

May 3, 2022

Madeleine Sorapure, Chair  
Board of Admissions and Relations with Schools  
Assembly of the Academic Senate  
University of California



*Sent via email*

Dear Ms. Sorapure

The Foundation Against Intolerance & Racism (FAIR) is a nonpartisan, nonprofit organization dedicated to advancing civil rights and liberties and promoting a common culture based on fairness, understanding, and humanity. We have more than 100 chapters and tens of thousands of members nationwide, including chapters and members throughout California. Our website, [fairforall.org](http://fairforall.org), can give you a fuller sense of our identity and activities.

We write to offer our comments on the Board of Admissions and Relations with Schools' (the "BOARS") proposal to add a particular type of Ethnic Studies course as a prerequisite for admission to the University of California school system. The Ethnic Studies discipline is represented by a spectrum of potential content that can teach students a wide variety of principles ranging from positive and universal lessons in empathy and compassion across multiple ethnicities to divisive and radical ideas that pressure students to become activists to foment a political revolution.<sup>1</sup> The latter version of Ethnic Studies is popularly known as "liberated" or "liberatory" ethnic studies (hereinafter "Liberated Ethnic Studies"). The proposed Ethnic Studies requirement from BOARS will result in the creation and requirement of Liberated Ethnic Studies courses in all California public, and likely private, high schools.

We write to urge BOARS to **not pass** this proposal, or any other proposal promoting Liberated Ethnic Studies, because it represents an unfunded mandate<sup>2</sup> that promotes a specific political ideology – decolonization and liberation theory employed by political revolutionary groups – in violation of the California Constitution and California Education Code.

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<sup>1</sup> See James Banks "Handbook on Research of Multicultural Education" (2004) and Gary Okihiro "Third World Studies: Theorizing Liberation" (2016) (Ethnic Studies "remains largely undefined. There are no agreed upon methodologies and theories particular to and definitive of the field" and "the field of 'critical' ethnic studies...never existed...has yet to emerge...[is] a work of imagination.").

<sup>2</sup> The State of California has not mandated that Ethnic Studies be a high school graduation requirement; the California legislature's AB 101 intending to do so is not operative unless subsequent legislation authorizes funding for it and none has been enacted. See CA Education Code Section 51225.3(d). In 2021, the State of California Department of Finance formally opposed AB 101 due to (i) its "St Mand" \$100-\$300 million annual estimated cost, and (ii) more pressing education needs for those funds. [https://www.dof.ca.gov/Legislative\\_Analyses/LIS\\_PDF/21/AB-101-20210812070256PM-AB00101.pdf](https://www.dof.ca.gov/Legislative_Analyses/LIS_PDF/21/AB-101-20210812070256PM-AB00101.pdf). See also California Constitution Article XIII B, Section 6 ("Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service...").

### **Details of the Proposed Amendment**

University of California Senate Regulation Section 424.A.3.a-g currently provides the following list of “subject requirements [that] must be satisfied through the completion of approved courses of study” in order to gain admission to the University of California system: history and social sciences, English, math, science, non-English language, visual or performing arts, and college preparatory courses. The BOARS proposal would add subsection (h) to 424.A.3, providing that “[a]t least one of the courses used to satisfy the specific requirements of Paragraph A.3.a-g of this Regulation must be an approved course of study (one-half unit) in Ethnic Studies.” The BOARS proposal includes Course Criteria and Guidance that will govern the Ethnic Studies course that is called for (individually, the “Course Criteria” and collectively, the “Proposed Amendment”).

The Course Criteria was drafted by a six-person writing committee, at least two-thirds of which publicly endorse decolonization and liberation theory. One writer is a lead author and business representative of the private liberation theory-based ethnic studies consulting group, Liberated Ethnic Studies Model Curriculum Coalition (“LESMCC”). Two other writers are University of California Department leads who promote the private fee-based LESMCC on their public department websites. Another is a student representative from the political lobbyist group Generation Up (or “GENUp”), which advances liberation theory and backs ethnic studies legislation and initiatives.

