

Nos. 25-2497(L), 26-1002

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

E.K., BY AND THROUGH PARENT AND NEXT FRIEND
LINDSEY KEELEY, ET AL., *Plaintiffs-Appellees / Cross-Appellants*,

v.

DEPARTMENT OF DEFENSE EDUCATION ACTIVITY, ET AL.,
Defendants-Appellants / Cross Appellees.

On Appeal from the United States District Court
for the Eastern District of Virginia
No. 1:25-cv-00637
Hon. Patricia Tolliver Giles

**BRIEF OF VET VOICE FOUNDATION AND THE
FRED T. KOREMATSU CENTER FOR LAW AND EQUALITY
AS AMICI CURIAE IN SUPPORT OF PLAINTIFFS-APPELLEES
AND FOR AFFIRMANCE**

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), amici curiae state that no amicus has a parent corporation and that no publicly held corporation owns 10% or more of the stock of any amicus.

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INTEREST OF AMICI CURIAE¹

Vet Voice Foundation (“VVF”) is a veteran-led, non-profit, non-partisan organization representing almost two million veterans, military family members, and their supporters. VVF represents veterans and military families across the political spectrum and across the country. It strives to support them and their interests, including by championing policies and actions that protect our country’s freedoms and advance our national security. VVF has a special interest in this litigation because it raises concerns about the integrity of the Armed Forces and access to quality education for military families.

The Fred T. Korematsu Center for Law and Equality (“Korematsu Center”) is a non-profit organization based at the University of California, Irvine School of Law. Inspired by the legacy of Fred Korematsu, who defied military orders during World War II that ultimately led to the unlawful incarceration of over 120,000 Japanese Americans, the Korematsu Center works to advance justice for all. The Korematsu

¹ The parties have consented to the filing of this brief. No counsel for a party authored any part of the brief. No person other than amici or their counsel paid for the preparation or submission of the brief.

Center has a special interest in this litigation because of its work addressing executive overreach and promoting inclusive school curricula that reflect the diversity of the United States. The Korematsu Center does not, in this brief or otherwise, represent the official views of the University of California, Irvine School of Law.

INTRODUCTION AND SUMMARY OF ARGUMENT

As the Nation approaches the 250th anniversary of the Declaration of Independence, it does so thanks to generations of servicemembers who have defended the freedoms it proclaims. From securing liberty in the American Revolutionary War to resisting the rise of fascism in World War II, servicemembers have placed themselves in harm's way and, for many, made the ultimate sacrifice to preserve this Nation's founding ideals.

The Department of Defense Education Activity ("DoDEA") states that it is committed to educating and empowering students of military families to "succeed in a dynamic world" and aspires to "excellence in education for every student, every day, everywhere."² DoDEA's own Blueprint for Continuous Improvement once supported these

² *About DoWEA*, DEP'T WAR EDUC. ACTIVITY, <https://www.dodea.edu/about/about-dodea> (last visited June 1, 2026).

commitments, pledging to “honor the uniqueness of each individual and embrace diverse beliefs and backgrounds” and to “[r]ecruit, develop, empower, and retain a high performing workforce that reflects the diversity of [its] students.”³ However, DoDEA has, through the actions being challenged here, abandoned the standards it has set for itself. In response to the Executive Orders that prohibited “divisive concepts,” “un-American” theories like race and sex stereotyping, and the “indoctrination” of K-12 education, DoDEA implemented censorship measures across its schools.⁴ DoDEA schools quarantined library books and eliminated curricular materials that denied students access to titles like *A Handmaid’s Tale* and information about psychology, while also prohibiting celebrations of Black History Month and Women’s History Month.⁵

Amici are keenly aware of the importance of the freedom of ideas and the dangers of executive overreach. Amici submit this brief out of shared concern that the quarantining of library books, removal of

³ DEP’T DEF. EDUC. ACTIVITY, BLUEPRINT FOR CONTINUOUS IMPROVEMENT: STRATEGIC PLAN / VOLUME V 16–17 (2023).

⁴ Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025); Exec. Order No. 14185, 90 Fed. Reg. 8763 (Jan. 27, 2025); Exec. Order No. 14190, 90 Fed. Reg. 8853 (Jan. 29, 2025); JA102; JA104–JA105.

⁵ JA73 ¶¶52, 56–57; JA 105; JA 120; JA235–JA246.

curricular materials, and the erasure of historical celebrations undermine American liberty. As history has warned us, when the government picks and chooses which stories matter, it sets a dangerous precedent.

This brief advances three primary points. Part I highlights how DoDEA's inappropriate politicization of the Armed Forces flies in the face of its historical legacy and dishonors the contributions of diverse servicemembers. Part II warns how DoDEA's classifications and removals of educational materials from its classrooms adversely affect military readiness by putting cohesion and the recruitment and retainment of servicemembers at risk. Part III demonstrates that DoDEA students, who often lack meaningful alternatives to DoDEA schools, are harmed by removal of materials and ideas that would otherwise improve student educational outcomes.

As the Nation nears its milestone anniversary, we urge the Court to stand with the veteran families that have long served under its flag and affirm the District Court's preliminary injunction ordering DoDEA to cease its removal of educational books and curricular content.

