

No. 20-2082

---

**UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT**

---

A.C., a minor, by her parent and guardian ad litem, Torrence S. Waithe; A.C.C., a minor, by her parent and guardian ad litem, Nicolas Cahuec; A.F., minor, by his parent and guardian ad litem, Aletha Forcier; R.F., a minor, by her parent and guardian ad litem, Aletha Forcier; I.M., a minor, by his parents and guardians ad litem Jessica Thigpen and Anthony Thigpen; L.M., a minor, by her parents and guardians ad litem Jessica Thigpen and Anthony Thigpen; K.N.M.R., a minor, by her parent and guardian ad litem, Marisol Rivera Pitre; J.R.H., a minor, by her parents and guardians ad litem, Moira Hinderer and Hillary Reser; M.S., a minor, by his parent and guardian ad litem, Mark Santow; M.M.S., a minor, by his parent and guardian ad litem, Amie Tay; M.S., a minor, by her parents and guardians ad litem, Maruth Sok and Lap Meas; A.W., a minor, by her parent and guardian ad litem, Chanda Womack; J.W., a minor, by her parent and guardian ad litem, Chanda Womack; N.X., a minor, by her parents and guardians ad litem, Youa Yang and Kao Xiong,

*Plaintiffs - Appellants*

v.

GINA M. RAIMONDO, in her official capacity as Governor of the State of Rhode Island; NICHOLAS A. MATTIELLO, in his official capacity as Speaker of the Rhode Island House of Representatives; DOMINICK J. RUGGERIO, in his official capacity as President of the Rhode Island Senate; RHODE ISLAND STATE BOARD OF EDUCATION; COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION; ANGELICA INFANTE-GREEN, in her official capacity as Commissioner of Education of the State of Rhode Island,

*Defendants - Appellees.*

---

On appeal from the United States District Court for the District of Rhode Island

---

**BRIEF OF *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS/APPELLANTS**

---

**DEBEVOISE & PLIMPTON LLP**

Andrew Ceresney (#1157772)  
919 Third Avenue  
New York, NY 10022  
(212) 909-6000

*Counsel for Amici Curiae The  
Campaign for the Civic Mission  
of Schools, The Center for  
Information and Research on  
Civic Learning and  
Engagement, The Civic  
Engagement Research Group,  
The Lou Frey Institute;  
Professor David Campbell,  
Professor Peter Levine,  
Professor Sam Wineburg*

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1, the undersigned counsel certifies that none of the *amici* are publicly-held corporations, issue stock, or have a parent corporation.

**TABLE OF CONTENTS**

	<b>Page</b>
IDENTITY AND INTERESTS OF <i>AMICI CURIAE</i> .....	1
INTRODUCTION AND SUMMARY OF THE DISCUSSION .....	4
DISCUSSION .....	9
I.    Civic Knowledge .....	9
II.   Civic Skills.....	14
III.  Civic Experience.....	18
IV.  Civic Values.....	23
CONCLUSION.....	28

**TABLE OF AUTHORITIES**

**CASES**

*Ambach v. Norwick*, 441 U.S. 68 (1979) .....26

*Plyler v. Doe*, 457 U.S. 202 (1982).....26

**STATUTES**

The No Child Left Behind Act, 20 U.S.C. § 6311(b)(1)(C).....11

**OTHER AUTHORITIES**

Am. Acad. of Arts & Scis., *Our Common Purpose: Reinventing American Democracy for the 21st Century* (June 2020), <https://www.amacad.org/ourcommonpurpose/report>.....4, 6

Amy Gutmann, *Democratic Education* (1987).....25

Andrew Restuccia & Alex Leary, *Trump Reasserts Fraud Claims Despite Lack of Evidence, Losses in Court*, Wall St. J. (Dec. 2, 2020, 5:55 pm), <https://www.wsj.com/articles/trump-reasserts-fraud-claims-despite-lack-of-evidence-losses-in-court-11606949718>).....23

Ann Newman, *Realizing Educational Rights: Advancing School Reform Through Courts and Communities* (2013).....10

Ariel Tichnor-Wagner, Kei Kawashima-Ginsberg & Noorya Hayat, *The State of Civic Education in Massachusetts* (CIRCLE, Jan. 12, 2021), <https://circle.tufts.edu/latest-research/state-civic-education-massachusetts> .....8

Brian Knop & Julie Siebens, *A Child’s Day: Parental Interaction, School Engagement, and Extracurricular Activities: 2014*, U.S. Census Bureau 5 (2018), <https://www.census.gov/content/dam/Census/library/publications/2018/demo/P70-159.pdf>.....22

Campaign for the Civic Mission of Schs., *Guardian of Democracy: The Civic Mission of Schools* (Jonathan Gould *et al.*, eds., 2011) .....*passim*

Ctr. on Educ. Pol’y, *From the Capital to the Classroom: Year 4 of the No Child Left Behind Act* (2006) .....11, 12

CivXNow, *Civics is the Solution to What Ails Our Democracy*,  
[https://www.civxnow.org/sites/default/files/resources/  
 CivXNow%20infographic%20-%20Luntz%20polling%20-  
 %20FINAL.pdf](https://www.civxnow.org/sites/default/files/resources/CivXNow%20infographic%20-%20Luntz%20polling%20-%20FINAL.pdf) .....4, 8

CivXNow, *Majority of Americans See K-12 Civic Education as the Best Solution* (Sept. 29, 2020), [https://medium.com/civxnow/majority-of-  
 americans-see-k-12-civic-education-as-the-best-solution-8e444a70352b](https://medium.com/civxnow/majority-of-americans-see-k-12-civic-education-as-the-best-solution-8e444a70352b) .....4

Connie Flanagan & Leslie Gallay, *Adolescent Development of Trust* (CIRCLE, Working Paper No. 61, 2008),  
[https://circle.tufts.edu/sites/default/files/2019-  
 12/WP61\\_AdolescentDevelopmentofTrust\\_2008.pdf](https://circle.tufts.edu/sites/default/files/2019-12/WP61_AdolescentDevelopmentofTrust_2008.pdf) .....26, 27

Constance A. Flanagan *et al.*, *School and Community Climates and Civic Commitments: Patterns for Ethnic Minority and Majority Students*, 99 J. Educ. Psych. 421 (2007) .....27

Daniel A. McFarland & Reuben J. Thomas, *Bowling Young: How Youth Voluntary Associations Influence Adult Political Participation*, 71 Am. Soc. Rev. 401 (2006) .....20

Daniel Hart *et al.*, *High School Community Service as a Predictor of Adult Voting and Volunteering*, 44 Am. Educ. Rsch. J. 197 (2007) .....19, 20, 22

Danielle Allen, *Education and Equality* (2016) .....16

Diana C. Mutz, *Hearing the Other Side: Deliberative versus Participatory Democracy* (2006) .....16

Elliott C. McLaughlin, *How George Floyd's Death Ignited a Racial Reckoning that Shows No Signs of Slowing Down*, CNN (last updated Aug. 9, 2020, 11:31 AM), [https://www.cnn.com/2020/08/09/us/george-  
 floyd-protests-different-why/index.html](https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html) .....23

Elizabeth Stearns & Elizabeth J. Glennie, *Opportunities to Participate: Extracurricular Activities' Distribution Across and Academic Correlates in High Schools*, 39 Soc. Sci. Rsch. 296 (2010) .....22