The Course Criteria requires that the Ethnic Studies course “equip students with the theoretical tools ...essential to ethnic studies analysis.” The “theoretical tools” mandated emanate from decolonization and liberation theory as evident in the following Proposed Amendment’s Course Content and Skills Guidelines:

“Create and honor anti-colonial and liberatory movements...on global and local levels” and “engage in the critical study of struggles, locally and globally.”

“Center an understanding of indigeneity...taught through anti-racist and anti-colonial liberation [and] self-determination.”

“Critique histories of imperialism” and “challenge...how multiple oppressions and identities intersect.”

“Cultivate ...self-determination for past, present and future generations” by the “transformation of society and the world.”

Importantly, one of the two key recurrent principles in the Proposed Amendment is “critical consciousness” – defined there, in part, as “the ability to recognize and understand...political conditions and to act to change those conditions.” The Criteria also require an adherence to “acknowledgement that the course takes place on stolen, unceded land of \_\_\_\_ Native Peoples and in spaces forged through labor, paid, unpaid, and underpaid.”

If adopted by the UC Senate Regents, the Proposed Amendment will effectively require high schools to offer a Liberated Ethnic Studies course because California law requires that public schools offer a course of studies that satisfy the prerequisites for admission to California's postsecondary education institutions.<sup>3</sup> This liberated approach to Ethnic Studies cannot legally be mandated for public school K-12 instruction under California law.

### **Political and Sectarian Influence Prohibited**

It is clear that the Proposed Amendment's Liberated Ethnic Studies requirement is "political" and "sectarian" in violation of California law because they are squarely based on narrow ideologies held by only certain political factions. The California Constitution and the UC Regents' Bylaws include identical provisions which require the UC system to be "entirely independent of all political or sectarian influence."<sup>4</sup> Similarly, the California Education Code prohibits the adoption of instructional materials that contain "sectarian or denominational doctrine or propaganda contrary to law."<sup>5</sup> The legislature's stated purpose for Section 60044 is to guard against the "threat to the apolitical nature of public school governance and academic content standards in California."<sup>6</sup> The California Supreme Court has expressly recognized the importance of objective, apolitical education as a necessary counter measure to "the development of sophisticated techniques of political propaganda and mass marketing," saying that "education plays an increasingly critical role in fostering 'those habits of open-mindedness and critical inquiry which alone make for responsible citizens, who, in turn, make possible an enlightened and effective public opinion.'"<sup>7</sup>

The political and sectarian nature of Liberated Ethnic Studies principles is readily apparent both in the Proposed Amendment contents discussed above, and in the way the organizations and individuals involved in creating the Proposed Amendment openly tout their political objectives.

GENUp, California's largest youth-led political lobbying organization, has as its stated mission to "legislate and organize for educational policy reform."<sup>8</sup> It publicly celebrated its involvement in crafting the Proposed Amendment.<sup>9</sup> In a recent newsletter, GENUp proudly claims that BOARS "approved a GENUp-created & crafted proposal to research making ethnic studies an A-G admissions requirement at UC schools." GENUp's stated aim for its proposal to BOARS is to "force" schools to adopt specific materials and make "anti-racism the standard" for the 200,000 students in CA, the US, and internationally

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<sup>3</sup> CA Education Code Section 51228(a).

<sup>4</sup> CA Const. Art. 9, Sec. 9(f); Bylaws of the Regents of the University of California, Section 12. *See also*, CA Constitution Article XVI Section 5 (prohibits school districts from funding religious sects, churches, creeds, and sectarian purposes); CA Constitution Article IX Section 8: (prohibits the teaching of sectarian or denominational doctrine in public schools).

<sup>5</sup> California Ed. Code. Section 60044(b).

<sup>6</sup> CA SB302, Sec. 1(j) (2011-2012).

