

FILED

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

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E.K. & S.K., minors, by and through their parent  
and next friend Lindsey Keeley, *et al.*,

*Plaintiffs,*

v.

Department of Defense Education Activity, *et al.*,

*Defendants.*

No. 1:25-cv-00637

**BRIEF OF AMICI CURIAE FEDERAL EDUCATION ASSOCIATION AND NATIONAL  
EDUCATION ASSOCIATION IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Amici Curiae Federal Education Association (“FEA”) and National Education Association (“NEA”) submit this brief in support of the Plaintiffs’ Motion for a Preliminary Injunction asking this Court to: (i) prohibit the Defendants from enforcing Executive Order Nos. 14168, 14185, and 14190, as well as any related memoranda, directives, and guidance; (ii) require DoDEA to cease its classifications and removals of educational books and curricular content related to “gender ideology” and “discriminatory equity ideology”; and (iii) require Defendants to restore the status quo as it existed on January 19, 2025, by returning to their preexisting locations all books and curriculum already quarantined or removed based on potential violation of the Executive Orders . (*See* ECF No. 9.)

**INTRODUCTION AND  
STATEMENT OF INTEREST OF AMICI CURIAE**

Amicus NEA is the nation's largest professional association and union representing approximately three million members, the vast majority of whom serve as educators, counselors, and education support professionals in our nation's public schools. NEA is committed to fulfilling the promise of public education to prepare every student to succeed in a diverse and interdependent world.

Amicus FEA is the federal-sector affiliate of NEA. It is a labor organization with more than 5,400 members who work as educators and education support professionals in schools operated by Department of Defense Education Activity ("DoDEA"), the subdivision of Department of Defense that operates public schools serving more than 64,000 PreK-12 dependents of military and civilian personnel stationed in bases in the United States, in United States territories, and abroad. FEA's members include classroom teachers, instructional assistants, information specialists, counselors, nurses, and classified employees who work in DoDEA schools to ensure that their students have the opportunity to receive the high-quality education that has long characterized DoDEA schools. FEA is dedicated to the proposition that educators should ensure the integrity and effectiveness of educational programs within federal school systems, and that this goal requires three things: (a) achieving the high standards, benefits and working conditions that are necessary to attract and retain highly competent professionals; (b) supporting educators' professional growth; and (c) empowering educators to make decisions regarding their professional lives.

Amici submit this brief to underscore the importance of granting preliminary injunctive relief against the Defendants' implementation of Executive Order Nos. 14168, 14185, and 14190 and related memoranda, directives, and guidance. As we explain below, the heavy-handed

ideological censorship occasioned by the Defendants' actions will, if left unchecked, cause significant and lasting harm to DoDEA students, educators, and schools.

### ARGUMENT

Efforts to censor books and ideas for politicized ends are nothing new. As far back as 213 B.C.E., Chinese emperor Qin Shi Huang “ordered a bonfire of books as a way of consolidating power in his new empire.”<sup>1</sup> His edict specifically targeted books of poetry, philosophy and history, “so that the new emperor couldn’t be compared to more virtuous or successful rulers of the past.”<sup>2</sup>

The difference now is that the First Amendment establishes, as a “fixed star in our constitutional constellation,” that “no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion[.]” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). On the contrary, the “vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools,” *Shelton v. Tucker*, 364 U.S. 479, 487 (1960), because “the Nation’s future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues, rather than through any kind of authoritative selection.” *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967) (cleaned up). As a result, public schools—including those run by DoDEA—cannot treat students “as closed-circuit recipients” of information. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969).

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<sup>1</sup> Lorraine Boissoneault, *A Brief History of Book Burning, From the Printing Press to Internet Archives*, SMITHSONIAN MAGAZINE (Aug. 31, 2017), <https://www.smithsonianmag.com/history/brief-history-book-burning-printing-press-internet-archives-180964697/>.