Gary Abernathy, Opinion, *Our Covid-19 Polarization Will Only Get Worse. We Need to Find a Balance*, Wash. Post (Nov. 18, 2020, 3:43 PM), <https://www.washingtonpost.com/opinions/2020/11/18/our-covid-19-polarization-will-only-get-worse-we-need-find-balance>.....24

Gregory J. Palardy, *High School Socioeconomic Segregation and Student Attainment*, 50 Am. Educ. Rsch. J. 714 (2013) .....19

Helaine Olen, Opinion, *How Covid-19 Is Ripping Us Apart*, Wash. Post (Nov. 14, 2020, 8:00 AM), <https://www.washingtonpost.com/opinions/2020/11/14/how-covid-19-is-ripping-us-apart/>.....24

James Youniss *et al.*, *The Role of Community Service in Identity Development: Normative, Unconventional, and Deviant Orientations*, 14 J. Adolescent Rsch. 248 (1999) .....21

Jeffrey S. Dill, *Preparing for Public Life: School Sector and the Educational Context of Lasting Citizen Formation*, 87 Soc. Forces 1265 (2009).....25

Jennifer L. Hochschild & Nathan Scovronick, *Democratic Education and the American Dream, in Rediscovering the Democratic Purposes of Education* (Lorraine McDonnell, P. Michael Timpane, & Roger Benjamin eds., 2000) .....24, 25, 26

Joel Breakstone, Mark Smith & Sam Wineburg, *Students’ Civic Online Reasoning: A National Portrait* (2019), <https://stacks.stanford.edu/file/druid:gf151tb4868/Civic%20Online%20Reasoning%20National%20Portrait.pdf> .....15

Joseph Kahne & Benjamin Bowyer, *Can Media Literacy Education Increase Digital Engagement in Politics?*, 44 Learning, Media & Tech. 211 (2019), <https://doi.org/10.1080/17439884.2019.1601108>.....15

Joseph Kahne & Benjamin Bowyer, *Educating for Democracy in a Partisan Age: Confronting the Challenges of Motivated Reasoning and Misinformation*, 54 Am. Educ. Rsch. J. 3 (2017).....14

Joseph Kahne & Ellen Middaugh, *Democracy for Some? The Civic Opportunity Gap in High School* (CIRCLE, Working Paper No. 59, 2008), [https://circle.tufts.edu/sites/default/files/2019-12/WP59\\_TheCivicOpportunityGapinHighSchool\\_2008.pdf](https://circle.tufts.edu/sites/default/files/2019-12/WP59_TheCivicOpportunityGapinHighSchool_2008.pdf). .....18

June Kronholtz, *Academic Value of Non-Academics: The Case for Keeping Extracurriculars*, *Educ. Next*, Winter 2012 .....22

Kei Kawashima-Ginsberg, *Do Discussion, Debate, and Simulations Boost NAEP Civics Performance?* (CIRCLE, Fact Sheet, 2013), [https://circle.tufts.edu/sites/default/files/2020-01/discussion\\_debate\\_naep\\_2013.pdf](https://circle.tufts.edu/sites/default/files/2020-01/discussion_debate_naep_2013.pdf). .....17, 18

Lawrence A. Cremin, *American Education: The National Experience 1783-1876* (1980).....7, 8

Martha Nussbaum, *Not for Profit: Why Democracy Needs the Humanities* (2010).....10, 13

Meira Levinson, *No Citizen Left Behind* (2012).....6

Michelle L. Frisco *et al.*, *Participation in Voluntary Youth-Serving Organizations and Early Adult Voting Behavior*, 85 *Soc. Sci. Q.* 660 (2004).....21

Nat’l Assessment of Educ. Progress, *The Nation’s Report Card, 2018 Civics Assessment*, <https://www.nationsreportcard.gov/civics/results/achievement/> .....7, 12, 13

Nat’l Assessment Governing Bd., *Civics Framework for the 2014 National Assessment of Educational Progress* (2014), <https://www.nagb.gov/content/nagb/assets/documents/publications/frameworks/civics/2014-civics-framework.pdf>. .....16

Nathaniel Persily & Jon Cohen, *Opinion, Americans Are Losing Faith in Democracy—And in Each Other*, *Wash. Post* (Oct. 14, 2016), [https://www.washingtonpost.com/opinions/americans-are-losing-faith-in-democracy--and-in-each-other/2016/10/14/b35234ea-90c6-11e6-9c52-0b10449e33c4\\_story.html?utm\\_term=.308071988730](https://www.washingtonpost.com/opinions/americans-are-losing-faith-in-democracy--and-in-each-other/2016/10/14/b35234ea-90c6-11e6-9c52-0b10449e33c4_story.html?utm_term=.308071988730).....5

Peter Levine *et al.*, *Getting Narrower at the Base: The American Curriculum after NCLB* (CIRCLE, Major Report, 2009), [https://circle.tufts.edu/sites/default/files/2020-02/narrower\\_base\\_curriculum\\_nclb.pdf](https://circle.tufts.edu/sites/default/files/2020-02/narrower_base_curriculum_nclb.pdf). .....12

Ralph McNeal, *High School Extracurricular Activities: Closed Structures and Stratifying Patterns of Participation*, 91 *J. Educ. Rsch.* 183 (1998).....22



Rebecca Winthrop, *The Need for Civic Education in 21st-Century Schools* (Policy 2020 Brookings, June 2020) .....8

Reuben J. Thomas & Daniel A. McFarland, *Joining Young, Voting Young: The Effects of Youth Voluntary Associations on Early Adult Voting* (CIRCLE, Working Paper No. 73, 2010), <https://files.eric.ed.gov/fulltext/ED512250.pdf> .....19, 20

Robert D. Putnam, *Our Kids: The American Dream in Crisis* (2015) .....17, 19

Roberto Stefan Foa & Yascha Mounk, *The Democratic Disconnect*, 27 J. Democracy 5 (2016) .....5

Shelley Billig *et al.*, *The Impact of Participation in Service-Learning on High School Students’ Civic Engagement* (CIRCLE, Working Paper No. 33, 2005), <https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=1002&context=slcek12> .....21

Stephen Hawkins & Taran Raghuram, *American Fabric: Identity and Belonging* (More in Common, Dec. 2020), [https://www.moreincommon.com/media/s5jhgpx5/moreincommon\\_americanfabricreport.pdf](https://www.moreincommon.com/media/s5jhgpx5/moreincommon_americanfabricreport.pdf).....27

Stephen Macedo, *Diversity and Distrust: Civic Education in a Multi-Cultural Democracy* (2000).....25

Subhi Godsay *et al.*, *State Civic Education Requirements* (CIRCLE, Fact Sheet, 2012), <http://files.eric.ed.gov/fulltext/ED536256.pdf> .....8

Suzanne Spaulding *et al.*, Ctr. for Strategic & Int’l Studs., *Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System* (May 2019), [https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/190430\\_RussiaUSJusticeSystem\\_v3\\_WEB\\_FULL.pdf](https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/190430_RussiaUSJusticeSystem_v3_WEB_FULL.pdf) .....6

Todd Clark *et al.*, *Service Learning as Civic Participation*, 36 Theory Into Prac. 164 (1997).....21

U.S. Dep’t of Educ., *Advancing Civic Learning and Engagement in Democracy: A Road Map and Call to Action* (2012) .....10

Veronica Terriquez, *Training Young Activists: Grassroots Organizing and Youths’ Civic and Political Trajectories*, 58 Soc. Persp. 223 (2015) .....21

William A. Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* (1991) .....26

## **IDENTITY AND INTERESTS OF *AMICI CURIAE***

*Amici* are four leading national organizations and three university professors involved in research and policy analysis of issues related to civic education and the role of schools in preparing students for productive citizenship. Specifically, they are:

*The Campaign for the Civic Mission of Schools*, based in Washington, D.C., is a coalition of 60 national organizations that are working together to strengthen civic learning for every student in the nation. The Campaign, which was previously co-chaired by former Supreme Court Associate Justice Sandra Day O'Connor, serves as the public advocacy and policy arm of the national civic learning community. It was a co-author and publisher of the 2011 report, "Guardian of Democracy: The Civic Mission of Schools," which is widely recognized as the most influential statement of national policy on the role of the schools in preparing students to function productively as civic participants.