ARGUMENT

I. DoDEA's Actions Undermine the Legacy of the Armed Forces.

DoDEA's actions ultimately undermine the legacy of the Armed Forces. First, DoDEA's actions inappropriately politicize an institution that is deliberately apolitical, eroding public trust. Second, DoDEA's actions dishonor the Armed Forces' diversity, which has been a source of strength for the Armed Forces since the Nation's founding.

A. DoDEA's Actions Have Inappropriately Politicized the Armed Forces.

By censoring its educational content, DoDEA has inappropriately politicized the Armed Forces and risks its institutional integrity. The Armed Forces trace their origins to 1775, when the Continental Congress established the first of what would become the Nation's military branches.⁶ Since then, an apolitical military has been a bedrock norm underpinning American democracy and a feature of American military professionalism.⁷ When George Washington resigned his military

⁶ Peter Maslowski, *Understanding the Creation of the U.S. Armed Forces*, FOREIGN POL'Y RSCH. Inst., Apr. 10, 2007, <https://www.fpri.org/article/2007/04/understanding-the-creation-of-the-u-s-armed-forces/>.

⁷ Alice Hunt Friend, *Military Politicization*, CTR. FOR STRATEGIC & INT'L STUD. (May 5, 2017), <https://www.csis.org/analysis/military-politicization>.

commission to Congress in 1783, he signaled that military power answers to the Constitution and civilian authority, not to any individual, party, or ideology.⁸

However, politicization of the military now casts doubt on the U.S. military as an institution that reflects national interests and not the particular interests of a group or individual.⁹ DoDEA's removals of books, curricula, and celebrations do not serve a pedagogical purpose but rather a partisan purpose, attempting to redefine who belongs in the Armed Forces and who do not. By directing DoDEA to remove books, curricula, and celebrations based on ideological criteria, the executive branch has drawn the military's schools into a partisan dispute, one that cuts against the apolitical character of the Armed Forces.

The public trusts the military,¹⁰ with 60% of respondents in a 2024

⁸ Heidi A. Urben, *Politicization of the Military: Causes, Consequences & Conclusions*, 154 DAEDALUS 214, 215 (2025), available at <https://direct.mit.edu/daed/article/154/4/214/134152/Politicization-of-the-Military-Causes-Consequences>.

⁹ See generally ADMIRAL STEVE ABBOT, USN (RET.) ET AL., *THE PERILS OF POLITICIZING THE U.S. MILITARY* (2025), available at <https://counteveryhero.org/wp-content/uploads/2025/12/CEH-Perils-of-Politicization-FINAL-112525.pdf>.

¹⁰ Ronald R. Krebs et al., *Americans' Blind Faith in the Military Is Dangerous*, FOREIGN POL'Y (Dec. 3, 2018),

Pew Research Center poll stating the military had a positive effect on society.¹¹ The politicization of the Armed Forces, however, has caused confidence to split along partisan lines. In a 2025 Gallup poll, “Republicans’ confidence in the military increased by 18 percentage points, while Democrats’ confidence decreased by 21 percentage points.”¹² Once this trust in the Armed Forces is lost, it will be difficult to regain.

As VVF’s Chief Executive Officer, Janessa Goldbeck, has emphasized, “[V]eterans took an oath to defend and protect the Constitution, and that promise doesn’t end when our service does.”¹³ Honoring that commitment requires understanding what the Armed Forces have consistently stood for and recognizing when executive actions stray from that history. DoDEA’s actions put this constitutional commitment at risk.

<https://foreignpolicy.com/2018/12/03/americans-blind-faith-in-the-military-is-dangerous-civilian-oversight-deference-mcraven-trump/>.

¹¹ *The U.S. Military* in FROM BUSINESSES AND BANKS TO COLLEGES AND CHURCHES: AMERICANS’ VIEWS OF U.S. INSTITUTIONS, PEW RSCH. CTR. (Feb. 1, 2024), <https://www.pewresearch.org/politics/2024/02/01/the-u-s-military/>.

¹² Megan Brenan, *Democrats’ Confidence in U.S. Institutions Sinks to New Low*, Gallup (July 17, 2025), <https://news.gallup.com/poll/692633/democrats-confidence-institutions-sinks-new-low.aspx>.

¹³ Organizing and Mobilizing America’s Veterans, VET VOICE FOUNDATION, <https://vfvfnd.org/> (last visited June 1, 2026).

B. DoDEA's Actions Dishonor the Contributions of Diverse Servicemembers.

The Armed Forces' legacy includes the contributions of its diverse servicemembers. From the Revolutionary War to present day, Americans from a wide range of backgrounds have served this Nation, fighting for American liberty abroad while often struggling for recognition of their sacrifices at home. President Ronald Reagan on Veterans Day 1986 honored that service and the diverse makeup of the Armed Forces, stating:

Our veterans have come from the grassy plains of Iowa and the streets of Brooklyn. They have spoken with the twang of New England and the drawl of the South, and, often, with the accents of the foreign lands of their birth. And from the time of the Revolution, when black soldiers fought for the American cause, they have represented our country's diverse ethnic heritage. And they have prevailed, prevailed so that today the United States of America is the greatest Nation on Earth.¹⁴

