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J. FRANKLYN BOURNE BAR ASSOCIATION, INC.
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Position on Proposed Legislation
HB 1256
Education – Discriminatory Concepts in Instruction – Prohibition 3
(Ending Discrimination in Public Education Act of 2022)

From: J. Franklyn Bourne Bar Association

Position: Unfavorable

Date: 3/7/2022

The J. Franklyn Bourne Bar Association respectfully requests this Committee submit an unfavorable report on House Bill 1256.

HB 1256 proposes to prohibit educators, school staff and personnel in public and nonpublic schools from, “including certain discriminatory concepts in a unit of instruction; and generally prohibiting discriminatory concepts in instruction in public and nonpublic schools.” HB 1256 at best is vague, ambiguous and overbroad. At worst, racist. And it is not good law.

Racism and Sexism have been a part of the American fabric since its inception. We need not look any further than the writing of the “Declaration of Independence” and the famous declaration, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” These words were penned to declare white Colonists independence from France while black people were simultaneously being enslaved and not even considered human, and white women were being denied certain rights and privileges. These facts are parts of American history that HB 1256 would not allow to be taught because the explicit racism and sexism embedded in this history is by nature discriminatory.

The language of the HB 1256 is vague and thereby overly broad. The bill enumerates a list of ideas it characterizes as “discriminatory concepts” the bill fails to define what makes a concept discriminatory and therefore could potentially exclude any topics from being taught that address race and African Americans in history, including but not limited to slavery, Jim Crow, the Civil Rights Movement and Black Lives Matter. Racism is a discriminatory concept. Many of the experiences of African Americans in American history have been dictated by racist laws and policies designed to oppress black people and people of color in America. By not defining “discriminatory concepts,” this law would preclude teachers from teaching about historical events that are foundational to the fabric of America and the treatment of non-white people; thereby creating a false narrative of history and perpetuating false ideals that racism does not continue to negatively impact people of color and marginalized groups of people today.

HB1256 is racist and sexist. The definition of racist is to be prejudiced against or antagonistic toward a person or people based on their membership in a particular racial or ethnic group, typically one that is a minority or marginalized. This bill places the feelings and needs of white male children above the needs of people of color and other marginalized groups that have not only been discriminated against in the past but continue to be discriminated against and negatively impacted by racist and sexist policies, practices and institutions that exist today. Racism was created to establish a superiority structure where white people were considered superior to all other groups of people. The tenets of race and racism are carried out in every part of modern society to include housing, education, banking, medical care, access to healthy foods, justice and safety, just to name a few. With the killing of Trevon Martin and George Floyd, to Black Lives Matter, and the disproportionate impact of Covid 19 on communities of color, America has been forced to acknowledge (although slowly) the role that race has played in the injustice and inequality that non- white and non- male people face in this country daily. When statutes similar to HB 1256 are adopted, what the legislature is really saying is that they would rather not force our white male citizens to have to deal with or understand the reality of racism or sexism. A choice that people of color and women don't have the luxury to escape.

Lastly, HB 1256 is not good education law. It goes against what Maryland's Department of Education has identified as essential skills all students should have and the standards for which all teachers should teach. Maryland has adapted the 21st Century Skills. The 21st century skills “refer to the knowledge, life skills, career skills, habits and traits that schools and school districts have identified as critically important to student success in today's world.”¹ Part of the 21st century skills are global awareness, social justice, and social responsibility. Additionally, Maryland teachers are required to provide culturally responsive education. Culturally responsive education is “a research based approach to teaching that connects students' cultures, languages and life experiences with what they learn in the classroom.”² Taking away a teachers ability to approach subject matter that directly deals with race, sexism or culture because someone may interpret such subject matter in a way that endorses ideas of inequality and racism not only strips teachers of the ability to provide an education that is inclusive, culturally responsive and critical to the development of all students; it also robs students of the opportunity to gain a deeper understanding of other students and how certain views and ideals impact not only their fellow students but the global society.

Because people of color cope with racism on a daily basis. And because women encounter sexism regularly, by preventing the teaching of certain “discriminatory concepts,” HB 1256 is not intended to protect disempowered groups. This bill prolongs the attempts of some members of the majority to

¹ Panoramaed.com/blog/comprehensive-guide-21st-century-skills

² Educators Team at Understood. What is Culturally Responsive Teaching. Understood.org/articles/en/what-is-culturally-responsive-teaching

invalidate the struggle of groups who have historically been oppressed. This bill attempts to suppress the voices and stories and testimonies of people who have fought for and continue to fight for equality and against injustice in exchange for the comfort of those who may be benefitting from said oppression. In that way, this bill continues to uphold racial and sexist injustice. This bill provides an opportunity for students of the majority to remain ignorant and turn a blind eye to the racism that exist and is embedded in the very framework of our world with the purpose of impeding the freedom and advancement of women and people of color today.

For these reasons, the J. Franklyn Bourne Bar Association urges this Committee to issue an unfavorable report on HB 1256.

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