<sup>7</sup> *Hartzell v. Connell*, 35 Cal.3d 899, 908 /679 P.2d 35, 41 (Apr. 20, 1984) (quoting *Wieman v. Updegraf*, 344 U.S. 183, 196 (Dec. 15, 1952) (conc. opn. of Frankfurter, J.)).

<sup>8</sup> *See* GENUp's "About Us" page: <https://www.generationup.net/about-us>.

<sup>9</sup> *See* GENUp Year in Review Newsletter for 2021, *available here*:

[https://docs.google.com/document/d/10A4AyVNf\\_FNeeZwALfNOnDoGdqJog6ofAFkPN7n-8UM/edit](https://docs.google.com/document/d/10A4AyVNf_FNeeZwALfNOnDoGdqJog6ofAFkPN7n-8UM/edit).

who seek UC admissions each year.<sup>10</sup> Additionally, GENUp's social media posts are replete with decolonization and liberation theory and theorists: there are references heralding the Third World Liberation Front (the communist Viet Cong-inspired liberation movement that devised Liberated Ethnic Studies),<sup>11</sup> as well as communist activist Angela Davis.<sup>12</sup> Two members of the Proposed Amendment's working group are students representing GENUp.<sup>13</sup>

Tricia Gallagher-Geurtsen, one of the writers of the Proposed Amendment, is a leader of the decolonization and liberation theory based political activist group LESMCC. LESMCC was formed by a group of activists who served on the State of California's original Ethnic Studies Model Curriculum Advisory Committee, tasked by the California State Board of Education with developing an ethnic studies model curriculum for optional use by California school districts. Their draft was immediately denounced by Governor Newsom, who stated that the draft "will never see the light of day", and apologized "on behalf of the state for the anxiety that this produced. It was offensive in so many ways."<sup>14</sup> State Board of Education President Linda Darling-Hammond disapproved of their draft too, adding that it did not comply with California law.<sup>15</sup>

Upon rejection of their draft curriculum, many Advisory Committee members started LESMCC. LESMCC's Ethnic Studies guiding principles mirror those in the BOARS Criteria,<sup>16</sup> with LESMCC's political positions enumerated by its leaders in webinars and on its website. LESMCC co-founder Theresa Montano was clear and concise: "Ethnic Studies is changing the social and political conditions of the community."<sup>17</sup> Gallagher-Geurtsen was specific: "our work is about destabilizing and changing the system from ground up...".<sup>18</sup>

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<sup>10</sup> See

[https://docs.google.com/presentation/d/1zb33K7hHOmp4warIVZAO9WTjTpa\\_-IAJKjvubg0kKus/edit#slide=id.g98ee8f797f\\_1\\_19](https://docs.google.com/presentation/d/1zb33K7hHOmp4warIVZAO9WTjTpa_-IAJKjvubg0kKus/edit#slide=id.g98ee8f797f_1_19) (Slides 8 and 9).

<sup>11</sup> See GENUp's Facebook July 14, 2021 posts "Third World Liberation Front, an ethnic studies legacy...we must carry on the legacy of the TWLF" and <https://www.npr.org/transcripts/704988020> ("the term Liberation Front [in TWLF] is directly from the Vietnamese National Liberation Front").

TWLF came out of the "the Black Panther Party [which] advanced a liberatory model of education that undergirds Ethnic Studies: 'We want education for our people that exposes the true nature of this decadent American society. We want education that teaches us our true history and our role in the present-day society.' The Party went on to help organize community, students, and faculty at San Francisco State to demand Black Studies and, in short order, Ethnic Studies." Abdullah, Melina, "Institutions Didn't Birth Ethnic Studies, Movements Did" <https://esr.ucpress.edu/content/ucpestr/43/1/5.full.pdf>

<sup>12</sup> See GENUp's Facebook August 11, 2021 posts featuring Angela Davis ("join us in continuing Angela Davis' anti-racist legacy," describing Davis as "a radical Black educator" who "joined the all Black branch of the communist party" and was fired "due to her association with Communism").