<sup>2</sup> *Id.*

**A. The First Amendment prohibits the heavy-handed, ideological censorship of books, ideas, and learning in public-school libraries and curricula.**

Students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker*, 393 U.S. at 506. As a corollary to those rights, students also have a “right to receive information and ideas.” *Cf. Stanley v. Georgia*, 394 U.S. 557, 564 (1969); *see also Brown v. Ent. Merchants Ass’n*, 564 U.S. 786, 794 (2011) (explaining that the government does not have “a free-floating power to restrict the ideas to which children may be exposed”). Although different courts have adopted varying formulations for how this right applies “in light of the special characteristics of the school environment,” *Tinker*, 393 U.S. at 506, certain baselines are clear.

First, as to public school libraries, the school “may not remove books for the *purpose* of restricting access to the political ideas or social perspectives discussed in them, when that action is motivated simply by the officials’ disapproval of the ideas involved.” *Bd. of Educ. v. Pico*, 457 U.S. 853, 879–80 (1982) (Blackmun, J., concurring) (emphasis in original); *see also id.* at 872 (plurality opinion) (holding that “school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books”); *id.* at 907 (Rehnquist, J., dissenting) (conceding that a school’s discretion to control the content of its library “may not be exercised in a narrowly partisan or political manner” or to “permit the official suppression of ideas”).

Second, as to a school’s curriculum, the weight of authority holds that the First Amendment protects students against curricular censorship that cannot be justified by legitimate pedagogical concerns. *See Arce v. Douglas*, 793 F.3d 968, 983 (9th Cir. 2015); *Virgil v. Sch. Bd. of Columbia County*, 862 F.2d 1517, 1522–24 (11th Cir. 1989); *Pratt v. Indep. Sch. Dist. No. 831*, 670 F.2d 771, 777 (8th Cir. 1982); *cf. Hazelwood School District v. Kuhlmeier*, 484 U.S. 260,

273 (1988) (holding that that “educators do not offend the First Amendment by exercising editorial control” over school-sponsored publications “so long as their actions are reasonably related to legitimate pedagogical concerns”). Even courts that apply a more permissive standard still acknowledge that the First Amendment prohibits “rigid” ideologically motivated censorship of curriculum. *E.g., Zykan v. Warsaw Cmty. Sch. Corp.*, 631 F.2d 1300, 1306 (7th Cir. 1980).

In other words, at a minimum, the First Amendment protects the right of public-school students to access and receive information at school without the hinderance of heavy-handed, ideological censorship that is meant to drive certain ideas and viewpoints. The Defendants’ actions here fail to clear even that very low bar.

**B. The Executive Orders and the process for their implementation have cast a pall of heavy-handed, ideological censorship over DoDEA schools.**

In January 2025, President Trump issued Executive Orders Nos. 14168, 14185, and 14190. Together, these Executive Orders target so-called “gender ideology” and “discriminatory equity ideology” across federal agencies, the military, and public schools nationwide. Rather than taking time to evaluate the pedagogical impact of the orders or develop a clear and comprehensive plan for their implementation, DoDEA administrators moved “immediately” to begin removing student access to books, learning, and activities that are even “*potentially related* to gender ideology or discriminatory equity ideology topics.” (ECF No. 10 at 7 (emphasis added).)

The term “related to” is famously “broad” and, “extended to the furthest stretch of its indeterminacy, stops nowhere.” *Mellouli v. Lynch*, 575 U.S. 798, 811–12 (2015) (cleaned up); *see also Cal. Div. of Lab. Standards Enf’t v. Dillingham Constr., N.A., Inc.*, 519 U.S. 316, 335 (1997) (Scalia, J., concurring) (“[A]s many a curbstone philosopher has observed, everything is related to everything else.”). Here, the breadth of the instruction is expanded even further by the

additional modifier “potentially.” So it is no surprise that DoDEA staff charged with carrying out the directive engaged in a vast amount of censorship, including:

- removing classic works of literature such *To Kill a Mockingbird*, *1984*, *A Handmaid’s Tale*, *Catcher in the Rye*, *Fahrenheit 451*, *The Bluest Eye*, *The Color Purple*, and *The Giver*—as well as informative non-fiction such as *No Truth Without Ruth*, *Hillbilly Elegy*, and *Finding Wonders: Three Girls Who Changed Science*—from school library bookshelves (see ECF No. 10 at 8–9; ECF No. 10-16);
- cancelling school events and activities “related to” awareness months like Black History Month and Women’s History Month (See ECF No. 10 at 10);
- restricting student clubs and extracurricular activities;<sup>3</sup> and
- eliminating aspects of the school curriculum, such as lessons on gender that are part of the prescribed content for AP Psychology; middle school lessons on Black History Month and human health; and elementary school lessons on immigration and the Civil War (see ECF No. 10 at 12).

Students in DoDEA schools are keenly aware of these blatant and far-reaching efforts to censor books and learning. Not only do they understand that the Executive Orders themselves are aimed directly at suppressing the representation of certain people and viewpoints associated with them, but it is also not lost on these students that the “highly irregular and ad hoc” procedures for implementing the Executive Orders have been the “antithesis” of what “might tend to allay suspicions regarding [illegitimate] motivations.” *Pico*, 457 U.S. at 875 (plurality opinion). So, in response to Defendants’ actions, students have taken action and drawn national attention to the

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<sup>3</sup> See Jennifer H. Svan, *Black Student Union, Pride among DODEA clubs allowed to resume without paid sponsors*, STARS & STRIPES (Mar. 19, 2025) (discussing new DoDEA restrictions that make it harder to maintain student clubs and extracurriculars focused “along ethnic, gender or sexual orientation lines”), <https://www.stripes.com/theaters/europe/2025-03-19/dodea-student-pride-clubs-continue-17194422.html>.

issue by staging a series of protests and walkouts to speak out against censorship and violations of academic freedom.<sup>4</sup>

**C. Defendants' heavy-handed, ideological censorship harms DoDEA students.**

The censorship that has resulted from DoDEA's implementation of the challenged Executive Orders causes serious and distinct harms to students. Some of these educational harms are obvious: students have been deprived of access to particular books and ideas that were once available to them. They are also deprived of formal educational opportunities, including the removal of a unit on gender from AP Psychology that will leave them unprepared for an exam that could otherwise provide them with college credit. And DoDEA's restrictions on student clubs and extracurricular activities deprive students of opportunities to foster interests and experiences that allow them to distinguish themselves in college applications.

But other harms caused by DoDEA's censorship are more subtle, insidious, and far-reaching. Not only has the implementation of the Executive Orders restricted reading material available to students, it has also imposed curricular restrictions that frontline educators must abide by with only vague or minimal guidance. The predictable result is that educators will be

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<sup>4</sup> See, e.g., Angie Orellana Hernandez & Dan Lamothe, *Students at military bases around world resist Trump's DEI crackdown*, WASH. POST (Mar. 17, 2025), <https://www.washingtonpost.com/national-security/2025/03/17/military-schools-protest-trump-orders/>; David Choi, *DODEA students worldwide push back on DEI cuts with walkout demonstrations*, STARS & STRIPES (Apr. 10, 2025), [https://www.stripes.com/theaters/asia\\_pacific/2025-04-10/dodea-dei-student-protests-walkouts-17428249.html](https://www.stripes.com/theaters/asia_pacific/2025-04-10/dodea-dei-student-protests-walkouts-17428249.html).

uncertain about what topics can be addressed and will therefore curb their teaching to avoid any materials or classroom discussions that could touch on controversial issues.<sup>5</sup>

This pall of censorship over a school affects students' motivation to learn. For example, fostering students' reading motivation—particularly by giving them autonomy and access to reading materials they find relevant to their lives—promotes learning and comprehension.<sup>6</sup> In contrast, imposing overt restrictions on students' choice of reading topics or materials can stifle their intrinsic motivation to read and leave them less engaged in learning.<sup>7</sup>