That tradition of service spans every era and segment of American society, beginning with the contributions of women at the Nation's

¹⁴ *Statement on Veterans Day*, RONALD REAGAN PRESIDENTIAL LIBRARY & MUSEUM (Nov. 10, 1986), <https://www.reaganlibrary.gov/archives/speech/statement-veterans-day>.

founding. During the Revolutionary War, many women traveled with the Continental Army in the pursuit of freedom, mending clothes, cleaning cannons, and boosting morale alongside their male counterparts.¹⁵ Others joined the fight directly: Margaret Corbin disguised herself as a man and took up her husband's cannon at Fort Washington despite being shot three times; Deborah Sampson was in uniform for years disguised as a man and eventually earned a full military pension for her service; and Lydia Darragh served as a spy on behalf of the Patriots.¹⁶

Black patriots have fought in every American conflict since the Revolutionary War. Although George Washington initially barred their enlistment, he soon relented and allowed approximately 5,000 to 8,000 free and enslaved Black persons to serve in the Continental Army.¹⁷

¹⁵ Danielle DeSimone, *Over 200 Years of Service: The History of Women in the U.S. Military*, UNITED SERV. ORGS. (Feb. 28, 2023), <https://www.uso.org/stories/3005-over-200-years-of-service-the-history-of-women-in-the-us-military>; Debra Michals, *Deborah Sampson (1760-1827)*, NAT'L WOMEN'S HIST. MUSEUM (last updated Jan. 2023), <https://www.womenshistory.org/education-resources/biographies/deborah-sampson>.

¹⁶ *Id.*

¹⁷ Phillip S. Greenwalt, *George Washington's Integrated Army: The American Armies of the Revolution*, AM. BATTLEFIELD TR., <https://www.battlefields.org/learn/articles/george-washingtons-integrated-army> (last updated July 31, 2024).

During World War II, over one million Black people fought fascism abroad while simultaneously enduring discrimination themselves,¹⁸ serving not only on the front lines, but as “nurses, engineers, truck drivers, gunners, and paratroopers.”¹⁹ During the Cold War era, the Department of Defense advanced initiatives for a more inclusive military to advance civil rights within the Armed Forces and demonstrate the Nation’s democratic commitments at home and abroad.²⁰

Approximately 400,000 to 500,000 Hispanic servicemembers fought in World War II. This included the Arizona National Guard’s 158th Infantry Regiment, which General Douglas MacArthur praised as “[o]ne of the greatest fighting combat teams ever.”²¹

¹⁸ Tyler Bamford, *African Americans Fought for Freedom at Home and Abroad during World War II*, NAT’L WWII MUSEUM (Feb. 1, 2020), <https://www.nationalww2museum.org/war/articles/african-americans-fought-freedom-home-and-abroad-during-world-war-ii>.

¹⁹ *Id.*; Kristina Kelehan, *The Service Member’s Experience: How Humanities Research Illuminates the Sacrifices of Those Who Defend Our Freedom*, NAT’L ENDOWMENT FOR HUMANITIES (May 19, 2023), <https://www.neh.gov/blog/service-members-experience-how-humanities-research-illuminates-sacrifices-those-who-defend-our>.

²⁰ See generally James S. White, *Race Relations in the Army*, MIL. REV. (July 1970).

²¹ *Hispanic and Latino American Veterans of WWII and the Holocaust*, HOLOCAUST MUSEUM HOUSTON, <https://hnh.org/library/research/hispanic-and-latino-american-veterans-wwii-and-holocaust/>.

After Pearl Harbor, Japanese American servicemembers faced discrimination and exclusion,²² yet many transferred to the Army's 100th Infantry Battalion²³ and later the 442nd Regimental Combat Team.²⁴ These units rank among U.S. history's most decorated units, with the 442nd earning 9,486 Purple Hearts, 21 Medals of Honor, and eight Presidential Unit Citations among its nearly 14,000 soldiers.²⁵

Tens of thousands of LGBTQ+ individuals also served in World War II, often in secrecy amid the "blue discharge" that stripped gay servicemembers of all veteran services.²⁶ This discrimination continued, manifesting as "Don't Ask, Don't Tell," a 1994 policy that prevented lesbian, gay, and bisexual servicemembers from serving openly under the

²² SHIRLEY CASTELNUOVO, *SOLDIERS OF CONSCIENCE: JAPANESE AMERICAN MILITARY RESISTERS IN WORLD WAR II* 11 (2008).

²³ Franklin Odo, *100th Infantry Battalion*, DENSHO ENCYC. (last updated June 18, 2024), https://encyclopedia.densho.org/100th_Infantry_Battalion.

²⁴ *Timeline, 100th Infantry Battalion*, VET. EDUC. CTR., <https://www.100thbattalion.org/learn/timeline/>.

²⁵ *Key Military Unit: The 442nd Regimental Combat Team*, U.S. ARMY PUB. Affs. (Mar. 15, 2025), https://www.army.mil/article/283793/key_military_unit_the_442nd_regimental_combat_team.

