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November 9, 2021

Statement of Concerns regarding Ohio HB 322 and HB 327

We the undersigned parties, representing a broad spectrum of Ohio’s organized Jewish community, are closely monitoring two pieces of state legislation that, if passed and signed into law, could have significant impact on the way history is taught in Ohio’s schools.

The Ohio Council for the Social Studies, the premier voice for social studies professionals in Ohio, characterizes the legislation in the following way:

Ohio House Bills 322 and 327 have been introduced, which would restrict the teaching of certain concepts and topics in K-16 classrooms. HB 322 primarily targets public schools and state agencies, but the Ohio Department of Higher Education would be included under the definition of state agency. This bill prohibits public entities from requiring discussion of current events and prohibits the teaching of a list of topics dealing with race, sex, slavery, and bias. It also targets history and civics courses, discouraging the discussion of current events, controversial issues, or activities that involve social or policy advocacy. Moreover, the legislation specifies that teachers cannot be required to teach anything that goes against their "sincerely held religious or philosophical convictions."

HB 327 is slightly different and more punitive than HB 322. The bill prohibits public schools, state agencies, colleges, and universities from offering teaching, instruction, or training on "divisive concepts" or accepting private funding to promote such concepts. Violations of the bill would result in the withholding of funding to school districts or State Share of Instruction to colleges and universities. The bill has a list of concepts related to race, sex, nationality, color, and ethnicity that it defines as divisive and therefore prohibited. It does say that divisive or controversial concepts can be taught if done so objectively and impartially, but who gets to determine what is objective and impartial is unclear.

We voices of the organized Jewish community in Ohio, wish to express concerns about this legislation:



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- The vagueness and overbreadth of the language used in the bills can result in unconstitutional arbitrary and capricious punishment of educators who are seeking to provide their students with an understanding of our past in order to ensure and strengthen our democratic future. No more important an institution than our Supreme Court has said in a famous decision, *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, upholding free speech and academic freedom in the context of a state loyalty oath requirement the following: The First Amendment "does not tolerate laws that cast a pall of orthodoxy over the classroom. 'The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.' The classroom is peculiarly the 'marketplace of ideas.' The Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth 'out of a multitude of tongues, (rather) than through any kind of authoritative selection.'"
- We feel that the goals of public education are best decided at the local level, and this legislation would strip local school boards of their rightful authority to handle them in the way they feel is appropriate for their staff, students, and communities.
- We are concerned that the lack of clarity around what constitutes a "divisive topic" could lead to unintended consequences. For example, because of the punitive nature of HB327, we are concerned that an educator may view topics surrounding the Holocaust as potentially "divisive" and thus not worth the risk to teach. The same could be said for other essential chapters of history, including the Civil Rights Movement, and the legacy of slavery. While this history is painful and challenging to reckon with, sugarcoating or avoiding it is a dangerous disservice to our children and to the future of a free and just America. Broad and authentic teaching and analytical understanding of this history is the only way we can ensure that future generations learn from the past, so as not to repeat it. To quote Henry Abramson, specialist in Jewish history and Dean of Touro College, laws like these will "chill honest engagement with hard truths, forcing teachers to lie to their students, even if only by omission."
- Language in the legislation requiring objectivity and impartiality in the teaching of "divisive concepts" is also concerning. After the passage of similar legislation in Texas, a top school administrator in the state's Carroll Independent School District recently advised teachers "if they have a book about the Holocaust in their classroom, they should also offer students access to a book from an 'opposing' perspective," according to news



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reports.

- Funding stipulations in both bills could threaten existing partnerships between area museums and area school districts. For instance, the Nancy and David Wolf Holocaust and Humanity Center offers subsidies to school districts, representing approximately 22,000 students across the region annually, to cover the admission, bussing and tour costs associated with bringing students to the museum. Under HB 322 and 327, these funding opportunities would prevent students from participating in HHC programs.
- Finally, these bills run contrary to what Jewish tradition teaches about the essential role of analytical thinking, debate and dissent in learning. Our ancient sages instructed that it is only through debate, broad exploration, and broad understanding of a topic; particularly one that could be considered controversial or divisive; that we approach authentic knowledge.

For all of the reasons listed above, we, the undersigned, encourage Ohio lawmakers to oppose HB 322 and HB 327. As a Jewish community, we have an obligation rooted in centuries of persecution and scapegoating to ensure that we reflect honestly on painful chapters of history. As the Dean of American Jewish historians and founder of Cincinnati’s American Jewish Archives, Jacob Rader Marcus taught: “A people that is not conscious of its past has no assurance of its future.” In other words, we end by suggesting that if we do not have free inquiry, all our futures are jeopardized.



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