Similarly, pressure to limit instruction and classroom discussion to comply with heavy-handed censorship deprives educators of one of their most valuable assets: their credibility. Maintaining a sense of credibility “is critical for educators as it directly influences the effectiveness of their teaching and the outcomes achieved by their students.”<sup>8</sup> Students exhibit higher levels of enthusiasm for learning when taught by credible instructors compared to those perceived as less credible.<sup>9</sup> Where students are aware of overt efforts to censor specific books and ideas, educators will strain to maintain credibility. For example, student questions about controversial topics often “arise sporadically, unexpectedly, and authentically in the relative

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<sup>5</sup> See Ashley Woo et al., *Walking on Eggshells—Teachers' Responses to Classroom Limitations on Race- or Gender-Related Topics* at 16, RAND CORP. (Jan. 25, 2023), [https://www.rand.org/content/dam/rand/pubs/research\\_reports/RR100/RR134-16/RAND\\_RRA134-16.pdf](https://www.rand.org/content/dam/rand/pubs/research_reports/RR100/RR134-16/RAND_RRA134-16.pdf).

<sup>6</sup> See Allan Wigfield et al., *Beyond Cognition: Reading Motivation and Reading Comprehension*, 10 CHILD DEV. PERSPECTIVE 190, 190-95 (May 2016).

<sup>7</sup> See *id.*

<sup>8</sup> Wenxia Lv, *Unveiling the power of teacher credibility and care in learners' motivation through the lens of rhetorical/relational and broaden-and-build theory*, 86 LEARNING & MOTIVATION No. 101988 (May 2024).

<sup>9</sup> See *id.*



sanctity of the classroom.”<sup>10</sup> Addressing those questions head-on in a credible manner would normally be an opportunity to engage and motivate students. But a teacher who feels compelled to bow to school censorship requirements by dismissing or avoiding genuine questions could easily squander that opportunity and harm their ability to motivate students.<sup>11</sup>

Restrictions that limit access to material and chill classroom instruction and discussion also affect students’ ability to engage in *genuine* learning. According to “Bloom’s Taxonomy”—a theoretical framework used since the 1950’s to express general goals for the educational process—effective education requires utilizing different types of learning, with the goal of producing students who have a deep understanding of the learning material and the ability to think critically and apply knowledge in a variety of contexts.<sup>12</sup> Robust classroom discussion, in particular, improves students’ learning of academic skills, critical thinking, and disciplinary knowledge.<sup>13</sup> But the kind of classroom discussion that allows for genuinely valuable deliberation—namely, discussion characterized by argumentation, critique, inclusion, relevance,

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<sup>10</sup> Charlot Cassar, *Why teachers address unplanned controversial issues in the classroom*, 51 THEORY & RESEARCH IN SOC. EDUC. 233, 234 (2023).

<sup>11</sup> See Douglas Fisher & Nancy Frey, *Teacher Credibility in Literacy Learning*, 63 J. OF ADOLESCENT & ADULT LITERACY 356, 356-59 (2019) (explaining that a “teacher who does not demonstrate that he or she has students’ best interests at heart will not be trusted,” and one “who cannot adequately convey competence and trustworthiness undermines the learning environment and negatively impacts learning”).

<sup>12</sup> See generally Benjamin S. Bloom et al., TAXONOMY OF EDUCATION OBJECTIVES (1956).

<sup>13</sup> See Paula McAvoy & Diana Hess, *Classroom Deliberation in an Era of Political Polarization*, 43 CURRICULUM INQUIRY 14, 14-47 (2013).

and understanding—requires that educators “let students talk.”<sup>14</sup> And teachers who fear losing control of the direction of the discussion are less likely to engage students in this way.<sup>15</sup>

Restrictions that limit genuine engagement, discussion, and learning also have long-term effects that leave students less prepared to assume the responsibilities of citizenship. Researchers recognize that classroom discussion is an appropriate and effective way of increasing students’ awareness of current affairs, helping them form reasoned political opinions, and strengthening their commitment to democratic values—including tolerance of differing viewpoints.<sup>16</sup> And, as the Supreme Court itself has recognized:

America’s public schools are the nurseries of democracy. Our representative democracy only works if we protect the “marketplace of ideas.” . . . That protection must include the protection of unpopular ideas, for popular ideas have less need for protection. Thus, schools have a strong interest in ensuring that future generations understand the workings in practice of the well-known aphorism, “I disapprove of what you say, but I will defend to the death your right to say it.”