*The Center for Information and Research on Civic Learning and Engagement (CIRCLE)*, based at the Jonathan M. Tisch College of Civic Life at Tufts University, conducts research on the civic and political engagement of young Americans. CIRCLE, the nation's leading source of authoritative research on the civic and political engagement of young Americans, works nationally with youth-serving organizations to help them understand and assess the impact of their

programming and make the case for policy and infrastructure that supports youth engagement.

*The Civic Engagement Research Group*, at the University of California, Riverside, conducts quantitative and qualitative research focused on understanding the nature of youth civic engagement, the impact of civic learning opportunities and digital media participation on young people's civic capacities and commitments, and the quantity, quality, and equality of civic opportunities and outcomes in public schools and other contexts.

*The Lou Frey Institute*, based at the University of Central Florida, promotes the development of enlightened, responsible, and actively engaged citizens through research, policy analysis, training, and advocacy. The Institute conducts extensive professional development programs for teacher development in civics and develops civic educational materials for students that encourage thoughtful debate and discussion about current policy issues and that build civic and political skills.

*Professor David Campbell* is the Packey J. Dee Professor of American Democracy at the University of Notre Dame and chairperson of the Political Science department. Professor Campbell's research includes a focus on political participation, civic engagement, and political behavior.

*Professor Peter Levine* is the Associate Dean of Academic Affairs and Lincoln Filene Professor of Citizenship and Public Affairs at Tufts University's

Jonathan Tisch College of Civic Life. Professor Levine's research includes extensive analysis concerning civic education, voting rights, public deliberation, social movements, and the measure of social capital.

*Professor Sam Wineburg* is the Margaret Jacks Professor of Education (and, by courtesy) of History & American Studies at Stanford University and head of Stanford's History Education Group. Professor Wineburg's current scholarship focuses on how today's youth learn about the world through digital media and judge the credibility of digital content.

*Amici* submit this brief to inform the Court of the consensus of leading scholars, educators, policy makers, and research institutes throughout the country regarding the full range of knowledge, skills, experiences, and values that schools need to convey to students in order to prepare them to function productively as civic participants.

None of the *amici*, nor any other person, contributed any money to fund preparing or submitting this brief. Each of the *amici* is authorized to file this brief by the procedures of their respective institutions, but the positions taken herein do not necessarily represent the positions of these institutions. This brief is being submitted with the consent of all the parties.

## INTRODUCTION AND SUMMARY OF THE DISCUSSION

Across our divided political landscape, there is one thing that Americans can agree on, no matter what their political affiliation—the imperative for civic education.<sup>1</sup> And support for civic education is not just bipartisan, it is sweeping.<sup>2</sup> In the summer of 2020, following a two-year national study based heavily on listening sessions of individuals with diverse backgrounds and political ideologies, the bipartisan Commission on the Practice of Democratic Citizenship identified the primacy of investing in civic education.<sup>3</sup> This is not surprising—civic education is the mechanism by which individuals learn the knowledge, tools, and values of our

---

<sup>1</sup> See CivXNow (a project of iCivics), *Civics is the Solution to What Ails Our Democracy*, <https://www.civxnow.org/sites/default/files/resources/CivXNow%20infographic%20-%20Luntz%20polling%20-%20FINAL.pdf> (“*Civics is the Solution*”) (when asked “[w]hat would have the most positive and meaningful impact on strengthening the American identity,” the overwhelming, bipartisan response was civic education for students in kindergarten through twelfth grade); see also CivXNow, *Majority of Americans See K-12 Civic Education as the Best Solution* (Sept. 29, 2020), <https://medium.com/civxnow/majority-of-americans-see-k-12-civic-education-as-the-best-solution-8e444a70352b> (interview with Dr. Frank Luntz, pollster and messaging expert, discussing the same).

<sup>2</sup> See *Civics is the Solution*, *supra* note 1 (57% of participants across political parties agreed that civic education would have the most positive impact on strengthening the American identity).

<sup>3</sup> Am. Acad. of Arts & Scis., *Our Common Purpose: Reinventing American Democracy for the 21st Century* 63 (June 2020), <https://www.amacad.org/ourcommonpurpose/report> (“*Our Common Purpose*”) (“A constitutional democracy requires its citizens not just to be committed to its success and to one another, but also to develop the knowledge, skills, and habits that allow them to participate fully in the democratic process.”).

American democracy that are necessary to navigate the challenges in our increasingly complex and pluralistic society.

In the district court opinion below, Judge William E. Smith eloquently called out the need for civic education.<sup>4</sup> Drawing from scholarly research and commentary, Judge Smith surveyed the “impending threats to democracy in the United States and around the world,” including the collapse of democratic norms, the “existential problem of creeping authoritarianism,” and “forces of anarchy and political desperation [that] cynically stoke [the] fires of division to pursue or retain power.”<sup>5</sup> Indeed, studies and reports of a growing culture of political apathy and a burgeoning erosion of trust and confidence in each other and in America’s political leaders and democratic institutions are painfully legion,<sup>6</sup> especially among the nation’s youth.<sup>7</sup>

---

<sup>4</sup> ECF No. 42, at 17. References herein to “ECF” refer to filings in the United States District Court for the District of Rhode Island in connection with Docket Number 1:18-cv-00645-WES-PAS.

<sup>5</sup> *Id.* at 6–9.

<sup>6</sup> See, e.g., Nathaniel Persily & Jon Cohen, Opinion, *Americans Are Losing Faith in Democracy—And in Each Other*, Wash. Post (Oct. 14, 2016), [https://www.washingtonpost.com/opinions/americans-are-losing-faith-in-democracy--and-in-each-other/2016/10/14/b35234ea-90c6-11e6-9c52-0b10449e33c4\\_story.html?utm\\_term=.308071988730](https://www.washingtonpost.com/opinions/americans-are-losing-faith-in-democracy--and-in-each-other/2016/10/14/b35234ea-90c6-11e6-9c52-0b10449e33c4_story.html?utm_term=.308071988730) (46% of Americans either “never had” or had “lost faith” in democracy); Roberto Stefan Foa & Yascha Mounk, *The Democratic Disconnect*, 27 J. Democracy 5, 7–8 (2016) (among those born after 1980, only about 30% strongly agreed that it is

Exacerbating this state of affairs, the dominance of the internet and social media communications, like Facebook and Twitter, have given rise to superficial, one-sided, and false outlets of information,<sup>8</sup> which feed divisiveness and intensify the political gridlock and extreme polarization that has become commonplace within our political system.<sup>9</sup> And there are other perils in our collective inability to discern truth from falsehood: manipulation by foreign powers. Highlighting the issue, in May 2019, former Undersecretary of Homeland Security Suzanne Spaulding authored a report that studied Russian disinformation operations to sow “mistrust and paranoia against democratic institutions” by exploiting divisions within our own society.<sup>10</sup>

---

“essential” for them to live in a democracy); *Our Common Purpose*, *supra* note 3, at 11–12 (discussing challenges to American democracy).