<sup>13</sup> GENUp Chief of Staff Koenigshofer and Proposed Amendment writing team member, Koo.

<sup>14</sup> <https://jweekly.com/2019/08/23/in-face-to-face-with-gov-newsom-strong-support-for-jewish-concerns/>.

<sup>15</sup> See <https://edsources.org/2019/california-needs-time-to> ("the draft does not yet fully align with the statutory requirements or the State Board of Education's guidelines...there is considerable work yet to do" so that the Model Curriculum "fully aligns with California's values of inclusivity, empathy, accuracy, and honesty").

<sup>16</sup> LESMCC co-founder commented in a recent podcast that "the UC approved their [UC h] student learning outcomes based on the learning outcomes that the original team of the Ethnic Studies Model Curriculum founded, so those are the principles that we use within Liberated Ethnic Studies." See Pico Youth and Family Center's 13th Annual Hope & Unity Awards, Virtual Gala available at: [https://www.facebook.com/watch/live/?ref=watch\\_permalink&v=224396713082888](https://www.facebook.com/watch/live/?ref=watch_permalink&v=224396713082888).

<sup>17</sup> See <https://www.facebook.com/pyfcsantamonica/videos/224396713082888> (min 58).

<sup>18</sup> See "Beautiful White Co-Conspiratorship": ES Edition, Ep. 15, available at <https://www.youtube.com/watch?v=dRMTY8jwp1c>.

Needless to say, the ideas expressed by GENUUp, LESMCC, and political activists responsible for the Proposed Amendment such as Gallagher-Geurtsen do not represent widely-accepted American sentiment and they openly call for transformation of our systems of government - this is the essence of a political effort.

As transformational political or sectarian movements typically go, the push for Liberated Ethnic Studies as represented by the Proposed Amendment, has been underway in California for decades. Since the historic student protests in 1968 at San Francisco State University, supporters of Liberated Ethnic Studies have been an academic faction of significant focus and attention among educators, activists, and policy-makers. The series of their efforts undertaken in California since the mid-2010s have been so divisive and polarizing that little headway has been made by Liberated Ethnic Studies proponents.

What is now presented as the Proposed Amendment has entered the California political landscape in multiple different presentations, only to be struck down, reworked, and re-presented time and time again:

- 2016- California Assembly Bill 2016 was passed (after being proposed multiple times), requiring the California Department of Education (“CDE”) to adopt an ethnic studies model curriculum for public high schools after a veto by Governor Brown.
- 2019- California State Board of Education appointed members to the Ethnic Studies Model Curriculum Advisory Committee.<sup>19</sup>
- 2019- The initial draft of Ethnic Studies Model Curriculum was developed and immediately rejected by Governor Newsom and the California State Board of Education President.
- 2020-2021- New drafts of the ethnic studies model curriculum proposed, received public comment, and amended multiple times.
- September 2020- Governor Newsom vetoed Assembly Bill 331 proposing to make Ethnic Studies a high school graduation requirement,<sup>20</sup> citing inappropriateness of the draft model curriculum,<sup>21</sup> even after the model curriculum had been amended to include several “guardrails.”
- March 2021- CA State Board of Education adopts the ethnic studies model curriculum, which remains optional for California school districts.<sup>22</sup> In total, four drafts of the model curriculum were submitted by the CDE, generating over 100,000 public comments, five times the number of comments the CDE’s next most controversial project (comprehensive sex education) elicited.
- October 2021- Assembly Bill 101 is signed into law, requiring completion of an ethnic studies course in order to graduate from public high school in California. The choice of which ethnic studies course is expressly left up to the discretion of the local school districts. Assembly Bill 101 specifically states that “it is the intent of the Legislature that local educational agencies not use the portions of the draft model curriculum that were not adopted by the Instructional Quality Commission due to concerns related to bias, bigotry, and discrimination.”<sup>23</sup> Conditioned on legislation funding it, Assembly Bill 101 is not yet operational.