²⁶ Adam Foreman, "Coming Out Under Fire": *The Story of Gay and Lesbian Servicemembers*, NAT'L WWII MUSEUM (June 25, 2020), <https://www.nationalww2museum.org/war/articles/gay-and-lesbian-service-members>.

false premise that their presence undermined military cohesion.²⁷

Today, the Armed Forces stand among the Nation's most diverse institutions. Women comprise 17.9% of active-duty servicemembers and 21.7% of the Air Force specifically.²⁸ Racial minorities comprise 32.5% of active-duty servicemembers, with the Navy leading at 40.2% among enlisted ranks.²⁹ Among officers, the Army leads at 28.8%.³⁰ LGBTQ+ individuals make up approximately 6.1% of active-duty servicemembers, with the Navy leading at 9.1%.³¹ Of the 2,372,286 family members of active-duty and selected reserve personnel, 60.0% are children—67,000 of whom attend DoDEA schools worldwide.³² The Armed Forces are diverse, with a legacy of diverse service since the Nation's founding.

²⁷ *Repeal of "Don't Ask, Don't Tell"*, HUM. RTS. CAMPAIGN, <https://www.hrc.org/our-work/stories/repeal-of-dont-ask-dont-tell>.

²⁸ U.S. DEP'T DEF., *2024 Demographics: Profile of the Military Community*, at iii, 20 (2024), available at <https://download.militaryonesource.mil/12038/MOS/Reports/2024-demographics-report.pdf>.

²⁹ *Id.* at iii, 27.

³⁰ *Id.*

³¹ Sarah O. Meadows, et al., *2015 Health Related Behaviors Survey: Sexual Orientation, Transgender Identity, and Health Among U.S. Active-Duty Service Members*, RAND CORP. 2 (2015), available at https://www.rand.org/content/dam/rand/pubs/research_briefs/RB9900/RB9955z6/RAND_RB9955z6.pdf.

³² U.S. DEP'T DEF., *supra* note 28; DEP'T WAR EDUC. ACTIVITY, *supra* note 2.

Those who have served know firsthand what is at stake. Julie Roland, former Lieutenant Commander, who separated from the Navy in June 2025 captures what these removals communicate to servicemembers of every background:

It feels like a complete erasure of the contributions that anyone other than white men have made to the military. For anyone who thought, “this is hard, but I'm going to be a part of history,” it delegitimizes that purpose and it disenfranchises you. It makes you think, “what is the point of working so hard at all of this if my contributions, even if I made them, could be erased simply for my identity?”³³

By removing books, curricula, and historical celebrations, DoDEA undermines the legacy of the Armed Forces by inappropriately politicizing the institution and ignoring its diversity.

II. DoDEA’s Removals of Educational Books and Curricular Content from the Classroom Adversely Affects the Readiness of the Armed Forces.

DoDEA’s removals of educational books and curricular content from the classroom based on the view they contain “divisive concepts” has the effect of erasing identities from the classroom. This leads to harms that

³³ Interviews were conducted of the veterans whose narratives are included in this brief. Interview notes are on file with amici’s counsel.

extend to the Armed Forces as a whole, exacerbating the harms caused by the current Administration's broader attack on diversity.

The removals send a message to all servicemembers and the veterans that came before them that the contributions made by diverse servicemembers do not matter. This message undermines trust and cohesion within the Armed Forces and prevents qualified talent from joining and staying within its ranks, threatening our force's readiness.

A. DoDEA's Removals Risk Cohesion that Fosters Readiness within the Armed Forces.

Notwithstanding DoDEA's characterization of diverse identities and perspectives as "divisive," the inclusion of such identities and ideas fosters cohesion within the Armed Forces. To the contrary, it is DoDEA's removals of educational books and curricular content that are "divisive." DoDEA's removals erase identities from the classroom and signal to servicemembers and veterans alike that their background and histories do not matter.

The current Administration prohibits the Armed Forces, including educational institutions operated by the Department of Defense ("DOD"), from promoting what it has deemed to be "un-American" and "divisive concepts," claiming actions taken to advance these ideas "undermine

leadership, merit, and unit cohesion, thereby eroding lethality and force readiness.”³⁴ The DOD’s leadership under this Administration has also repeatedly criticized the military’s diversity initiatives as divisive and threatening of mission execution, with the Secretary stating, “the single dumbest phrase in military history is ‘Our Diversity is Our Strength.’”³⁵ In line with this rhetoric, the DOD has engaged in removal of the stories and accomplishments of diverse servicemembers from its webpages, removing biographies, stories, and photos of pioneering military leaders and troops and deleting entire webpages depicting Diversity Day events hosted on military bases.³⁶

Yet, the DOD’s efforts to reverse decades-long efforts to support diversity and equal opportunity in the Armed Forces by erasing the identities of racial minorities, women, and LGBTQ+ individuals from DoDEA classrooms sows division and erodes cohesion. Justifying the removal of stories and history of servicemembers of color, women, and LGBTQ+ servicemembers as an act of restoring meritocracy throughout

³⁴ Exec. Order No. 14185, 90 Fed. Reg. 8764 (Jan. 27, 2025).

³⁵ Lauren Frias, *These are the US Military’s Diversity Photos Trump Doesn’t Want You to See*, BUS. INSIDER (Mar. 7, 2025), <https://www.businessinsider.com/us-military-online-diversity-content-trump-dei-crackdown-2025-3>.