<sup>7</sup> See Meira Levinson, *No Citizen Left Behind* 27–28 (2012) (discussing students’ cynicism towards President Bush after the September 11 attacks).

<sup>8</sup> See Campaign for the Civic Mission of Schs., *Guardian of Democracy: The Civic Mission of Schools* 12 (Jonathan Gould *et al.*, eds., 2011) (“*Guardian of Democracy*”) (noting that our “public discourse is increasingly driven by partisanship and ideology”).

<sup>9</sup> See *Our Common Purpose*, *supra* note 3, at 18 (stating that “many more people experience social media as an environment that undermines trust and trustworthiness and helps create a world where different groups have their own sets of facts, making deliberative discussion impossible and consensus elusive”).

<sup>10</sup> Suzanne Spaulding, *et al.*, Ctr. for Strategic & Int’l Studs., *Beyond the Ballot: How the Kremlin Works to Undermine the U.S. Justice System* 1–3 (May 2019), <https://csis-website-prod.s3.amazonaws.com/s3fs->



These trends coincide with alarmingly low levels of basic civic knowledge among American students. For instance, according to the federal government’s educational report card, the National Assessment of Educational Progress (“NAEP”), the most recent civics exam assessment reported that only 24% of a national sample of eighth graders scored at or above a “proficient” level.<sup>11</sup>

This dismal state of civic education is a far cry from that envisioned by America’s founders, who recognized the centrality of education to the healthy functioning of our democratic society, and understood that to enhance and safeguard our young democracy, all citizens would need to acquire the knowledge and skills to make informed, intelligent decisions.<sup>12</sup> America’s first public schools were thus designed to educate all students, regardless of class, religion, or ethnicity, to become capable civic participants.<sup>13</sup> But this civic mission has steadily eroded

---

public/publication/190430\_RussiaUSJusticeSystem\_v3\_WEB\_FULLL.pdf. Spaulding recommended civics education as a “vital” ingredient to resilience against such efforts. *See id.* at 34.

<sup>11</sup> Nat’l Assessment of Educ. Progress, *The Nation’s Report Card, 2018 Civics Assessment*, <https://www.nationsreportcard.gov/civics/results/achievement/> (“2018 Civics Assessment”); *see also Guardian of Democracy*, *supra* note 8, at 14 (finding that less than one-third of students could identify the historical purpose of the Declaration of Independence).

<sup>12</sup> *See* Lawrence A. Cremin, *American Education: The National Experience 1783-1876* 137–38 (1980) (discussing the “common school” movement’s attempt to educate students from all backgrounds).

<sup>13</sup> *Guardian of Democracy*, *supra* note 8, at 11 (early advocates for universal education “held the shared view that the only guarantor of democracy resided

as schools increasingly shift their focus to preparation for job placement, and educational policy reforms incentivize proficiency in math and English, leaving instruction in courses that support civic education, such as social studies, to fall by the wayside<sup>14</sup>—particularly in schools with limited resources.

But there is reason for hope. Schools—despite the recent decline in preparing students for civic participation—remain the best forum to promote and foster civic learning for the next generation of citizens. And teachers enjoy bipartisan support as trusted advocates for robust civics education.<sup>15</sup> Today,

---

with [public] schools”); *see also* Cremin, *supra* note 12, at 138 (explaining that public schools “would be for rich and poor alike, the equal of any private institution”); Rebecca Winthrop, *The Need for Civic Education in 21st-Century Schools* 2–3 (Policy 2020 Brookings, June 2020) (noting that “free, standardized, and universal schooling was essential to the grand American experiment of self-governance”).

<sup>14</sup> *See* Subhi Godsay *et al.*, *State Civic Education Requirements 2* (CIRCLE, Fact Sheet, 2012), <http://files.eric.ed.gov/fulltext/ED536256.pdf> (detailing a steady decline in emphasis on social studies).

<sup>15</sup> *See* *Civics is the Solution*, *supra* note 1 (59% of participants selected teachers as the most trusted advocate for “the need to have greater, more robust civics education in our nation’s schools,”—more than chose journalists, politicians, or Supreme Court Justices). Moreover, a recent study by *amicus* CIRCLE highlighted the imperative not just to implement new civics programs, but to ensure that teachers are made aware of them and given the proper professional learning opportunities to successfully teach them. *See* Ariel Tichnor-Wagner, Kei Kawashima-Ginsberg & Noorya Hayat, *The State of Civic Education in Massachusetts* 4 (CIRCLE, Jan. 12, 2021), <https://circle.tufts.edu/latest-research/state-civic-education-massachusetts> (noting that 37% of teachers had never heard of Massachusetts legislation passed two years earlier designed to increase emphasis on civics across all grade levels).

schools continue to be the main institutional setting in which young people from diverse political backgrounds can come together in a venue where rational discussion and tolerance for differing views can be encouraged and rewarded. As Judge Smith put it, “we must not only teach our young people the mechanics of our civic institutions, but why they matter in the context of American democracy.”<sup>16</sup> Or, as he poignantly acknowledged, we “ignore these things at our . . . peril.”<sup>17</sup>

*Amici* have extensively studied the civic education necessary to prepare students to become capable citizens who can function productively in the political process. The fundamental aspects of a civic education can be grouped into four categories: civic knowledge, civic skills, civic experiences, and civic values. These categories are discussed in detail below.

## DISCUSSION

### I. Civic Knowledge

To meaningfully participate in a democracy, students must be exposed to a broad range of general knowledge in addition to having a working understanding of government, history, law, and democracy.<sup>18</sup> A range of knowledge in subjects

---

<sup>16</sup> ECF No. 42, *supra* note 4, at 15.

<sup>17</sup> *Id.* at 17.

<sup>18</sup> See *Guardian of Democracy*, *supra* note 8, at 26 (discussing research showing that high-quality instruction in those subjects leads to the knowledge and skills needed for democratic participation).

such as world languages, economics, science, and the arts are “foundational to understanding political and social issues in an ever-evolving world.”<sup>19</sup>

“Democratic citizenship is all but impossible if citizens fail to understand basic concepts such as separation of powers, federalism, individual rights, and the role of government”<sup>20</sup>—knowledge critical to enable students to participate in basic political processes, such as voting and jury service. But instruction in a wide range of disciplines is also critical for fostering responsible citizens who appreciate the contributions, achievements, and struggles of the subgroups within our nation as well as outside it—a key to successful deliberation that is essential to a thriving democracy.<sup>21</sup>

Recently, however, courses that impart civic knowledge have been relegated to a lower tier of curricula.<sup>22</sup> Federal education increasingly prioritizes teaching focused on the standardized testing of basic literacy and mathematics over teaching

---

<sup>19</sup> Ann Newman, *Realizing Educational Rights: Advancing School Reform Through Courts and Communities* 37 (2013).

