michigan in the Fall, and further contracts under discussion. CBED's goal is to launch 40 Teaching Academies by 2030 across the country.
20. The Teaching Academies include our "Grow Your Own" curriculum for high schoolers. The curriculum aims to help communities "grow their own" teachers who are best situated to provide community- and culturally-responsive education as educators that grew up in that same community. This curriculum, like other CBED programs, has a specific emphasis on Black history and Black pedagogy.
21. CBED's Freedom Schools Literacy Academy (FSLA) is a seven-week summer program that offers college-aged individuals and high school students paid apprenticeships wherein participants receive professional development and provide rising First through Third graders with literacy intervention and an affirming space that celebrates their culture and racial identity. FSLA provides specific instruction on Black culture, history, and pedagogy in an effort to advance racial justice and educational equity.
22. The Future Teachers of Excellence Fellowship, open to individuals from all races who participate in either a Teaching Academy or FSLA, is a program that provides financial support as well as academic support and professional coaching to students enrolled at a college or university with an interest in teaching. The goal of the program is to further build the pipeline of teachers who work to advance educational equity and racial justice. While many of our fellows are Black, we have awarded and will continue to award the fellowship to non-Black applicants who participate in our programming and are committed to educational equity, as we recognize that Black pedagogy is important for all teachers.<sup>10</sup>

### **CBED's Professional Learning Program**

23. CBED also provides a variety of professional learning resources, including professional development workshops and consultation services.
24. CBED has created on-demand e-learning series and in-person workshops designed to educate teachers, student-teachers, school administrators, advocates, and allies on culturally responsive, affirming, and sustaining teaching practices. Topics covered in these resources include:
  - Cultural identity
  - Implicit Bias
  - Microaggression Nuance
  - Culturally-Proficient Relationships with Students
  - Culturally-Proficient Collaborations with Families
  - Ableist Language

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<sup>10</sup> See, e.g., Seth Gershenson et al., *Spillover Effects of Black Teachers on White Teachers' Racial Competency: Mixed Methods Evidence from North Carolina*, <https://docs.iza.org/dp16258.pdf>.



- Addressing Biases that Impact Learning
  - Tips for Making Academic Language Instruction Culturally-Proficient
  - Difference Between Individualist and Collectivist Cultures
  - How to Identify Cognitive Bias
  - Culturally-Proficient Writing Activities
  - Culturally-Proficient Read Aloud Strategies
  - Validating and Affirming Cultural Behavior
  - Grading with Equity
25. CBED's workshops are approved as Act 48 ongoing professional education courses in Pennsylvania. Educators in Pennsylvania are required to complete Act 48-approved continuing education requirements every five years to maintain an active certification.<sup>11</sup>
26. CBED partners with school districts, universities, and community organizations to support diverse educators through anti-racist professional development opportunities. As one example, we host our Black Men in Education Convening, an annual conference open to all educators that centers the experiences, perspectives, needs, voices, and concerns of Black male educators. Schools often purchase tickets for their educators to attend this conference as a valuable professional development experience. Over 1,400 educators attended last year's convening.
27. CBED also provides consultation services to other non-profit organizations and school districts. These services include consultation around:
- Strategic planning, including research, analysis and goal-setting on DEI and anti-racist teaching
  - Teacher recruitment, hiring and retention toolkits and best practices
  - Direct training and train-the-trainer facilitation, including: implicit bias in hiring; engaging in DEI dialogue; anti-racist, anti-bias and equity-centered approaches to school leadership
  - Educator ecosystem assessments and co-production
  - Design and progress monitoring of professional learning communities
  - Targeted intervention services to address racial tensions among students and staff
28. CBED further provides Cultural Proficiency Workshops to educators, schools, and districts on topics including:
- Reflecting on One's Cultural Identity
  - Redressing Bias
  - Microaggressions' Impact on Diverse Learners
  - Collaborating with Families
  - Building Culturally-Proficient Relationships with Students

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<sup>11</sup> *General Act 48 Frequently Asked Questions*, Commonwealth of Pa., <https://perma.cc/3BF4-ENMJ>.