*Mahanoy Area Sch. Dist. v. B.L.*, 594 U.S. 180, 190 (2021).

When an educational system betrays that ideal, it is entirely predictable that the students who suffer most are those associated with the beliefs or characteristics singled out for censorship in the first place. “Leaving out critical perspectives in school curriculum can be dangerous because it can lead to a lack of understanding and knowledge about certain groups of people, their histories, and their experiences,” which can in turn “result in a lack of empathy and

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<sup>14</sup> *Id.* at 20.

<sup>15</sup> See Kathy Bickmore & Christina Parker, *Constructive Conflict Talk in Classrooms: Divergent Approaches to Addressing Divergent Perspectives*, 42 THEORY & RESEARCH IN SOC. EDUC. 291, 294 (2014).

<sup>16</sup> See David E. Campbell, *Introduction*, in MAKING CIVICS COUNT: CITIZENSHIP EDUCATION FOR A NEW GENERATION at 1–14 (David E. Campbell et al., eds. 2012).

understanding” and “contribute to harmful stereotypes and biases.”<sup>17</sup> Moreover, by erasing representation of these groups in classroom materials and libraries, schools run the risk of alienating these students, making them feel less valued than their peers, and giving them the impression that education is not relevant to their lives.<sup>18</sup>

By contrast, an inclusive curriculum and library help ensure a learning environment that is safe and welcoming for all. School climates where some students are targeted for unequal treatment have an impact on all students. For example, it is well known that LGBTQ youth are particularly vulnerable to bullying. In addition, “youths who bully others are more likely to be depressed, engage in high-risk activities such as theft and vandalism, and have adverse outcomes later in life compared to those who do not bully.”<sup>19</sup> Therefore, there is a particular need to affirmatively welcome and encourage acceptance of LGBTQ students and families by, for example, including books and stories in the school curriculum that represent the lives and experiences of LGBTQ people.<sup>20</sup> In this sense, fostering inclusion is a rising tide that lifts all boats: policies that recognize the equality and dignity of all students benefit not only LGBTQ students, but also their non-LGBTQ peers.<sup>21</sup>

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<sup>17</sup> Dustin Hornbeck & Joel R. Malin, *Demobilizing knowledge in American schools: censoring critical perspectives*, 10 HUMANITIES & SOC. SCI. COMM’NS No. 642 at 11 (2023).

<sup>18</sup> See Sabine E. French et al., *The Development of Ethnic Identity During Adolescence*, 42 DEVELOPMENTAL PSYCHOL. 1, 2–4 (2006).

<sup>19</sup> Board on Children, Youth & Families, Nat’l Acad. of Sci., Eng’g & Med., *Report in Brief: Preventing Bullying Through Science, Policy and Practice* at 2 (2016), [https://nap.nationalacademies.org/resource/23482/preventing\\_bullying\\_RiB.pdf](https://nap.nationalacademies.org/resource/23482/preventing_bullying_RiB.pdf).

<sup>20</sup> See Am. Psych. Ass’n, *School-Based Risk and Protective Factors for Gender Diverse and Sexual Minority Children and Youth* at 26 (2015), <https://www.apa.org/pi/lgbt/programs/safe-supportive/lgbt/risk-factors.pdf>.

