

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

NATIONAL EDUCATION  
ASSOCIATION;

*et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
EDUCATION;

*et al.*,

Defendants.

Case No.: 25-cv-00091-LM

**DECLARATION OF CENTER FOR  
BLACK EDUCATOR DEVELOPMENT  
IN SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

I, Sharif El-Mekki, pursuant to 28 U.S.C. § 1746, declare the following:

1. The facts set forth in this declaration are based on my personal knowledge, and if called as a witness, I could and would competently testify to the following matters under oath.
2. I am the founder and Chief Executive Officer of the Center for Black Educator Development (CBED). I am authorized to provide this declaration on behalf of CBED, which is a plaintiff in the above captioned matter. I founded CBED in 2019. My experiences as a teacher of ten years, sixteen years as a principal, and as a former inaugural Principal Ambassador Fellow at the U.S. Department of Education all contributed to my decision to launch CBED. My Fellowship was particularly instructive as I was able to learn from and contribute to policies that impacted schools and districts that were generated at the U.S. Department of Education. By using in-reach and outreach strategies and best practices, my two colleagues and I were able to inform the U.S. Secretaries of Education and their cabinets about the impact of their decisions, messages, and policies on school and district leaders, and in particular, school principals and their leadership teams.
3. I make this declaration to describe the effects that the Dear Colleague Letter the Department of Education (the "Department") issued on February 14, 2025 (the "Letter"), is having, and will continue to have, on CBED. The information I provide in this declaration is based upon my best understanding of information available to my

organization, including information, data, and research that I have asked my staff to furnish and compile in support of the statements herein.

### **Background on CBED**

4. CBED is a 501(c)(3) organization founded in 2019 with the mission of achieving educational equity and racial justice by rebuilding a national pipeline of Black teachers. Presently, not enough is being done to effectively recruit, train, and retain Black teachers or to make schools and school districts successful employers of Black teachers.
5. According to our review of public data, most teachers in K-12 are white, a remnant of the fact that many Black teachers were pushed out of education when schools became desegregated. This gap is starkly evident even in districts with large Black student populations. For instance, around 49% of students in Philadelphia are Black, while less than a quarter of teachers are Black, only 4% being Black male teachers.<sup>1</sup> In the 2020-21 school year, Philadelphia schools employed nearly 1,200 fewer Black teachers than they did 20 years prior,<sup>2</sup> while the percentage of non-Black teachers has increased, highlighting the need for solutions specific to the Black teacher shortage.
6. This is critical because research has demonstrated that Black students who have just one Black teacher in K-3 are 9 percentage points more likely to graduate from high school and 6 percentage points more likely to go to college.<sup>3</sup>
7. Without examples of Black teachers, Black students are unlikely to consider a career in teaching for themselves. For example, Pennsylvania has seen a 60% decrease in Black students enrolling in teacher's colleges from 2009 to 2020.<sup>4</sup> The percentage of Black teachers in Pennsylvania is only 4%, despite the fact that Black students make up 14% of the student population.<sup>5</sup>
8. Black individuals who do become teachers face tougher worker conditions and leave the profession at higher rates than their white peers. Some of the reasons for this include the fact that Black teachers are often tasked with handling the bulk of student disciplinary

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<sup>1</sup> *Fast Facts*, The School District of Philadelphia, <https://perma.cc/V5US-YZTP> (last modified Mar. 6, 2025); Dale Mezzacappa, *Pennsylvania Changes Culturally Responsive Teaching Guidelines, Raising Concerns*, Chalkbeat Philadelphia, Nov. 27, 2024, <https://perma.cc/8K5X-3657>.

<sup>2</sup> Leana Cabral et al., *The Need for More Teachers of Color*, Research for Action, <https://www.researchforaction.org/research-resources/k-12/the-need-for-more-teachers-of-color/>.

<sup>3</sup> Seth Gershenson et al., *The Long-Run Impacts of Same-Race Teachers 1-2* (Nat'l Bureau of Econ. Rsch., Working Paper No. 25254, 2021), <https://perma.cc/PH7L-767L>.

<sup>4</sup> Ed Fuller, *Pennsylvania Teacher Staffing Challenges*, [https://ed.psu.edu/sites/default/files/inline-files/CEEPa\\_report\\_V2.pdf](https://ed.psu.edu/sites/default/files/inline-files/CEEPa_report_V2.pdf).