<sup>20</sup> *Guardian of Democracy*, *supra* note 8, at 16.

<sup>21</sup> See Martha Nussbaum, *Not for Profit: Why Democracy Needs the Humanities* 2, 81 (2010) (noting that exposure to a wide range of disciplines produces “complete citizens who can think for themselves” and that “successful deliberation in our complex . . . culture” requires students to acquire “knowledge about nations and traditions outside [their] own”).

<sup>22</sup> See U.S. Dep’t of Educ., *Advancing Civic Learning and Engagement in Democracy: A Road Map and Call to Action* 1 (2012) (criticizing the relegation of civic learning to the “sidelines”).

civics-related courses like history, social studies, economics, and even science.<sup>23</sup>

For example, in a study conducted to assess the impact of the No Child Left Behind Act (“NCLB”), 33% of elementary school districts reported that they had to reduce instructional time for social studies “somewhat/to a great extent,” and 29% reduced instruction time for science to the same degree in order to make more time for English and math.<sup>24</sup>

Moreover, large school districts are disproportionately affected by the NCLB: a whopping 90% of large school districts were compelled to make adjustments to their courses of instruction, whereas 70% of smaller districts were forced to implement these same changes.<sup>25</sup> Further illustrating this concerning disparity, school districts with a higher percentage of students eligible for reduced-price or free lunch programs reported being much more likely to mandate a

---

<sup>23</sup> The No Child Left Behind Act and its 2015 successor, the Every Student Succeeds Act, require that schools teach English and mathematics to certain standards, but have no equivalent requirements for civics-related subjects. *See* 20 U.S.C. § 6311(b)(1)(C). As a result, schools use their limited resources to teach the two subjects required by law. Ctr. on Educ. Pol’y, *From the Capital to the Classroom: Year 4 of the No Child Left Behind Act*, Table 4-D, at 96 (2006) (“*From the Capital to the Classroom*”) (demonstrating a declining emphasis on social studies across the nation’s schools).

<sup>24</sup> *From the Capital to the Classroom*, *supra* note 23, Table 4-D, at 96.

<sup>25</sup> *Id.* at Table 4-C, at 96.

specified amount of time for reading instruction, effectively reducing instruction time in other areas supporting civic-related knowledge.<sup>26</sup>

Not surprisingly, this de-emphasis on civics-related education in public schools corresponds with drastic deficiencies in civic knowledge among students. In 2018, an assessment of eighth graders across the country, known as the Nation's Report Card, found that 76% of participating eighth graders failed to display an understanding of fundamental civic knowledge.<sup>27</sup> To achieve a "proficient" level in the civics assessment, a student is required to "understand and be able to explain purposes [the] government should serve"; understand "differences between government and civil society and of the importance of the rule of law"; "understand the separation and sharing of powers among branches of government

---

<sup>26</sup> *Id.* at Figure 4-A, at 97. According to the study, 97% of school districts in which 76–100% of students are eligible for free or reduced-price lunch programs have mandatory amounts of time for reading/language arts instruction in elementary school, whereas mandatory reading/language arts instruction periods for elementary school exist in only 55% of school districts in which 1–10% of students enrolled are eligible for such programs. Another study concluded that the narrowing of school curricula predates NCLB, and points to other causes, such as "a whole movement for standards and accountability in reading and mathematics [and] the priorities of students and parents." Peter Levine *et al.*, *Getting Narrower at the Base: The American Curriculum after NCLB* 18 (CIRCLE, Major Report, 2009), [https://circle.tufts.edu/sites/default/files/2020-02/narrower\\_base\\_curriculum\\_nclb.pdf](https://circle.tufts.edu/sites/default/files/2020-02/narrower_base_curriculum_nclb.pdf).

<sup>27</sup> 2018 Civics Assessment, *supra* note 11.

and between federal and state governments”; and “explain how citizens influence government.”<sup>28</sup> Only 24% of those surveyed could do so.

In short, without a working knowledge about our representative system and processes and purposes of government, students will lack the necessary context to understand how to function in our democratic system, and without the broader areas of learning, such as world history, science, and economics, students are ill-equipped to understand or assess issues of public policy, to critically analyze biased or false information, or to intelligently engage with others who share different political and social views.<sup>29</sup>

As former Supreme Court Associate Justice Sandra Day O’Conner stated:

The better educated our citizens are, the better equipped they will be to preserve the system of government we have. And we have to start with the education of our nation’s young people. Knowledge about our government is not handed down through the gene pool. Every generation has to learn it, and we have some work to do.<sup>30</sup>

---

<sup>28</sup> *Id.*

<sup>29</sup> See *Guardian of Democracy*, *supra* note 8, at 16 (noting that “responsible citizenship” demands that students understand history, geography, and economics); Nussbaum, *see supra* note 21, at 81 (emphasizing the need for a broad education to productively engage in discourse in our “complex and enormously diverse contemporary culture”).

<sup>30</sup> *Guardian of Democracy*, *supra* note 8, at 10.

## II. Civic Skills

Civic skills—the ability to deliberate with people on varying viewpoints about controversial topics, to participate in methods of civic engagement, and to effectively analyze media and utilize the internet in socially responsible ways—are arguably more vital now than ever before. While the development of civic skills has always been paramount, today’s youth face an unprecedented challenge: discerning fact from fiction on the internet—the primary source for information gathering. The population at large, and students in particular, are presently ill-equipped to effectively sift through information on the internet. For example, analyses from a nationally representative sample of young people ages 15 to 27 found that judgments regarding the accuracy of simulated posts, intended to replicate political messages found on social media, were far more likely to be based on whether a post aligned with the individual’s viewpoint rather than on whether the post was actually accurate.<sup>31</sup> Another study by *amicus* Sam Wineburg and others at Stanford University concluded that “students [were] unprepared to

---

<sup>31</sup> Joseph Kahne & Benjamin Bowyer, *Educating for Democracy in a Partisan Age: Confronting the Challenges of Motivated Reasoning and Misinformation*, 54 *Am. Educ. Rsch. J.* 3, 6 (2017).



navigate the digital landscape,” and “displayed a troubling tendency to accept websites at face value.”<sup>32</sup>

Schools provide an opportunity not only to help students effectively evaluate and navigate the flood of competing information they will encounter, but also to harness the power of the internet to heighten civic engagement. With proper training, the internet allows enterprising young people to research important political issues, organize around those issues, and voice their opinions in a productive, meaningful, and responsible way. A recent study reported that, over a two-year period, school-based efforts to promote “digital engagement literacies” increased the likelihood that young people would express their civic and political voices by creating and sharing information and perspectives on social issues during their free time.<sup>33</sup>

---

<sup>32</sup> Joel Breakstone, Mark Smith & Sam Wineburg, *Students’ Civic Online Reasoning: A National Portrait* 26 (2019), <https://stacks.stanford.edu/file/druid:gf151tb4868/Civic%20Online%20Reasoning%20National%20Portrait.pdf>. The study found that “[w]hen presented with an anonymously posted Facebook video claiming to show voter fraud in the United States, less than nine percent of students formulated a coherent explanation for why it constituted a problem,” and that “[f]ifty-two percent believed that the video, which actually showed footage from Russia, provided *strong* evidence of voter fraud in the U.S.” *Id.* The study concluded that “[s]uch credulity make it too easy for bad actors to undermine faith in the democratic process.” *Id.*

<sup>33</sup> Joseph Kahne & Benjamin Bowyer, *Can Media Literacy Education Increase Digital Engagement in Politics?*, 44 *Learning, Media & Tech.* 211, 221–22 (2019), <https://doi.org/10.1080/17439884.2019.1601108>.