<sup>21</sup> See U.S. Ctr. for Disease Control & Prevention, *LGBTQ-Supportive School Policies and Practices Help All Students Thrive* (June 2022) (“All young people do better in LGBTQ-inclusive schools.”), <https://web.archive.org/web/20240612163154/https://www.cdc.gov/healthyyouth/safe-supportive-environments/pdf/LGBTQ-School-Policies-Practices.pdf>.

Inclusive curricula and library holdings also help all students achieve academically and prepare to flourish in a dynamic economy. Research confirms that a school curriculum that highlights the lived experiences of members of the community from diverse backgrounds yields improvements in students' critical thinking skills, as well as increases in direct measures of academic success such as GPA, school attendance, standardized test performance, and graduation rates.<sup>22</sup> These educational benefits accrue not just to students from minority or marginalized communities, but to *all* students.<sup>23</sup>

**D. Defendants' heavy-handed, ideological censorship harms DoDEA educators.**

In recent years, educators across the country have faced a wave of teaching and curricular restrictions that target material related to race and gender. The mounting evidence shows that navigating these restrictions “has made carrying out their jobs more difficult.”<sup>24</sup> Many educators described how these restrictions create more work and place more responsibility on them, particularly as “options for instructional materials [are] taken away.”<sup>25</sup> They also described how—given the potential for backlash from school administrators and others—simply teaching matters “touching on historical events has become more stressful, fear inducing, and difficult.”<sup>26</sup>

These kinds of restrictions also influence educators' sense of mission and satisfaction in their jobs. Educators describe how compliance with restrictions limits their instructional

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<sup>22</sup> See Law Firm Anti-Racism All. & Nat'l Educ. Ass'n, *The Very Foundation of Good Citizenship: The Legal and Pedagogical Case for Culturally Responsive and Racially Inclusive Public Education for All Students* at 14–15 (Sept. 29, 2022) (citing studies), <https://www.nea.org/sites/default/files/2022-09/lfaa-nea-white-paper.pdf>.

<sup>23</sup> See *id.*

<sup>24</sup> Woo et al., *Walking on Eggshells*, *supra* note 5, at 16.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

autonomy.<sup>27</sup> They also describe how limiting their ability to teach and select course materials could harm their students—both by making students from certain backgrounds feel marginalized and by preventing all students from developing critical-thinking skills.<sup>28</sup>

The burdens these restrictions place on educators exacerbate and compound the difficulties that already plague the profession. Across multiples indicators, “the overall wellbeing of the teaching profession today is at or near historically low levels.”<sup>29</sup> Perceptions of teacher prestige, educators’ job satisfaction, and young people’s interest in joining the teaching profession are all at their lowest recorded levels over the last half century.<sup>30</sup> It is therefore no wonder that restrictions like those implemented by DoDEA could push experienced educators over the edge and out of the workforce. In a recent poll, 37% of the respondent educators reported that that they “are more likely to leave the profession at the end of this school year if a push for laws that ‘prevent honest teaching and conversations’ reaches their classrooms.”<sup>31</sup> The consequences of such losses would be drastic. “Research is clear that both teacher inexperience and rates of turnover negatively impact student learning, which means that students in schools with high turnover and few experienced teachers are at a decided educational disadvantage.”<sup>32</sup>

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<sup>27</sup> *Id.* at 14.

<sup>28</sup> *Id.* at 17–18.

<sup>29</sup> Matthew A. Kraft & Melissa Arnold Lyon, *The Rise and Fall of the Teaching Profession: Prestige, Interest, Preparation, and Satisfaction Over the Last Half Century*, 61 AM. EDUC. RESEARCH J. 1192, 1195 (2024).

<sup>30</sup> *See id.* at 1195–96.

<sup>31</sup> Anna Merod, *Survey: 37% of teachers will likely quit if K-12 censorship laws reach them*, K-12 DIVE (Jan. 24, 2022), <https://www.k12dive.com/news/survey-37-of-teachers-will-likely-quit-if-k-12-censorship-laws-reach-them/617581/>.