<sup>5</sup> *Pennsylvania Educator Diversity Research*, Research for Action, <https://www.researchforaction.org/pennsylvania-educator-diversity-research/>.



challenges and are often expected, whether formally or informally, to be spokespeople and trainers of colleagues in instructional practice that meet students' needs.<sup>6</sup>

9. Teachers who are not Black also need to be prepared to teach Black students in an engaging, effective, and culturally responsive way, but often do not receive training or instruction on best practices for doing so. Further, school districts need support and training to meet Black and non-Black teachers' needs in these areas.
10. Further, there is a national shortage of qualified teachers, so it is critical to recruit, support, and retain as many qualified teachers as possible to ensure the successful functioning of our public education system.<sup>7</sup>
11. CBED works to remedy these issues through three main categories of core activities, all of which are open to and support students and educators of all races: our "Teaching Pathways" program, our "Professional Learning" program, and our "Policy & Advocacy" work. These programs are designed to rectify past inequities by enhancing diversity within the teaching workforce, with the ultimate goal of providing all students with a more inclusive and representative educational experience. These programs have always centered fairness and equal opportunities for all candidates, regardless of race, color, religion, sex, or national origin, adhering to all relevant anti-discrimination laws and striving to create a balanced and equitable environment for everyone involved.
12. The Letter and subsequent FAQ, along with the End DEI portal, has limited our ability to do this important work by calling into question the legality of our programs through its vague and overly broad conceptions of illegal DEI work. Our partnerships with schools, curriculum materials, training and professional development programs for educators, and programs for students all relied on an understanding of federal anti-discrimination law that the Letter now departs from, threatening our partnerships and contracts with educational institutions and impacting these core services, as well as our mission to grow the Black teacher pipeline, which helps, among other things, to ensure that all students, especially Black students, are able to succeed in their education.

### **CBED's Teaching Pathways Program**

13. CBED's Teaching Pathways Program meets students where they are in high school and provides them with the tools to become successful teachers, with an emphasis on rebuilding the Black teacher pipeline. As part of Teaching Pathways, we conduct Teaching Academies that incorporate our curriculum program. We also offer a Freedom Schools Literacy Academy and a Future Teachers of Excellence Fellowship.

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<sup>6</sup> Madeline Will, *Teachers of Color Pay an "Invisible Tax" that Leads to Burnout*, Ed. Sec. Writes, Education Week, May 18, 2016, <https://perma.cc/FEF4-SKSD>.

<sup>7</sup> Tiffany S. Tan et al., *State teacher shortages 2024 update: Teaching positions left vacant or filled by teachers without full certification*, Learning Policy Institute (Jul. 31, 2024), <https://learningpolicyinstitute.org/product/state-teacher-shortages-vacancy-resource-tool-2024>.

14. The Teaching Academy is a year-round high school Career & Technical Education (CTE)<sup>8</sup> course open to all students interested in teaching, with a particular focus on recruiting Black students as future teachers. One of the roadblocks to rebuilding the Black teacher pipeline is that the pedagogy employed by schools is culturally non-responsive to Black teachers and students. This leads many Black teachers to an early exit from the profession, and deters Black students from ever considering a career as a teacher. Our CTE program, which is open to participants of all races, attempts to solve this problem through a curriculum grounded in Black pedagogy—instructional practices that center the historic frameworks, philosophy and strategies that cultivate positive racial identities and social consciousness while deepening academic knowledge and skills. Participants are matched with a course facilitator who provides targeted instructional coaching and professional development to prepare students to serve as teaching assistants and instructors in mentor classrooms.
15. CBED partners with higher education institutions to provide dual enrollment college credits to participants so that they have an opportunity to graduate with an associate's degree in education or certification as an educational paraprofessional. CBED provides guidance on course content to schools implementing the program.
16. CBED piloted the Teaching Academy program during the 2021-22 school year at four sites in three states (Pennsylvania, New Jersey, and Michigan). These sites were selected in part because the schools and districts valued CTE opportunities and had preexisting CTE success, or had a vision of putting CTE courses in place. These locations also had an interest in shaping a self-sustaining Black teacher pipeline because of its benefits in increasing workforce diversity and positive student outcomes.
17. The pilot program enrolled 160 high school students and saw a 35% rate of increase in an interest in teaching, 94% interest in attending college, and statistically significant outcomes across five targeted growth categories, including interest in teaching and higher education, knowledge of curriculum content, positive racial identity, academic self-efficacy, and social-justice orientation.<sup>9</sup>
18. Currently, CBED runs Teaching Academies in Philadelphia, Pennsylvania, Rochester, New York, and at a school in Harlem, New York. CBED has contractual partnerships with these school districts, which pay for our programming, sometimes with federal funding such as Teacher Quality Partnership grants or CTE funding. Similarly to how we selected our pilot program sites, we seek to partner with schools and districts that, among other things, value CTE opportunities and are interested in shaping a self-sustaining Black teacher pipeline due to its benefits to workforce diversity and positive student outcomes.