³⁶ *Id.*

the ranks is deeply offensive to the servicemembers and veterans who have made sacrifices in serving the United States. The DOD is undercutting and whitewashing its own military history with actions that denigrate minority servicemembers' accomplishments and heritage.

Criticism of the military's effort to support diversity within its ranks is not new. Yet, as Justice Sotomayor asserted in her dissent in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, “[H]istory teaches that racial diversity is a national security imperative.”³⁷ By way of example, some Korean War Army leaders refused to comply with President Truman's 1948 desegregation order, despite serious manpower needs.³⁸ One such leader, Army Lieutenant General Edward M. Almond stated, “I do not agree that integration improves military efficiency; I believe it weakens it.”³⁹ However, Army research studies confirmed the opposite. Unit performance was not

³⁷ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 379 (2023) (Sotomayor, J., dissenting).

³⁸ KIRSTY N. KAMARCK, CONG. RSCH. SERV., R44321, DIVERSITY, INCLUSION, AND EQUAL OPPORTUNITY IN THE ARMED SERVICES: BACKGROUND AND ISSUES FOR CONGRESS 14 (June 5, 2019), available at <https://www.congress.gov/crs-product/R44321>.

³⁹ MORRIS J. MACGREGOR, JR., INTEGRATION OF THE ARMED FORCES 1940-1965 441 (1979), available at <https://history.army.mil/portals/143/Images/Publications/catalog/50-1-1.pdf>.

negatively affected by integration, but rather, the practice of segregating units was damaging to military effectiveness.⁴⁰

Decades later, proponents of Don't Ask, Don't Tell contended that allowing gay and lesbian individuals to serve openly would be disruptive to unit cohesion.⁴¹ The DOD codified its policy in the National Defense Authorization Act for Fiscal Year 1994 on the grounds that integration “would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.”⁴² However, a later comprehensive DOD review of the policy's repeal found it posed a minimal risk to readiness in terms of unit cohesion, recruiting and retention, and performance.⁴³

The military draws strength from its diversity. Time and time again, history has shown that the Armed Forces have done some of their greatest work when they have dismantled barriers to service and opened their ranks to Americans of all different backgrounds. Today, incredible people join the military from all over the United States, bound by a

⁴⁰ MARTIN BINKIN & MARK J. EITELBERG WITH ALVIN J. SCHEXNIDER & MARVIN M. SMITH, *BLACKS AND THE MILITARY* 29 (1982).

⁴¹ KAMARCK, *supra* note 38, at 35–37.

⁴² 10 U.S.C. § 654 (2006) (repealed 2010).

⁴³ KAMARCK, *supra* note 38, at 38.

common purpose to serve this nation. In serving together, they learn about others and grow together to bond as a unit. Yet, the erasure of minority servicemembers' identities fosters animus within the ranks, creating opportunities for distrust, and diminishing curiosity and compassion for those who are different.

While stationed in the Republic of Korea, Major General Tammy Smith (USA, Ret.) was responsible for the training exercises supporting the noncombatant evacuation operations of U.S. citizens in the case that North Korea executed their war plans in the peninsula. When Maj. Gen. Smith began her role, she realized that the plan was outdated and based on assumptions that were no longer accurate, including transportation infrastructure, airfield management and weapons capabilities. She needed to immediately expand creative thinking on the team to view the challenge through a new lens. To do this she chose to tap into a diverse population, drawing unique expertise from multiple sources. Her experience was that the team's collective frame of reference expanded and also sharpened because she encouraged diverse input. The result was an improved ability to anticipate transportation flow requirements and to synchronize activities throughout the exercises.

Colonel Teresa Townsend (USA, Ret.) worked firsthand with diverse units as an Equal Opportunity Advisor during her 30 years of service in the U.S. Army. She led Equal Opportunity programs that celebrated diverse cultures and saw how celebration months and events boosted unit cohesion by helping servicemembers understand who they were working alongside.

Inclusion builds cohesion because in the military, each person depends on one another to do their individual part to make everything work together. Having opportunities to learn about each other creates trust as servicemembers develop a willingness to have the other's back, not because the regulation says they need to, but because they know each other.

Col. Townsend points out it is when the military and its leadership walk back valuing the diversity of servicemembers, distrust seeps in. If leaders are saying that a person is not up to par simply because of their identity, it generates distrust among the unit as their counterparts start to believe that they don't deserve to be there. In Col. Townsend's words, "We depend on our leaders to set the standard, and the standard that is being set by this Administration is undermining unit cohesion."

To erase the stories and history of the identities of diverse servicemembers and individuals from DoDEA classrooms, stories like

that of Civil War veteran, Albert Cashier,⁴⁴ and books like *Look Inside With Honor and Integrity: Transgender Troops in Their Own Words* and *LGBT Service in the Armed Forces*,⁴⁵ is an affront to the veterans and servicemembers who have sacrificed for this nation. The message the government is sending is clear: that these servicemembers' identities and contributions do not matter. This message erodes the hard-fought policies of inclusion that helped advance the cohesion needed for an effective military.

B. Recruitment and Retention That Are Important for Readiness Are at Risk.

Having diversity across the Armed Forces is not only consistent with the spirit of our Nation but is also pragmatic and necessary because defense readiness depends directly on the military's capacity to recruit and retain diverse servicemembers. Our nation's Armed Forces rely on a volunteer force, thus it is imperative that the Department maintains its place as a top choice for employment.