<sup>32</sup> Desiree Carver-Thomas & Linda Darling-Hammond, *Teacher Turnover: Why It Matters and What We Can Do About It* at 1 (Aug. 2017), [https://learningpolicyinstitute.org/sites/default/files/product-files/Teacher\\_Turnover\\_REPORT.pdf](https://learningpolicyinstitute.org/sites/default/files/product-files/Teacher_Turnover_REPORT.pdf).

**E. Defendants’ heavy-handed, ideological censorship harms DoDEA schools.**

Since 2020, the DoDEA schools have consistently outperformed the national average in reading and mathematics on the benchmark National Assessment of Educational Progress.<sup>33</sup> This success is due, in no small part, to DoDEA’s historical “[c]ommitment to instructional quality and implementation consistency[.]”<sup>34</sup> In particular, “to build and sustain a collective ownership on its priorities,” DoDEA’s curriculum development process has been based on “a comprehensive, annual planning cycle that offers plenty of opportunity for reflection, analysis, and feedback.” *Id.* This “steady, long-term focus” has consistently yielded “strong learning results.”<sup>35</sup>

By succumbing to hastily enacted, overtly ideological curricular censorship, DoDEA schools endanger the strong academic results that have been fostered over many years by agency’s previous, deliberate, and consensus-minded approach. Not only have DoDEA’s recent curricular changes been made without the involvement of subject-matter experts, they have also further defied best practices in curriculum development by mandating these changes in a chaotic, piecemeal fashion. This deprives educators of the ability to feel confident in the delivery and purpose of the changes and to ensure accurate implementation.<sup>36</sup> Such an approach creates the very kind of “policy churn”—or ineffectual fragmentary “reforms” that ultimately distract

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<sup>33</sup> See DoDEA, *DoD Schools Ranked Best in the United States Again on Nation’s Report Card* (Jan. 29, 2025), <https://www.dodea.edu/news/press-releases/dod-schools-ranked-best-united-states-again-nations-report-card>.

<sup>34</sup> Kenneth Wong, *Public school systems can learn a lot from the Department of Defense Education Activity*, BROOKINGS INST. (July 15, 2024), <https://www.brookings.edu/articles/public-school-systems-can-learn-a-lot-from-the-department-of-defense-education-activity/>.

<sup>35</sup> *Id.*

<sup>36</sup> See Am. Inst. for Research, *Concerns Based Adoption Model* (2016), [https://sedl.org/cbam/concerns-based\\_adoption\\_model.pdf](https://sedl.org/cbam/concerns-based_adoption_model.pdf).

educators and administrators from sustained success—pitfalls that DoDEA had previously managed to avoid.<sup>37</sup>

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This Court should enjoin the Defendants from continuing to inflict these harms on the Plaintiff students, educators, and DoDEA’s own schools. The kind of heavy-handed ideological censorship that Defendants have undertaken in DoDEA schools is incompatible with the “special concern” that the First Amendment shows for ensuring that government action does not “cast a pall of orthodoxy over the classroom.” *Keyishian*, 385 U.S. at 603. As the Supreme Court has long recognized, the stakes in such matters could not be higher: “students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.” *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957).

### CONCLUSION

For the foregoing reasons—and for the reasons set forth in the Memorandum in Support of Plaintiffs’ Motion for a Preliminary Injunction (*see* ECF. No. 10)—Amici NEA and FEA respectfully request that this Court grant the full measure of relief requested in Plaintiffs’ Motion for a Preliminary Injunction (*see* ECF No. 9).

Respectfully submitted

/s/ Jacob Karabell  
Jacob Karabell (Va. Bar No. 98639)  
Bredhoff & Kaiser P.L.L.C.  
805 15th Street N.W., Suite 1000  
Washington D.C. 20005  
Email: jkarabell@bredhoff.com  
Phone: 202.842.2600  
Fax: 202.842.1888

Date: May 19, 2025

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<sup>37</sup> *See Wong, Public school systems can learn a lot from the Department of Defense Education Activity*, *supra* note 34.