Equally important, to cultivate a generation of strong democratic participants, schools must impart skills that allow students to communicate information to one another effectively and to present varying perspectives persuasively. In 2014, the National Assessment of Educational Progress identified the most important tools to prepare students for civic participation—verbal and cognitive skills that enable students to identify, describe, and analyze information and arguments, as well as evaluate, take, and defend positions on public policy issues.<sup>34</sup> These skills must be taught in the unique context of civics because “[t]he verbal work involved in civic agency extends well beyond our usual focus on deliberation to include also adversarial and prophetic speech.”<sup>35</sup> Promoting civic deliberation and adversarial discussion between students with divergent viewpoints creates valuable opportunities for students to disagree productively and to learn critical civic skills through exploration of various “cross-cutting ideas.”<sup>36</sup>

Additionally, experiential practice in building civic skills is beneficial for building

---

<sup>34</sup> Nat’l Assessment Governing Bd., *Civics Framework for the 2014 National Assessment of Educational Progress* 1–4 (2014), <https://www.nagb.gov/content/nagb/assets/documents/publications/frameworks/civics/2014-civics-framework.pdf>.

<sup>35</sup> Danielle Allen, *Education and Equality* 40–41 (2016).

<sup>36</sup> Diana C. Mutz, *Hearing the Other Side: Deliberative versus Participatory Democracy* 148–50 (2006). The more students are exposed to varying ideas and practice debating with peers in school, the more tolerant they will be of opposing viewpoints and aware of the rationales behind those viewpoints in the future.

civic knowledge. For example, one study showed that 12th graders who were more regularly exposed to discussions of current events and simulations of the democratic process performed better on tests measuring their basic civic knowledge than those who had not been exposed.<sup>37</sup>

Furthermore, failure to provide these critical skills to students throughout public schools will only deepen existing divides in the proficiency and use of civic skills between disparate socioeconomic groups.<sup>38</sup> A national study conducted by *amicus* CIRCLE concluded that “[s]tudents who are more academically successful and those with parents of higher socioeconomic status receive more classroom-based civic learning opportunities,” and that schools, “rather than helping to equalize the capacity and commitments needed for democratic participation, appear to be exacerbating this inequality by providing more preparation for those

---

<sup>37</sup> Kei Kawashima-Ginsberg, *Do Discussion, Debate, and Simulations Boost NAEP Civics Performance?* 15–16 (CIRCLE, Fact Sheet, 2013), [https://circle.tufts.edu/sites/default/files/2020-01/discussion\\_debate\\_naep\\_2013.pdf](https://circle.tufts.edu/sites/default/files/2020-01/discussion_debate_naep_2013.pdf).

<sup>38</sup> See Robert D. Putnam, *Our Kids: The American Dream in Crisis* 212 (2015) (young people from higher income backgrounds are “more likely to use the Internet for jobs, education, political and social engagement, health, and news gathering and less for entertainment or recreation”).

who are already likely to attain a disproportionate amount of civic and political voice.”<sup>39</sup>

It is thus essential that these civic skills be taught to *all* our students; doing so will create an engaged and critically analytical generation of young voters, who will have both the knowledge and the skills to fulfill their civic responsibilities, as well as the desire and values to do so in a meaningful and responsible way.

### III. Civic Experience

Students also require exposure to experiences that show them how politics and government work in practice, and how civic participation can influence social and political outcomes. There are three types of civic experiences that schools can offer to facilitate civic participation and cultivate civic-minded attitudes: extracurricular activities, community service, and governance.

Extracurricular activities first emerged in schools at the beginning of the 20th century, and were intended to “diffuse among all classes . . . ‘soft skills’—strong work habits, self-discipline, teamwork, leadership, and a sense of civic

---

<sup>39</sup> Joseph Kahne & Ellen Middaugh, *Democracy for Some? The Civic Opportunity Gap in High School* 18 (CIRCLE, Working Paper No. 59, 2008), [https://circle.tufts.edu/sites/default/files/2019-12/WP59\\_TheCivicOpportunityGapinHighSchool\\_2008.pdf](https://circle.tufts.edu/sites/default/files/2019-12/WP59_TheCivicOpportunityGapinHighSchool_2008.pdf). *See also* Kawashima-Ginsberg, *supra* note 37, at 2 (noting that parental education and lunch-program eligibility were highly predictive of exposure to practices that build civic skills, such as debates, democratic simulations, and discussions of current events).

engagement.”<sup>40</sup> Continued involvement in extracurricular activities is consistently correlated with favorable outcomes, including better educational attainment and earnings.<sup>41</sup>

Participation in extracurricular activities also makes students more likely to vote and engage in volunteering, for several reasons.<sup>42</sup> First, extracurricular activities teach students collective efficacy; that is, “the perception that the members can work together to affect their environment.”<sup>43</sup> Regardless of whether the activity itself has political content, “[a]ny activity that improves students’ sense of being able to make a difference can increase their likelihood of voting.”<sup>44</sup>

---

<sup>40</sup> Putnam, *supra* note 38, at 174.

<sup>41</sup> *Id.* at 174–76; see Gregory J. Palardy, *High School Socioeconomic Segregation and Student Attainment*, 50 *Am. Educ. Rsch. J.* 714, 723 (2013) (for students with low socioeconomic status, participation in extracurriculars is predictive of academic engagement).

<sup>42</sup> See Daniel Hart *et al.*, *High School Community Service as a Predictor of Adult Voting and Volunteering*, 44 *Am. Educ. Rsch. J.* 197, 213 (2007) (finding that students who participated in extracurriculars in high school were more likely to volunteer and vote in presidential elections in early adulthood); Reuben J. Thomas & Daniel A. McFarland, *Joining Young, Voting Young: The Effects of Youth Voluntary Associations on Early Adult Voting* 23 (CIRCLE, Working Paper No. 73, 2010), <https://files.eric.ed.gov/fulltext/ED512250.pdf> (concluding that high school extracurriculars are positively related to voting in early adulthood, and that lack of participation in extracurriculars is related to a lower rate of voting).

<sup>43</sup> Thomas & McFarland, *supra* note 42, at 6.

<sup>44</sup> *Id.*

Second, extracurricular activities connect students to like-minded peers; these relationships can be sources of subtle social influence, or even direct political recruitment, which might result in a greater likelihood of voting.<sup>45</sup> Finally, by exposing students to different cultures, extracurricular activities can alter students' political and civic values and how they view political processes and events.<sup>46</sup>

Involvement in community service is also positively correlated with voting and volunteering.<sup>47</sup> The reasons are similar—community service allows participants to become involved with political issues to which they would not otherwise have firsthand exposure, provides a network of like-minded people with whom the participants can discuss civic issues, and exposes people to social problems about which they may have been previously unaware.<sup>48</sup>

---

<sup>45</sup> *See id.* at 6–7. (“Activities that are completely devoid of political content and impart no skills or culture relevant to voting might still have an effect, if they connect youth to politically motivated others.”).

<sup>46</sup> *See id.* at 7 (describing the ability of extracurriculars to expose their members to new elements of culture).