Any organization seeking to maintain a competitive advantage starts with the people. If organizations limit the types of people they hire,

⁴⁴ JA105.

⁴⁵ JA244, JA239.

that limits the organization's knowledge and opportunities. Military policies and initiatives that support diversity enhance the military's ability to attract, recruit, and retain qualified, top talent. The nature of modern warfare is shifting, requiring an array of new skills where servicemembers' various cultural identities and life experiences can be leveraged.⁴⁶

During his 20 years of service in the U.S. Marine Corps, Sergeant Major Chris Thomas (USMC, Ret.) was a senior enlisted leader who worked to enhance the Marine Corps' talent acquisition strategies and planning. Sgt. Maj. Thomas directly experienced how diversification of recruits brought a competitive advantage to the Marine Corps. He saw that diversification of servicemembers is vital in making the military a more lethal warfighting organization because "every challenge we face is going to be unique, and if we don't have diversification of our team, I don't feel that we would be able to respond properly to those situations, especially in a timely manner." If everyone thought exactly the same, how could the Armed Forces find innovative and differing solutions to some of

⁴⁶ Capt. David Smith (USN Ret.) & Brad Johnson, *The U.S. Military Is Becoming More Diverse, and Not by Design*, PROCEEDINGS (Jan. 2026), <https://www.usni.org/magazines/proceedings/2026/january/us-military-becoming-more-diverse-and-not-design>.

the hardest problems the military faces? As Sgt. Maj. Thomas sees it, there is no other option but for the military to recruit and maintain a diverse workforce.

A key part of the recruitment and retention process is fostering inclusion and belonging.⁴⁷ Internally, inclusion and belonging can boost morale of those serving by allowing one to bring one's whole self to one's service and dissipating any fear of being "othered." On the flip side, the inability to bring one's full self and fear of not belonging deters future and current servicemembers from staying within the ranks of the Armed Forces. The removal of spotlights on diverse identities creates an environment of unwelcomeness, undermining inclusion and belonging that are vital to every servicemember to thrive in their service.

When former Lieutenant Commander Julie Roland's Commodore gathered everyone together and announced the leadership's removal of diversity programs and initiatives in the early days of the current Administration, Lt. Cmdr. Roland saw the writing on the wall. Lt. Cmdr.

⁴⁷ LINDA SLAPAKOVA ET AL., RAND, LEVERAGING DIVERSITY FOR MILITARY EFFECTIVENESS: DIVERSITY, INCLUSION AND BELONGING IN THE UK AND US ARMED FORCES 1–9 (2022), *available at* https://www.rand.org/content/dam/rand/pubs/research_reports/RRA1000/RRA1026-1/RAND_RRA1026-1.pdf.

Roland noted, “The military can be an incredibly difficult place to be the least bit different”; as a Jewish, queer woman, she knew what it meant to be “othered.” She recognized that the Administration’s new direction would put all servicemembers who were from marginalized backgrounds at risk and concluded she could do more to protect them from outside the institution than within it. She separated from the Navy in June 2025.

What this erasure does is leave many servicemembers less connected to their mission, their leadership, and their team. How can the military expect servicemembers to serve with a team-player mindset if they don’t feel that it is mutual?

Beyond the culture of inclusion and belonging that allows for the recruitment and retainment of diverse servicemembers, the structural pieces in fostering inclusion and belonging are just as important. The military puts structural protections in place by implementing legal marriage recognition for same sex couples, striving to create equity between similarly situated couples regardless of their same-sex status. This structural (legal/policy) recognition makes inclusion permanent because it creates consistency concerning what military families have access to. For instance, when the Don’t Ask, Don’t Tell policy was finally repealed, Maj. Gen. Smith was able to live on post with her wife, which

she was unable to do for the first 25 years of her service. Structural policies determined how different military families were treated, and the inclusionary policies that recognized same-sex marriages as equal granted Maj. Gen. Smith and her family to enjoy the benefits of military housing in addition to protecting her family during deployments and transitions to new military assignments.

Military installations and housing exemplify the diversity of servicemembers and the families that serve the nation. When Maj. Gen. Smith was able to serve openly, many other spouses of servicemembers who had children that identified as either gay, lesbian, transgender, or non-binary approached and talked with her wife about their worries surrounding their children's safety. These families finally had someone they could talk openly to about their children. As Maj. Gen. Smith notes, "That would not have been possible had we not had the ability to be open with our identity and relationship." The attack on diversity puts at risk these very structural aspects of inclusion and belonging that are so important in ensuring that our military can recruit and retain talent from all walks of life.

