

**April 17, 2023**

**SD Board of Content Standards – Social Studies Revisions  
Public Comment Hearing – Zoom – Pierre, SD**

Good morning. My name is Stephanie Amiotte, Legal Director of the ACLU of South Dakota and Oglala Lakota tribal member. The ACLU is committed to the protection of First Amendment rights for all persons and opposes government-led discrimination based on race, ethnicity, national origin, and political status. We support Indigenous communities as they work to uphold their sovereignty, dignity, and autonomy.

For these reasons, we support the South Dakota's Tribes' request that the Department of Education reinstate the first committee's recommendations for Oceti Sakowin Essential Understandings and Native American topics.

South Dakota Indigenous children have long been discriminated against by the education system starting when the government implemented assimilation policies that weaponized education through government run boarding schools. Between 1819-1969, the Federal Indian Boarding School Program stripped Native American children from their families and culture in an attempt to assimilate them into dominant society. Children as young as four years old were forcibly taken from their families and sent, often hundreds of miles away, to boarding school institutions designed to destroy their Native identity and culture. Any marker of Indigeneity - language, clothing, hair, even children's names - was prohibited.

Presently, Native Americans represent the 2<sup>nd</sup> largest demographic in the state according to the U.S. Census. If the current standards dedicate only 10% of content to Native American subjects, that is woefully inadequate. The first committee's recommendations for the social studies standards is a step forward from a painful past and relevant to all students' needs. The Department of Education selected the first committee *because* they were qualified experts within our state. Yet the department offered no legitimate reason for rejecting the first committee's recommendations for Native American topics.

This is a clear restriction of students' rights protected by the First Amendment. Students have a constitutional right to receive the information

on these topics recommended by the first committee.<sup>1</sup> The Department of Education does not have a substantial and reasonable government interest to justify interfering with students rights.<sup>2</sup> A large number of topics removed appear to be racially motivated without furthering a legitimate pedagogical purpose.<sup>3</sup> Courts have rejected prior attempts by school systems to restrict access to certain movies and books, so the current attempts to restrict access to Native American topics is likewise legally concerning. Native Americans represent the 2<sup>nd</sup> largest demographic in the state making the first committee's recommendations incredibly relevant and appropriate for students in South Dakota.

As the Supreme Court in *Stanley v. Georgia* recognized, “the right to receive information and ideas is fundamental to our free society.”<sup>4</sup> We ask the Department of Education to promote these freedoms and to not stifle them. We urge the Department of Education to meaningfully consider the South Dakota Nine Tribes’ request to reinstate all Oceti Sakowin Essential Understandings and Native American topics recommended by the first committee. We urge you to comply with the First Amendment to the Constitution. Thank you.

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<sup>1</sup> *Stanley v. Georgia*, 394 U.S. 557, 564 (1969) (cleaned up).

<sup>2</sup> *Pratt v. Indep. Sch. Dist. No. 831*, 670 F.2d 771, 779 (8th Cir.1982).

<sup>3</sup> *Arce v. Douglas*, 793 F.3d 968, 981 (9th Cir. 2015).

<sup>4</sup> *Id.*