<sup>47</sup> *See Hart et al., supra* note 42, at 213 (“The most striking finding to emerge from our analyses is that high school community service predicted adult voting.”); Daniel A. McFarland & Reuben J. Thomas, *Bowling Young: How Youth Voluntary Associations Influence Adult Political Participation*, 71 *Am. Soc. Rev.* 401, 418 (2006) (finding that membership experiences in service organizations have positive effects on adult political participation).

<sup>48</sup> *See Hart et al., supra* note 42, at 199 (describing reasons that involvement in community service can influence later political participation).

Similarly, integration of community service projects into classroom instruction, or “service learning,” can be particularly useful in imparting civic skills.<sup>49</sup> Indeed, service learning is predictive of adult voting, regardless of the frequency of the service or even whether it is voluntary or mandated.<sup>50</sup>

Finally, participation in student government is a strong predictor of adult civic participation.<sup>51</sup> Student government and related public-oriented associations need not, however, be expressly political to foster students’ “ongoing civic and political participation.”<sup>52</sup> As with extracurricular activities and community service,

---

<sup>49</sup> See Todd Clark *et al.*, *Service Learning as Civic Participation*, 36 *Theory Into Prac.* 164, 168–69 (1997) (arguing for the importance of service learning in “invigorat[ing] democracy”).

<sup>50</sup> See Shelley Billig *et al.*, *The Impact of Participation in Service-Learning on High School Students’ Civic Engagement* 53 (CIRCLE, Working Paper No. 33, 2005), <https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=1002&context=sleek12> (concluding that service-learning students were significantly more likely to report the intention to vote); Hart *et al.*, *supra* note 42, at 213 (taking “[s]pecial note that school-based required service was found to be as efficacious as voluntary service in predicting subsequent civic engagement”).

<sup>51</sup> See Michelle L. Frisco *et al.*, *Participation in Voluntary Youth-Serving Organizations and Early Adult Voting Behavior*, 85 *Soc. Sci. Q.* 660, 663 (2004) (“Adults who were involved in student government . . . are more likely to be voters.”); James Youniss *et al.*, *The Role of Community Service in Identity Development: Normative, Unconventional, and Deviant Orientations*, 14 *J. Adolescent Rsch.* 248, 260 (1999) (finding that student government participation “predicts voting and the absence of political alienation 15 to 25 years later”).

<sup>52</sup> Veronica Terriquez, *Training Young Activists: Grassroots Organizing and Youths’ Civic and Political Trajectories*, 58 *Soc. Persp.* 223, 224–25 (2015).

this type of experience is significant because it encourages students to work together to achieve common purposes and to take responsibility for their communities.<sup>53</sup>

Yet, despite the demonstrated importance of civic experiences to the development of students as capable participants in American democracy, involvement in these programs—particularly in poor communities and communities of color—lags well behind what is needed to afford every student the chance to gain these vital civic experiences.<sup>54</sup> And in times of resource constraint, these programs are often the first to be eliminated<sup>55</sup>—a phenomenon particularly acute in districts populated by students living in poverty.<sup>56</sup>

---

<sup>53</sup> See Hart *et al.*, *supra* note 42, at 214 (concluding that participation in student government builds civic skills).

<sup>54</sup> See Ralph McNeal, *High School Extracurricular Activities: Closed Structures and Stratifying Patterns of Participation*, 91 J. Educ. Rsch. 183, 186 (1998) (finding that Blacks and Latinos are less likely than whites to participate in extracurriculars); Brian Knop & Julie Siebens, *A Child's Day: Parental Interaction, School Engagement, and Extracurricular Activities: 2014*, U.S. Census Bureau 5 (2018), <https://www.census.gov/content/dam/Census/library/publications/2018/demo/P70-159.pdf> (“Children in poverty were less likely to participate in [extracurricular] activities than those not in poverty.”).

<sup>55</sup> See June Kronholtz, *Academic Value of Non-Academics: The Case for Keeping Extracurriculars*, *Educ. Next*, Winter 2012, at 9 (describing a school district eliminating its extracurricular budget and the negative long-term impact of such decisions).

<sup>56</sup> See Elizabeth Stearns & Elizabeth J. Glennie, *Opportunities to Participate: Extracurricular Activities' Distribution Across and Academic Correlates in*



Providing equal access to and encouraging participation in myriad types of civic experiences has proven and sustained effects on lifelong civic engagement. These experiences are vital to ensure that all students have the opportunity to exercise civic skills and to gain the know-how and confidence to participate in the political process and become capable citizens.

#### **IV. Civic Values**

Finally, learning to appreciate each other's differences and instilling shared democratic values, such as respect for the rule of law and concern for the rights and welfare of others, are fundamental to creating an environment for productive civic participation. Recent events have only served to highlight this imperative. From the latest clashes over racial injustice,<sup>57</sup> to allegations of widespread election fraud amidst the November 2020 Presidential election,<sup>58</sup> to fighting the COVID-19

---

*High Schools*, 39 Soc. Sci. Rsch. 296, 307 (2010) (finding that student poverty level is negatively associated with the number of activities available).

<sup>57</sup> See, e.g., Elliott C. McLaughlin, *How George Floyd's Death Ignited a Racial Reckoning that Shows No Signs of Slowing Down*, CNN (last updated Aug. 9, 2020), <https://www.cnn.com/2020/08/09/us/george-floyd-protests-different-why/index.html> (describing the protests following the death of George Floyd as “bigger” than previous Black Lives Matter protests).

<sup>58</sup> See, e.g., Andrew Restuccia & Alex Leary, *Trump Reasserts Fraud Claims Despite Lack of Evidence, Losses in Court*, Wall St. J. (Dec. 2, 2020), <https://www.wsj.com/articles/trump-reasserts-fraud-claims-despite-lack-of-evidence-losses-in-court-11606949718> (describing President Trump's unsubstantiated statements about election fraud).

pandemic,<sup>59</sup> these are uniquely complex and divisive times. But it is precisely in times of division that our shared civic values should unite us.

Most Americans agree that schools are crucial training grounds for preparing children to become democratic citizens.<sup>60</sup> The values necessary for participation in American democracy include:

[L]oyalty to the nation, acceptance of the Declaration of Independence and Constitution as venerable founding documents, appreciation that in American constitutionalism rights sometimes trump majority rule and majority rule is supposed to trump intense desire, belief in the rule of law as the proper grounding for a legal system, belief in equal opportunity as the proper grounding for a social system, willingness to adhere to the discipline implied by rotation in office through an

---

<sup>59</sup> See, e.g., Helaine Olen, Opinion, *How Covid-19 Is Ripping Us Apart*, Wash. Post (Nov. 14, 2020), <https://www.washingtonpost.com/opinions/2020/11/14/how-covid-19-is-ripping-us-apart/> (arguing that society is becoming increasingly stratified as a result of the COVID-19 pandemic); see also Gary Abernathy, Opinion, *Our Covid-19 Polarization Will Only Get Worse. We Need to Find a Balance*, Wash. Post (Nov. 18, 2020), <https://www.washingtonpost.com/opinions/2020/11/18/our-covid-19-polarization-will-only-get-worse-we-need-find-balance/> (calling for “respect and compromise” in light of disagreements about social distancing and mask-wearing).