Moreover, military service is often a family affair, with many servicemembers having a parent, sibling, or other extended family

member who also served.⁴⁸ Those with family connections to the military are significantly more likely to serve than the general population.⁴⁹ Out of 2,795 DoDEA high school graduates in 2025, 225, or 8% planned to enter military service to continue the legacy of service within military-connected families.⁵⁰

As military dependents, many servicemembers have attended DoDEA schools themselves. For Col. Townsend, whose father also served, her DoDEA (formerly known as Department of Defense Dependent Schools) schooling provided her a strong foundation for everything she has been able to achieve. She felt safe, valued, seen, and heard during her time at DoDEA and understood that the military provided her family a good life. Taking this away for many military families serving today, and lowering the quality of education, is likely to have detrimental consequences on the willingness for military-connected families to serve. Exclusion will cut off the Armed Force's access to generational talent

⁴⁸ NATIONAL MILITARY FAMILY ASSOCIATION, *MILITARY TEEN EXPERIENCE SURVEY: PROPENSITY AND WORK 2 (2023)*, available at <https://www.militaryfamily.org/wp-content/uploads/2023-MTES-Propensity-and-Work.pdf>.

⁴⁹ *Id.*

⁵⁰ Press Release, DEP'T WAR EDUC. ACTIVITY, DoDEA Celebrates Class of 2025 with 2,795 Graduates (July 2, 2025), <https://www.dodea.edu/news/press-releases/dodea-celebrates-class-2025-2856-graduates>.

willing to serve their country, having grown up in an environment that helps them understand the role and purpose of the military and where it fits into also having a family that may include future servicemembers.

The erasure of identities from DoDEA classrooms reverses the recent progress made through pipelines programs to meet recruitment goals.⁵¹ While the current Administration has blamed “woke” programs for recruitment struggles, the likely primary causes were the COVID-19 pandemic, low unemployment, and stiff competition from the private sector. As the Armed Forces have met their recruitment goals in 2025, the current Administration took credit for this comeback—but the data shows that recruitment numbers have actually been increasing steadily since 2024.⁵² A significant driver of the recruiting success was not driving out “wokeness” but rather the pipeline programs like the Future Soldier Prep Course, which gives recruits, who are struggling to meet standards,

⁵¹ Lolita C. Baldor, *Army to Meet 2025 Recruiting Goals in Dramatic Turnaround, Denies ‘Wokeness’ is Factor*, PBS (Jan. 17, 2025), <https://www.pbs.org/newshour/politics/army-to-meet-2025-recruiting-goals-in-dramatic-turnaround-denies-wokeness-is-factor>.

⁵² Melissa Goldin, *Fact Focus: Trump Credited with Rising Military Recruitment. Growth Started Before His Reelection*, ASSOCIATED PRESS (Apr. 25, 2025), <https://apnews.com/article/fact-check-military-recruitment-trump-hegseth-91700f0b688c3460458e467da95c8268>.

up to 90 days of academic and fitness instruction to help them get to military standards.⁵³

The ability to provide high-quality education for the children of servicemembers is an important part of attracting and retaining people within the ranks of the Armed Forces. DoDEA fulfills such an important role in military families' lives. By erasing the identities of diverse servicemembers from the curriculum and libraries of DoDEA schools, the Armed Forces are harming themselves by signaling to all those families affected by the erasure that they are not as important as other military families.

III. Erasure of Identities in the Classroom Leads to Negative Educational Outcomes for Students.

The Korematsu Center is well familiar with the harms that can flow from censorship and erasure of identities in the classroom. The Center represented the student plaintiffs in *González v. Douglas*, a case in which a federal court struck down Arizona's 2010 effort to dismantle a culturally relevant educational program from its public schools.⁵⁴ The parallels between that case and the DoDEA removals at issue here are

⁵³ Baldor, *supra* note 51.

⁵⁴ *González v. Douglas*, 269 F. Supp. 3d 948 (D. Ariz. 2017).

noteworthy. In both cases, the government targeted educational materials and programming that addressed the histories and experiences of minority communities, and in both cases, the government did so without any pedagogical justification. Both the Korematsu Center and VVF share a deep concern that these removals deprive military-connected students of the inclusive education that honors our servicemembers' diverse backgrounds and prepares them for participation in our nation's increasingly diverse society. The lessons from *González* illustrate the educational benefits of a similarly impactful program and underscore how those benefits are especially significant for DoDEA students, many of whom have no meaningful educational alternative.

A. Lessons Learned from *González*.

The consequences of stripping culturally relevant programs and materials from public school classrooms are not hypothetical. In 2017, a federal district court found unconstitutional a similar pattern of politically motivated educational censorship in Arizona. In *González v. Douglas*, student plaintiffs challenged the state's enactment and enforcement of A.R.S. Section 15-112, a statute purporting to eliminate the Tucson Unified School District's Mexican American Studies Program

(“MAS”), under the First and Fourteenth Amendments.⁵⁵ After a full trial, Judge A. Wallace Tashima found that the statute’s enactment and enforcement were motivated by racial animus and fueled by a desire to advance a political agenda that capitalized on race-based fears.⁵⁶ Judgment was entered for the plaintiffs on both their First and Fourteenth Amendment claims.⁵⁷

The MAS courses were academically beneficial to all students—regardless of ethnicity—but proved especially effective in reducing the longstanding achievement gap between Latina/o and white students.⁵⁸ The program helped students see themselves, their families, and their community reflected in their studies. MAS was successful; students who participated in MAS outperformed their similarly situated peers across multiple measures, including graduation rates, standardized test scores, and matriculation to higher education institutions.⁵⁹ Expert testimony further confirmed that the positive relationship between MAS participation and academic achievement grew even stronger the more

⁵⁵ *Id.*

⁵⁶ *Id.* at 967.

