



Californians for Equal Rights Foundation
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June 10, 2021

SUBJECT: CALIFORNIANS FOR EQUAL RIGHTS FOUNDATION POSITION LETTER
AGAINST AB 101

Honorable Committee Members of the California Senate Education Committee:

On behalf of Californians for Equal Rights Foundation and its 26 coalition partners, I am writing to express our opposition to AB101 and the precipitous nature of this proposal as it is anchored on the controversial and divisive Ethnic Studies Model Curriculum (ESMC). AB101, if passed, would potentially violate the California Education Code and the California Constitution.

In his veto message on AB101's precedent—AB331 last September, Governor Newsom stressed a need for addressing disagreements over the previous draft of ESMC before the state can impose a high school mandate for ethnic studies. While the final approved version of ESMC has made incremental improvements to introduce more balancing perspectives in ethnic studies, the current model is still deeply problematic with the unchanged ideological framework of critical ethnic studies and critical pedagogy. To make matters worse, many districts are already implementing the previously rejected and more radical models, which is not addressed by AB101. Instituting ethnic studies classes through the lenses of anti-imperialism, anti-capitalism and anti-racism would only inflame our societal divisions, further sowing hatred and confusions in our students along the dichotomy of oppressors vis-à-vis victims. The unresolved contentions over the ESMC led to a surge of tens of thousands of public letters opposing the curriculum, demonstrating that a state-wide model is not free of tensions or disagreements. Therefore, it is simply imprudent for state lawmakers to legislate a government mandate on ethnic studies as a high school graduation requirement when important stakeholders have expressed grave concerns.

Additionally, AB101's promotion of the controversial ESMC as the No. 1 pedagogical source of high school ethnic studies could lead to a series of legal violations. First, its implementation would run counter to California's constitutional principle of equal treatment by dividing students and educators based on their skin colors and race-based presumptions of power and privilege. California State Constitution Article I Section 31(a) was established by the passage of Proposition 209, or the California Civil Rights Initiative in 1996. It unequivocally states: "The state shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting." This principle was overwhelmingly reaffirmed on the November 2020 ballot when 57.2% of California voters rejected Proposition 16, which would have repealed Prop 209. This constitutional guarantee is echoed by Article 3 of the Education Code which states that "No person shall be subjected to discrimination on the basis of disability, gender, gender identity,



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gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic...in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid.” AB101’s implementation rooted in the current ESMC would undoubtedly contravene both laws.

Furthermore, AB101, by accommodating ESMC’s obvious ideological slant toward neo-Marxist class/race divisions and Leninist anti-imperialism, clearly contradicts Article 4 of the Education Code stating that “No teacher giving instruction in any school, or on any property belonging to any agencies included in the public school system, shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism.”

With widening achievement gaps and learning outcome disparities, California’s public K-12 education is facing a performance and equity crisis. In 2019, according to the California Department of Education, math proficiency levels of black, Latino, American Indian, white and Asian students stand at 20.55%, 28.05%, 26.58%, 54.23%, and 74.37%, respectively. Reading proficiency levels for these groups are at 33.02%, 40.56%, 28.16%, 65.42%, and 76.86%. The state shall devote its precious resources and political capital to devise sustainable solutions to narrow existing disparities and inequalities. AB101’s ethnic studies mandate would surely result in a hefty price tag at the expense of California’s taxpayers but its effectiveness in closing our educational gaps and improving quality of public education is at best unproven.

Californians for Equal Rights Foundation (CFER) is a non-partisan and non-profit organization founded in the wake of California’s resounding affirmation of its constitutional guarantee of equal treatment. CFER is dedicated to promoting and raising public awareness on our fundamental principles of equality and merit. CFER welcomes genuine and meaningful public policies that improve diversity and competitiveness of our state’s education in a constitutional and legal manner. Advocating for a divisive ethnic studies curriculum distorts the principle of equal opportunity and would result in egregious discrimination against certain student groups. Instead of focusing on tribal divisions and political favoritism, we should educate our students and workers effectively with reasonable accommodation of disadvantaged individuals. Therefore, we urge all members of the California Senate Education Committee to **VOTE NO ON AB101!**

Sincerely,
Wenyuan Wu
Wenyuan Wu,
Executive Director, Californians for Equal Rights Foundation