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<sup>8</sup> CTE courses provide academic and technical instruction to prepare students for employment opportunities in specific fields.

<sup>9</sup> Ctr. for Black Educator Dev., *2022 Program Report: Teaching Academy Pilot 18* (2022), <https://perma.cc/H2J9-9QYC>.



19. CBED has been growing our Teaching Academy programs, with an additional contract launching in Michigan in the Fall, and further contracts under discussion. CBED’s goal is to launch 40 Teaching Academies by 2030 across the country.
20. The Teaching Academies include our “Grow Your Own” curriculum for high schoolers. The curriculum aims to help communities “grow their own” teachers who are best situated to provide community- and culturally-responsive education as educators that grew up in that same community. This curriculum, like other CBED programs, has a specific emphasis on Black history and Black pedagogy.
21. CBED’s Freedom Schools Literacy Academy (FSLA) is a seven-week summer program that offers college-aged individuals and high school students paid apprenticeships wherein participants receive professional development and provide rising First through Third graders with literacy intervention and an affirming space that celebrates their culture and racial identity. FSLA provides specific instruction on Black culture, history, and pedagogy in an effort to advance racial justice and educational equity.
22. The Future Teachers of Excellence Fellowship, open to individuals from all races who participate in either a Teaching Academy or FSLA, is a program that provides financial support as well as academic support and professional coaching to students enrolled at a college or university with an interest in teaching. The goal of the program is to further build the pipeline of teachers who work to advance educational equity and racial justice. While many of our fellows are Black, we have awarded and will continue to award the fellowship to non-Black applicants who participate in our programming and are committed to educational equity, as we recognize that Black pedagogy is important for all teachers.<sup>10</sup>

### **CBED’s Professional Learning Program**

23. CBED also provides a variety of professional learning resources, including professional development workshops and consultation services.
24. CBED has created on-demand e-learning series and in-person workshops designed to educate teachers, student-teachers, school administrators, advocates, and allies on culturally responsive, affirming, and sustaining teaching practices. Topics covered in these resources include:
  - Cultural identity
  - Implicit Bias
  - Microaggression Nuance
  - Culturally-Proficient Relationships with Students
  - Culturally-Proficient Collaborations with Families
  - Ableist Language

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<sup>10</sup> See, e.g., Seth Gershenson et al., *Spillover Effects of Black Teachers on White Teachers’ Racial Competency: Mixed Methods Evidence from North Carolina*, <https://docs.iza.org/dp16258.pdf>.

- Addressing Biases that Impact Learning
- Tips for Making Academic Language Instruction Culturally-Proficient
- Difference Between Individualist and Collectivist Cultures
- How to Identify Cognitive Bias
- Culturally-Proficient Writing Activities
- Culturally-Proficient Read Aloud Strategies
- Validating and Affirming Cultural Behavior
- Grading with Equity

25. CBED’s workshops are approved as Act 48 ongoing professional education courses in Pennsylvania. Educators in Pennsylvania are required to complete Act 48-approved continuing education requirements every five years to maintain an active certification.<sup>11</sup>

26. CBED partners with school districts, universities, and community organizations to support diverse educators through anti-racist professional development opportunities. As one example, we host our Black Men in Education Convening, an annual conference open to all educators that centers the experiences, perspectives, needs, voices, and concerns of Black male educators. Schools often purchase tickets for their educators to attend this conference as a valuable professional development experience. Over 1,400 educators attended last year’s convening.