⁵⁷ *Id.* at 974.

⁵⁸ *Id.* at 960.

⁵⁹ *Id.* at 951.

courses a student completed. The program has proven effective, and the results continue to prove significant.⁶⁰

The benefits of MAS were not limited to the classroom but also improved students' cross-racial understanding and increased performance in writing and critical thinking analysis.⁶¹ Courses that taught students about historical inequities and exposed them to diverse perspectives resulted in a better understanding of other racial groups. The United States Supreme Court in *Regents of University of California v. Bakke* recognized the value of this principle and explained the “nation’s future depends upon leaders trained through wide exposure’ to the ideas and mores of students as diverse as this Nation of many peoples.”⁶²

González teaches us that when the government removes culturally relevant educational materials from schools, the harm is twofold. Students lose access to programs that demonstrably improve academic outcomes. Additionally, students lose the opportunity to develop the

⁶⁰ *Id.*

⁶¹ Brief for The National Education Association as Amicus Curiae Supporting Plaintiffs-Appellants, *Arce v. Huppenthal*, Nos. 13-15657, 13-15760 (9th Cir. 2014).

⁶² *Regents of Univ. of California v. Bakke*, 438 U.S. 265, 313 (1978) (quoting *Keyishian v. Bd. of Regents*, 385 U.S. 589, 603 (1967)).

cross-cultural competencies that prepare them for higher education, and more broadly, participation in our nation's growing diverse society.

B. Unique Harm that Students Attending DoDEA Schools Face.

While DoDEA's actions mirror those found unconstitutional in *González*, DoDEA students are in a uniquely vulnerable position. Unlike students in a traditional school district, DoDEA families cannot simply transfer to another public school when they object to the quality of education being offered. Military families are stationed where they are ordered to go, often overseas, where DoDEA is the only option for a public education in English. Parents are wholly dependent on DoDEA to deliver the well-rounded education their children are owed. Moreover, many military families chose to serve in part because DoDEA schools have historically provided the best materials, facilities, and educational resources available to military-connected children worldwide. The lack of comparable alternatives makes DoDEA's censorship especially damaging to DoDEA families.

Parent after parent in this case has attested that DoDEA's prior commitment to diversity was one of the system's greatest strengths. Anna Kenkel, a former DoDEA teacher and a DoDEA graduate,

explained what she appreciated most about DoDEA was “the high value placed on diversity and learning from difference.”⁶³ Anna Young similarly credited the multicultural experiences available through DoDEA schools with helping her children “become well-rounded individuals who are empathetic, open-minded, and capable of connecting with people from diverse backgrounds with respect and curiosity,” all valuable skills to develop at such a pivotal age.⁶⁴ Col. Townsend, a DoDEA graduate and military dependent, has described DoDEA schools as a “safe haven” where she and her fellow military-dependent school colleagues felt “loved and valued” in a diverse environment that provided a strong foundation for her later achievements. These families are now witnessing that commitment to diversity under attack, without notice, without transparency, and without any educational justification.

The frequent relocation inherent in military life, often every two to three years, means that DoDEA students depend on the system’s centralized standards to provide educational continuity across one school to the next. Unlike civilian schools, where students must start again each time they move, DoDEA schools offer a shared community of military-

⁶³ JA180 ¶7.

⁶⁴ JA174 ¶10.

connected students with common experiences and unique bonds that persist across every move. When those standards are gutted by political directives, the students lose not just access to those specific materials, but the shared community they have built with one another and confidence in the consistency of their education.

The lessons from *González* confirm that the programs and materials DoDEA is attempting to erase are exactly the type of resources that improve educational, cultural, and professional outcomes. These harms are felt more severely by students who are themselves members of the communities being erased from the classroom. On a military base overseas, the classroom is often the most meaningful community for these students. These students cannot look to their surrounding community for the cultural affirmation their schools have ceased to provide. When the school Kenkel's eighth-grade daughter attended canceled Holocaust Remembrance Day, it erased the history of their family members who were killed in the Holocaust.⁶⁵ DoDEA children are being told, in real time, that their histories and identities do not belong in the classroom. Lindsey Keely, wife of an active-duty servicemember

⁶⁵ See JA182 ¶16.

whose children attend DoDEA schools, reminds us that “our society already asks for tremendous sacrifices from the families of uniformed servicemembers—asking us to also give up a quality of education for our children is a sacrifice that we should never have to make.”⁶⁶

CONCLUSION

Amici urge this Court to honor the sacrifices of all servicemembers and ensure their stories are not erased by affirming the district court.

June 3, 2026

Respectfully submitted,

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⁶⁶ JA136 ¶43.

CERTIFICATE OF COMPLIANCE

This amicus curiae brief complies with the word limit of Fed. R. App. P. 29(a)(5) because it contains 6,287 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This amicus curiae brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared using Microsoft Word in Century Schoolbook 14-point font.

June 3, 2026

By: /s/ Robert S. Chang
Robert S. Chang

CERTIFICATE OF SERVICE

I certify that on June 3, 2026, I electronically filed the foregoing document with the Clerk of Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

June 3, 2026

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