- Modeling High Expectations
  - Drawing on Student’s Cultural Knowledge to Inform Instruction
  - Formulating an Anti-Racist, Anti-Bias and Equity Driven Leadership Approach
  - Engaging in Difficult Conversations on Diversity, Equity, Inclusion, Justice and Belonging
29. Both our Teaching Pathways and Professional Development programming are geared towards the goal of having more effective teachers of underserved and marginalized students—particularly students of color and Black students. By providing high school and college students with career exploration opportunities in communities that have high numbers of students of color, CBED helps to ensure that early exposure and clinical experiences align with effective teaching and leadership practices that individuals can practice employing and later implementing as teachers themselves.
30. Professional development is aligned to researched best practices in how to effectively accelerate student achievement and is consistent with both short-term and longitudinal research that highlights the impact of Black teaching techniques, frameworks, and pedagogy.

#### **CBED’s Policy & Advocacy Work**

31. CBED forms partnerships to advocate for systemic change elevating the teaching profession and promoting teacher diversity and cultural pedagogy at all government levels. For example, federally and nationally, CBED is on the steering committee for the “1 Million Teachers of Color” National Campaign to add one million teachers of color to the education workforce over the next decade. CBED also endorses various federal legislation, such as the Pay Teachers Act and the American Teachers Act, which aim to diversify the teacher workforce, expand the teacher pipeline, and sustain higher teacher salaries.
32. At the state level, CBED has partnered with Pennsylvania Educator Diversity Consortium to develop Culturally Responsive-Sustaining Education (CR-SE) competencies, which were implemented into all education preparation programs in 2024. CBED also developed a Teachers of Color Retention Toolkit and contributed to toolkits for Recruitment and Mentoring.
33. All of these policy and advocacy efforts will be in vain if the Department’s vague and overly broad conception of illegal discrimination prevails, as all of CBED’s efforts to diversify the teacher pipeline and enhance educational practices around diversity and cultural competency will be recast as efforts to discriminate on the basis of race.



**CBED Has Been and Will Continue to Be Harmed by the Letter**

34. Having reviewed the Letter, CBED has serious concerns about its impact on our Teaching Pathways and Professional Learning programs. The Letter specifically calls out “training” and “other institutional programming,” Letter at 1, as potential vehicles for the Department’s broad and vague conception of discrimination. The Letter further highlights “diversity, equity, and inclusion” programs, which the Department describes as “smuggling racial stereotypes and explicit race-consciousness into everyday training[ and] programming,” Letter at 2, or as “preferenc[ing] certain racial groups and teach[ing students] that certain racial groups bear unique moral burdens that others do not,” Letter at 3, which the Letter claims “stigmatize[s] students who belong to particular racial groups based on crude racial stereotypes.” Letter at 3.
35. The Letter demands that educational institutions “cease all reliance on third-party contractors . . . that are being used by institutions in an effort to circumvent prohibited uses of race,” or else risk loss of federal funding, calling CBED’s partnerships with school districts and training programs into focus for potential enforcement. Letter at 3–4.
36. The Letter also invites complaints from “[a]nyone” who believes unlawful discrimination has occurred, deputizing individuals without any connection to CBED’s work to find fault with it. Letter at 4.
37. While CBED’s Teaching Pathways and Professional Learning programs do not discriminate on the basis of race and are open to all aspiring and current educators, they do invoke concepts that relate to “diversity,” “equity,” and “inclusion.” This has never been considered illegal discrimination. Our focus on Black pedagogy and the importance of Black teachers, and discussion of topics like cultural proficiency, anti-racism, implicit bias, cultural identity, microaggressions, equity, and bias, as described above, are intended to redress or prevent discrimination. Yet the Department now casts doubt on any effort to acknowledge racial issues plaguing our education system, and threatens punishment to districts who partner with those who attempt to bring awareness to these issues, like our organization.
38. The Letter thus impacts the purpose, execution of, and educational institutions’ interest in these programs, which are at the core of CBED’s work to grow the Black teacher pipeline and teach Black pedagogy, including to ensure that all students, and especially Black students, thrive.
39. The FAQ raises similar concerns, for example by stating that “schools cannot assume that a person’s race necessarily implies something about that person, including something about that person’s perspective, background, experiences, or socioeconomic status,” FAQ at 2, or that “racial classifications . . . risk devolving into unlawful racial stereotypes when they lump students into categories that are overbroad, underinclusive, or arbitrary and undefined,” Letter at 4. CBED’s work addresses racial biases because it is critical