27. CBED also provides consultation services to other non-profit organizations and school districts. These services include consultation around:

- Strategic planning, including research, analysis and goal-setting on DEI and anti-racist teaching
- Teacher recruitment, hiring and retention toolkits and best practices
- Direct training and train-the-trainer facilitation, including: implicit bias in hiring; engaging in DEI dialogue; anti-racist, anti-bias and equity-centered approaches to school leadership
- Educator ecosystem assessments and co-production
- Design and progress monitoring of professional learning communities
- Targeted intervention services to address racial tensions among students and staff

28. CBED further provides Cultural Proficiency Workshops to educators, schools, and districts on topics including:

- Reflecting on One’s Cultural Identity
- Redressing Bias
- Microaggressions’ Impact on Diverse Learners
- Collaborating with Families
- Building Culturally-Proficient Relationships with Students

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<sup>11</sup> *General Act 48 Frequently Asked Questions*, Commonwealth of Pa., <https://perma.cc/3BF4-ENMJ>.



- Modeling High Expectations
  - Drawing on Student’s Cultural Knowledge to Inform Instruction
  - Formulating an Anti-Racist, Anti-Bias and Equity Driven Leadership Approach
  - Engaging in Difficult Conversations on Diversity, Equity, Inclusion, Justice and Belonging
29. Both our Teaching Pathways and Professional Development programming are geared towards the goal of having more effective teachers of underserved and marginalized students—particularly students of color and Black students. By providing high school and college students with career exploration opportunities in communities that have high numbers of students of color, CBED helps to ensure that early exposure and clinical experiences align with effective teaching and leadership practices that individuals can practice employing and later implementing as teachers themselves.
30. Professional development is aligned to researched best practices in how to effectively accelerate student achievement and is consistent with both short-term and longitudinal research that highlights the impact of Black teaching techniques, frameworks, and pedagogy.

### **CBED’s Policy & Advocacy Work**

31. CBED forms partnerships to advocate for systemic change elevating the teaching profession and promoting teacher diversity and cultural pedagogy at all government levels. For example, federally and nationally, CBED is on the steering committee for the “1 Million Teachers of Color” National Campaign to add one million teachers of color to the education workforce over the next decade. CBED also endorses various federal legislation, such as the Pay Teachers Act and the American Teachers Act, which aim to diversify the teacher workforce, expand the teacher pipeline, and sustain higher teacher salaries.
32. At the state level, CBED has partnered with Pennsylvania Educator Diversity Consortium to develop Culturally Responsive-Sustaining Education (CR-SE) competencies, which were implemented into all education preparation programs in 2024. CBED also developed a Teachers of Color Retention Toolkit and contributed to toolkits for Recruitment and Mentoring.
33. All of these policy and advocacy efforts will be in vain if the Department’s vague and overly broad conception of illegal discrimination prevails, as all of CBED’s efforts to diversify the teacher pipeline and enhance educational practices around diversity and cultural competency will be recast as efforts to discriminate on the basis of race.

### **CBED Has Been and Will Continue to Be Harmed by the Letter**

34. Having reviewed the Letter, CBED has serious concerns about its impact on our Teaching Pathways and Professional Learning programs. The Letter specifically calls out “training” and “other institutional programming,” Letter at 1, as potential vehicles for the Department’s broad and vague conception of discrimination. The Letter further highlights “diversity, equity, and inclusion” programs, which the Department describes as “smuggling racial stereotypes and explicit race-consciousness into everyday training[ and] programming,” Letter at 2, or as “preferenc[ing] certain racial groups and teach[ing students] that certain racial groups bear unique moral burdens that others do not,” Letter at 3, which the Letter claims “stigmatize[s] students who belong to particular racial groups based on crude racial stereotypes.” Letter at 3.
35. The Letter demands that educational institutions “cease all reliance on third-party contractors . . . that are being used by institutions in an effort to circumvent prohibited uses of race,” or else risk loss of federal funding, calling CBED’s partnerships with school districts and training programs into focus for potential enforcement. Letter at 3–4.
36. The Letter also invites complaints from “[a]nyone” who believes unlawful discrimination has occurred, deputizing individuals without any connection to CBED’s work to find fault with it. Letter at 4.
37. While CBED’s Teaching Pathways and Professional Learning programs do not discriminate on the basis of race and are open to all aspiring and current educators, they do invoke concepts that relate to “diversity,” “equity,” and “inclusion.” This has never been considered illegal discrimination. Our focus on Black pedagogy and the importance of Black teachers, and discussion of topics like culturally proficiency, anti-racism, implicit bias, cultural identity, microaggressions, equity, and bias, as described above, are intended to redress or prevent discrimination. Yet the Department now casts doubt on any effort to acknowledge racial issues plaguing our education system, and threatens punishment to districts who partner with those who attempt to bring awareness to these issues, like our organization.
38. The Letter thus impacts the purpose, execution of, and educational institutions’ interest in these programs, which are at the core of CBED’s work to grow the Black teacher pipeline and teach Black pedagogy, including to ensure that all students, and especially Black students, thrive.
39. The FAQ raises similar concerns, for example by stating that “schools cannot assume that a person’s race necessarily implies something about that person, including something about that person’s perspective, background, experiences, or socioeconomic status,” FAQ at 2, or that “racial classifications . . . risk devolving into unlawful racial stereotypes when they lump students into categories that are overbroad, underinclusive, or arbitrary and undefined,” Letter at 4. CBED’s work addresses racial biases because it is critical