<sup>60</sup> See Jennifer L. Hochschild & Nathan Scovronick, *Democratic Education and the American Dream*, in *Rediscovering the Democratic Purposes of Education* 209, 212 (Lorraine McDonnell, P. Michael Timpane, & Roger Benjamin eds., 2000) (discussing Americans’ consensus on two goals for schooling: enhancing chances for individual student success and providing skills to engage in democratic politics).

electoral system, and . . . economic and social values such as work ethic, self-reliance, and trustworthiness.<sup>61</sup>

Taken together, these values outline the contours of our “democratic virtue,” defined as the willingness and “the ability to deliberate, and hence to participate in conscious social reproduction.”<sup>62</sup> In other words, while these values have inherent importance, they are additionally critical because, without them, citizens will be unable to meaningfully participate in our democratic institutions. The practice of democracy itself presumes that participants are willing to play by the voting rules, are able to communicate disparate views with a degree of civility, and are committed to the greater good even if their electoral choice loses.<sup>63</sup> Moreover, in response to concerns that schools may be overstepping by teaching these values, civics scholars note that instruction in tolerance, deliberation, and other similar

---

<sup>61</sup> *Id.*; see also Stephen Macedo, *Diversity and Distrust: Civic Education in a Multi-Cultural Democracy* 234 (2000) (discussing tolerance as a civic value); Jeffrey S. Dill, *Preparing for Public Life: School Sector and the Educational Context of Lasting Citizen Formation*, 87 *Soc. Forces* 1265, 1270 (2009) (discussing civic values that are “generally understood to represent the knowledge, attitudes and behaviors necessary for participation in a democratic society”).

<sup>62</sup> Amy Gutmann, *Democratic Education* 46 (1987).

<sup>63</sup> See Hochschild & Scovronick, *supra* note 60, at 211 (discussing the values underlying the practice of democratic government).

values is “perfectly compatible with unswerving belief in the correctness of one’s own way of life.”<sup>64</sup>

In 1749, Benjamin Franklin identified the inculcation of civic values in American children—instilling the ideology of the American dream and imbuing “Principles of Rectitude and Morality”—as the nation’s most important social policy.<sup>65</sup> Two and a half centuries later, the Supreme Court recognized that public schools are “the primary vehicle for transmitting ‘the values on which our society rests.’”<sup>66</sup>

Indeed, students whose teachers practice and encourage these traits in a school environment are more likely to trust and participate in community institutions.<sup>67</sup> For example, one study found that adolescents’ civic commitments

---

<sup>64</sup> William A. Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State* 253 (1991).

<sup>65</sup> See Hochschild & Scovronick, *supra* note 60, at 209 (discussing Franklin’s view on the importance of youth education to a country’s success).

<sup>66</sup> *Plyler v. Doe*, 457 U.S. 202, 221 (1982) (quoting *Ambach v. Norwick*, 441 U.S. 68, 76 (1979)).

<sup>67</sup> See Connie Flanagan & Leslie Gallay, *Adolescent Development of Trust* 16 (CIRCLE, Working Paper No. 61, 2008), [https://circle.tufts.edu/sites/default/files/2019-12/WP61\\_AdolescentDevelopmentofTrust\\_2008.pdf](https://circle.tufts.edu/sites/default/files/2019-12/WP61_AdolescentDevelopmentofTrust_2008.pdf) (concluding that adolescent trust in the democratic system was “significantly predicted . . . by their reports that their teachers practiced a democratic ethos at school”); *Guardian of Democracy*, *supra* note 8, at 17 (concluding that students “feel a greater sense of . . . trust in leaders when they report their teachers have promoted tolerance and respect for all students”).

and trust in democratic institutions were predicted in part by whether their teachers encouraged civic values in the classroom; specifically, whether they “insisted on tolerance and respect and encouraged an open exchange of views between students.”<sup>68</sup>

In sum, schools that effectively impart bedrock civic principles, such as respect for the rule of law and due process, enable students to understand the fundamental democratic framework in which they will one day participate, just as instilling values such as tolerance, concern for others, and equality, go far toward developing students into citizens who are prepared to civically engage in our complex and diverse society.

---

<sup>68</sup> Flanagan & Gallay, *supra* note 67, at 16; *see also* Constance A. Flanagan *et al.*, *School and Community Climates and Civic Commitments: Patterns for Ethnic Minority and Majority Students*, 99 *J. Educ. Psych.* 421, 423 (2007) (concluding that “when teachers set standards of civility, respect, and fair and equal treatment, they create a democratic climate for learning”). The imperative to promote civic values in the classroom is all the more important given that a sense of shared civic values is deeply enmeshed with a feeling of “belonging.” A recent study has shown that “[f]eelings of belonging in America differ sharply by race, generation, and ideology, with young Americans and Black, Asian, and Hispanic Americans feeling less “at home” in America. Stephen Hawkins & Taran Raghuram, *American Fabric: Identity and Belonging* 8 (More in Common, Dec. 2020), [https://www.moreincommon.com/media/s5jhgpx5/moreincommon\\_americanfabricreport.pdf](https://www.moreincommon.com/media/s5jhgpx5/moreincommon_americanfabricreport.pdf).

## CONCLUSION

Thomas Jefferson said, “[e]ducate and inform the whole mass of people . . . . [t]hey are the only sure reliance for the preservation of liberty.” It is axiomatic that our democratic system of government depends on an engaged, educated, and capable citizenry. Each aspect of civic education is essential to prepare students to meaningfully participate as citizens in the democratic system upon which America was founded. *Amici* believe that affording *all* students this civic education is necessary to ensure a flourishing democracy for generations to come.

For the foregoing reasons, *amici* urge the Court to grant Appellants' appeal to reverse and remand.

Dated: February 1, 2021

Of counsel:  
Jillian L. Trezza  
Amy C. Zimmerman  
Erik Rubinstein

Respectfully submitted,

By:

/s/ Andrew J. Ceresney  
Andrew J. Ceresney  
aceresney@debevoise.com

DEBEVOISE & PLIMPTON LLP  
919 Third Avenue  
New York, NY 10022  
Tel: (212) 909-6000  
Fax: (212) 909-6836

*Counsel for Amici Curiae The Campaign for the Civic Mission of Schools; The Center for Information and Research on Civic Learning and Engagement; The Civic Engagement Research Group; The Lou Frey Institute; Professor David Campbell; Professor Peter Levine; Professor Sam Wineburg.*

**CERTIFICATE OF COMPLIANCE**

This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B), because it contains 6,472 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f). This 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 it has been prepared in proportionally spaced Times New Roman 14-point font.

Dated: February 1, 2021

/s/ Andrew J. Ceresney  
Andrew J. Ceresney  
aceresney@debevoise.com

DEBEVOISE & PLIMPTON LLP  
919 Third Avenue  
New York, NY 10022  
Tel: (212) 909-6000  
Fax: (212) 909-6836

*Counsel for Amici Curiae The Campaign for the Civic Mission of Schools; The Center for Information and Research on Civic Learning and Engagement; The Civic Engagement Research Group; The Lou Frey Institute; Professor David Campbell; Professor Peter Levine; Professor Sam Wineburg.*



**CERTIFICATE OF SERVICE**

I, Andrew J. Ceresney, hereby certify that on February 1, 2021, I electronically filed the foregoing document with the United States Court of Appeals for the First Circuit by using the CM/ECF system. I certify that all parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system.

Dated: February 1, 2021

/s/ Andrew J. Ceresney  
Andrew J. Ceresney