for all educators, including Black educators, to identify biases they may have that can negatively impact their students' sense of self, or undermine having high expectations and support for said students. However, CBED fears that this instruction could be construed to violate these terms in the FAQ.

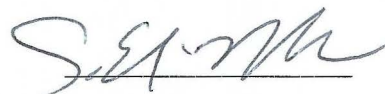
40. The FAQ further states that “[m]any schools have advanced discriminatory policies and practices under the banner of ‘DEI’ initiatives. Other schools have sought to veil discriminatory policies with terms like ‘social-emotional learning’ or ‘culturally responsive teaching.’” FAQ at 5. The FAQ specifically calls out “courses, orientation programs, or trainings that are designed to emphasize and focus on racial stereotypes” as “forms of school-on-student harassment that could create a hostile environment under Title VI.” FAQ at 7. In the FAQ as well, the Department specifically targets third parties like CBED, suggesting that schools are “laundering” racial preferences through third party contracts and other arrangements. FAQ at 8.
41. We are concerned that the Department’s publications will deter others from working with us. For example, current and potential partners reading them may conclude that CBED’s trainings and programs on implicit bias, cultural identity, microaggressions, bias, cultural proficiency, and equity constitute illegal race discrimination, when these are sound, important educational practices. Just due to the careless language used by the Department alone, CBED may have to invest significant time and resources into modifying, expanding, or eliminating our offerings to educational institutions. Further, it would be difficult if not impossible to continue partnerships and contractual relationships with educational institutions due to schools’ fears of complaints, enforcement, and federal funding rescission, significantly hampering CBED’s core activities in frustration of its mission.
42. The “End DEI” portal further heightens the impact on CBED’s core activities and contracts and partnerships with educational institutions by providing a second, informal route to report alleged violations of law. As a result of the Letter, FAQ, portal, and the threat to federal funding, CBED fears that educational institutions will cease their support of CBED’s programs, for example by canceling contracts and partnerships.
43. Indeed, one school district that was planning to start a Teaching Academy for Ninth and Tenth graders has already indicated that it is not sure whether it can proceed with the Academy following the issuance of the Letter.
44. CBED thus has significant concern that none of our contracts and partnerships are safe from impairment due to the Letter’s vague and broad prohibitions. While we do not discriminate in any way, Black pedagogy, Black teachers, and the effective teaching of Black students are at the heart of our work. The word “Black” is in our name. The Letter now makes this a liability. As a small organization that cannot adapt its programming and

funding sources quickly, these developments from the Department pose an existential threat to our organization.

45. Ultimately, the Letter, FAQ, and Portal are an enormous obstacle, and an existential threat, to CBED's goal of growing the pipeline of Black educators. We believe that these publications will inhibit the educational content and practices of Black educators, including those who seek to apply the lessons learned in our programs. We also believe these publications will also dissuade future educators, and particularly Black students and students of color, from pursuing a career in education. The Department's actions have consequences not only for CBED's core activities and mission, but also for the broader issue of teacher shortages, ultimately undermining the successful education of students of all races. Based on our experience and research, there is a significant risk that potential teachers will seek other opportunities where they will not fear reprisal, scrutiny, or harassment for discussing their own culture or history or for practicing cultural sensitivity.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of March, 2025



Sharif El-Mekki