for all educators, including Black educators, to identify biases they may have that can negatively impact their students' sense of self, or undermine having high expectations and support for said students. However, CBED fears that this instruction could be construed to violate these terms in the FAQ.

40. The FAQ further states that “[m]any schools have advanced discriminatory policies and practices under the banner of ‘DEI’ initiatives. Other schools have sought to veil discriminatory policies with terms like ‘social-emotional learning’ or ‘culturally responsive teaching.’” FAQ at 5. The FAQ specifically calls out “courses, orientation programs, or trainings that are designed to emphasize and focus on racial stereotypes” as “forms of school-on-student harassment that could create a hostile environment under Title VI.” FAQ at 7. In the FAQ as well, the Department specifically targets third parties like CBED, suggesting that schools are “laundering” racial preferences through third party contracts and other arrangements. FAQ at 8.
41. We are concerned that the Department’s publications will deter others from working with us. For example, current and potential partners reading them may conclude that CBED’s trainings and programs on implicit bias, cultural identity, microaggressions, bias, cultural proficiency, and equity constitute illegal race discrimination, when these are sound, important educational practices. Just due to the careless language used by the Department alone, CBED may have to invest significant time and resources into modifying, expanding, or eliminating our offerings to educational institutions. Further, it would be difficult if not impossible to continue partnerships and contractual relationships with educational institutions due to schools’ fears of complaints, enforcement, and federal funding rescission, significantly hampering CBED’s core activities in frustration of its mission.
42. The “End DEI” portal further heightens the impact on CBED’s core activities and contracts and partnerships with educational institutions by providing a second, informal route to report alleged violations of law. As a result of the Letter, FAQ, portal, and the threat to federal funding, CBED fears that educational institutions will cease their support of CBED’s programs, for example by canceling contracts and partnerships.
43. Indeed, one school district that was planning to start a Teaching Academy for Ninth and Tenth graders has already indicated that it is not sure whether it can proceed with the Academy following the issuance of the Letter.
44. CBED thus has significant concern that none of our contracts and partnerships are safe from impairment due to the Letter’s vague and broad prohibitions. While we do not discriminate in any way, Black pedagogy, Black teachers, and the effective teaching of Black students are at the heart of our work. The word “Black” is in our name. The Letter now makes this a liability. As a small organization that cannot adapt its programming and

funding sources quickly, these developments from the Department pose an existential threat to our organization.

45. Ultimately, the Letter, FAQ, and Portal are an enormous obstacle, and an existential threat, to CBED's goal of growing the pipeline of Black educators. We believe that these publications will inhibit the educational content and practices of Black educators, including those who seek to apply the lessons learned in our programs. We also believe these publications will also dissuade future educators, and particularly Black students and students of color, from pursuing a career in education. The Department's actions have consequences not only for CBED's core activities and mission, but also for the broader issue of teacher shortages, ultimately undermining the successful education of students of all races. Based on our experience and research, there is a significant risk that potential teachers will seek other opportunities where they will not fear reprisal, scrutiny, or harassment for discussing their own culture or history or for practicing cultural sensitivity.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of March, 2025



Sharif El-Mekki