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<sup>19</sup> See timeline of Advisory Committee efforts <https://www.cde.ca.gov/ci/cr/cf/modelcurriculumprojects.asp>.

<sup>20</sup> See [https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201920200AB331](https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200AB331).

<sup>21</sup> See [https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201920200AB331](https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201920200AB331).

<sup>22</sup> See <https://www.cde.ca.gov/ci/cr/cf/esmc.asp>.

<sup>23</sup> See [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB101](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB101).

- November 2021- BOARS submits the Proposed Amendment to the UC Academic Council.<sup>24</sup>
- January 2022- LESMCC contracts with Castro Valley Unified School District. Castro Valley Unified School District Trustees' approval of LESMCC's \$82,000 Ethnic Studies professional and curriculum development contract, negotiated by LESMCC's Tricia Gallagher-Geurtsen and Theresa Montano, generates public outcry.<sup>25</sup>
- March 2022- Research on academic value of ethnic studies is refuted. UCLA and University of Pennsylvania professors' peer review of liberated ethnic studies advocates' oft-cited study demonstrating some academic benefits of ethnic studies courses finds major deficiencies in study and concludes that findings are not substantiated.<sup>26</sup>
- March 2022- Academic Council returns Proposed Amendment to BOARS for reconsideration.

### **Local Educational Control Guaranteed**

BOARS should reject the Proposed Amendment on the additional basis that it robs local California school districts of their statutory right to govern curricular decisions within their purview. Several California Education Code sections give local governing school boards broad authority to carry on their schools' activities and programs, including autonomy in adopting course content and instructional materials.<sup>27</sup> The Course Criteria are overly prescriptive such that local school governing boards will not have the ability to appropriately determine the course content best suited for their individual communities. We urge BOARS to reject the Proposed Amendment and allow local governing boards the autonomy intended for them by the California legislature.

### **Conclusion**

Despite their persistence and zealotry, Liberated Ethnic Studies stakeholders have been unable to secure a consensus among education policy makers and the public in California. The UC Proposal is simply the latest effort by political activists to inject a Liberated Ethnic Studies course requirement in California's public education system.

BOARS should reject the Proposed Amendment because it represents illegal political and sectarian influence in the California public education system, thereby placing local California school districts in the untenable position of adhering to UC-imposed requirements, which will in turn expose them to litigation challenging their compliance with California law.

Very truly yours,

The Foundation Against Intolerance & Racism

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<sup>24</sup> See [https://senate.universityofcalifornia.edu/\\_files/underreview/rh-systemwide-senate-review-revision-sr-424.pdf](https://senate.universityofcalifornia.edu/_files/underreview/rh-systemwide-senate-review-revision-sr-424.pdf).

<sup>25</sup> See <https://www.tabletmag.com/sections/news/articles/studies-fail-to-support-claims-new-california-ethnic-studies-requirement>

<sup>26</sup> See <https://www.jns.org/california-school-district-adopts-liberated-ethnic-studies-curriculum-marked-by-anti-extreme-anti-israel-bias/>

<sup>27</sup> See California Education Code, Sections 35160.1, 51041, 51053, 51054.

Cc: Members of the Board of Admissions and Relations with Schools

Hector P. Rodriguez

Anne Britt

Sergio Gago Masague

Li Cai

Abbas Ghassemi

Wallace Cleaves

Barbara Knowlton

Julian Betts

Michael Stryker

Greg Mitchell

Laura Giuliano

George Bulman

Susan Cochran

Kenneth Feer

Tongshan Chang

Yvette Gullat

Monica Lin

Matt Reed

Liz Terry

Han Min Yoon-Wu

The Honorable Gavin Newsom, Governor of California

Robert Horwitz, Chair, University of California Academic Senate

Rich Leib, Interim Chair, University of California Board of Regents

Hilary Baxter, Executive Director, University of California Academic Senate

Tony Thurmond, Superintendent, California Department of Education