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**Testimony to the House Labor, Health and Human Services, and Education
Appropriations Subcommittee
on Withdrawing Funding from Schools that Implement Bans on Anti-Bias Training
Erin Hustings, Director of Govt. Relations, Civil Rights
Anti-Defamation League
May 19, 2021**

On behalf of the Anti-Defamation League (ADL), I write to urge Members of the Subcommittee to adopt legislative and report language that condemns proposals that would effectively curtail anti-bias programming in public schools. During 2021 sessions, a number of state legislatures have considered and adopted proposals that purport to block the teaching of material that is vaguely characterized as “divisive concepts,” or as assigning blame or responsibility or creating guilt based on race, ethnicity, or sex. We are deeply concerned that these policies would drastically curb the use and further development of an essential tool in the effort to eliminate hate incidents: lessons and programs that teach young people about the history and institutionalization of hateful ideologies, awareness of biases, and importance of each person vocally opposing expressions of prejudice.

Founded in 1913 in response to an escalating climate of anti-Semitism and bigotry, ADL is a leading anti-hate organization with the mission of protecting the Jewish people and securing justice and fair treatment for all. Today, we continue to fight all forms of hate with the same vigor and passion. A global leader in exposing extremism, delivering anti-bias education, and fighting hate online, ADL’s ultimate goal is a world in which no group or individual suffers from bias, discrimination, or hate. To that end, ADL is an advocate for Holocaust education. We strongly believe that learning about the Holocaust, and the unchecked anti-Semitism and racism that set the stage for and sustained it, is one of the best ways to fight prejudice and discrimination, and to help ensure that genocide and other atrocities never happen again.

ADL has actively opposed anti-“divisive concepts” bills including Arizona SB 1532, Louisiana HB 564, and New Hampshire HB 544; similar proposals that have advanced or been enacted in 2021 also include Iowa HF 802, which applies not only to K-12 schools but also to government agencies and public universities and was enacted by the legislature in early May 2021; West Virginia HB 2595, which proposes to end state funding for any agencies that promote “divisive” concepts or acts; and Oklahoma SB 803, which authorizes dismissal of teachers for instructing students in disapproved-of ideas and beliefs about, for example, the fundamentally racist and sexist nature of American society.

Although these bills vary in their details, their common features include vagueness,

subjectivity, and the singling out of particular ideas for a prohibition on speech, which constitutes unconstitutional viewpoint discrimination. In fact, a federal judge has already determined that plaintiffs were likely to succeed in a First Amendment-based challenge to a similar federal prohibition adopted by a subsequently-revoked Executive Order. ADL is acutely dismayed that these proposals will have, and already have had, the effect of prompting cautious administrators to cancel or postpone critically important efforts to expand students' knowledge, experience, and sensitivity to systemic biases. The Iowa Department of Education, for example, postponed a conference on social justice and equity in education originally planned for April 2021, noting publicly that, "We are mindful of pending legislation that may impact the delivery and content of certain topics related to diversity, equity and inclusion."

Another common feature of recent legislation billed as taking aim at the spread of "divisive concepts" is language that prohibits teaching that makes an individual "feel discomfort, guilt, anguish or any other form of psychological distress because of the individual's race, ethnicity or sex." We are particularly alarmed that this measure would effectively create a "heckler's veto" of critical education in our public schools. Legitimate Holocaust curricula or educational programs must necessarily condemn the antisemitic and racist ideology of the Nazis, as well as Holocaust denial. As a leading authority on extremism, terrorism, and hate, both foreign and domestic, we also note that today's white supremacists and neo-Nazis are virulently antisemitic, racist, xenophobic, misogynistic, homophobic, and do not consider light-skinned Jews to be "white people." We foresee that under the rules set forth in these bills, any student or employee who is white and holds these odious beliefs, whether or not affiliated with an extremist group, could claim that a Holocaust education program impermissibly makes them feel discomfort, guilt, anguish, or other psychological distress because of their white race. The same could be true for someone holding these beliefs who claims that discussion of the Holocaust and historical antisemitism constitutes discrimination based on their German ethnicity or national origin. This concern is not hypothetical. Only two years ago there was a disturbing issue at a South Florida public high school involving parents who did not believe the Holocaust occurred, who succeeded in impacting the school's delivery of state-mandated Holocaust education.

At a time of rising hate crimes and anti-Semitic incidents, the need to teach young people who are still forming their beliefs and principles the universal lessons of the Holocaust, and the devastating consequences of all forms of bigotry and hate, is acute and urgent. Anti-bias education and the imparting of honest information about the historical and social reasons for persistent disparities among people of different races, ethnicities, religions, genders, sexual orientations, and abilities are essential elements to the deconstruction of stratified, discriminatory systems: we simply cannot create a more just future without examining and confronting our unjust past and its modern-day footprints. Curricula that identify the hallmarks of bigotry and bring unconscious prejudices to light not only bend the moral arc of the universe toward justice, but also teach youth valuable leadership and problem-solving skills, and ensure that classroom environments are conducive to every student's progress. Positive communities that proactively welcome and celebrate inclusion foster academic and life success.

ADL urges Members of the Subcommittee to protect students' access to essential education about discrimination, biases, and the consequences of government and institutional embrace of prejudice by adopting legislative language that withdraws and withholds federal funding for

public educational agencies and institutions that implement prohibitions on the teaching of so-called “divisive concepts,” to include histories and present-day indicators of endemic hate and discrimination against groups of people based on race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, and disability. In addition, we urge Members to adopt report language that notes the need for and benefits of anti-bias education in schools and that condemns attempts to limit or prohibit anti-bias programming in schools and other government institutions.

Thank you for your consideration.