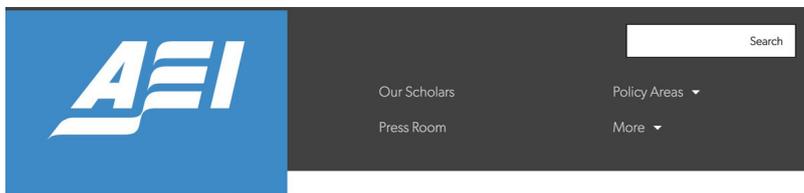




Jeffrey Sachs @JeffreyASachs Tue Dec 14 16:02:31 +0000 2021

In recent days, there's been a flurry of articles by cons seeking to set some guardrails on how states go about banning "CRT" and related books. They support the bans in principle, but for strategic reasons, worry that they might be going too far.

They are right to be worried. <https://t.co/MsRcZ6u50q>



Report

The best way to 'ban' critical race theory: Prohibiting promotion rather than inclusion or compulsion

American Enterprise Institute

EDUCATION K-12 SCHOOLING



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THE CORNER

EDUCATION

Don't Ban Woke School-Library Books, Balance Them

By STANLEY KURTZ | December 13, 2021 7:02 AM



E.g. Max Eden dismisses leftwing critics of these bills as witless hysterics, but then concedes that Tennessee's law, which bans the *inclusion* of certain concepts, might be a smidge of an over-reaction.

<https://t.co/ifGVwCscfd> <https://t.co/ResyLrxZe7>

[A school district] or public charter school shall not include or promote the following concepts as part of a course of instruction or in a curriculum or instructional program, or allow teachers or other employees of the [school] . . . to use supplemental instructional materials that include or promote the following concepts.³²

Whereas bills that prohibit compulsion would not necessarily affect the substance of curriculum provided to students, bills such as Tennessee’s that prohibit inclusion certainly could. The broadness of the word “include” provides sufficient ground for concern that it could impinge on an accurate and thorough discussion of historical figures, events, and trends. For example, Calhoun developed and promoted the thesis that slavery was a positive good, given that—in his opinion—Blacks were a fundamentally inferior race. But Tennessee law prohibits “including” the concept that “one race or sex is inherently superior to another race or sex.”³³

Tennessee’s law does carve out an exception that would address this concern, stipulating that teachers may provide lessons and materials that engender an “impartial discussion of controversial aspects of history” and “the impartial instruction on the historical oppression of . . . people based on race, ethnicity, class, nationality, religion, or geographic region.”³⁴ Such provisions, however, are not universally found within bills that prohibit inclusion. To the extent that any curricular dispute arising from the implementation of such bills occurs in the political realm, it can likely be handled responsibly between educators and community members. But in the court of law, bills that prohibit inclusion run a risk of yielding a court decision that their proponents may regret.

He can add Oklahoma's to that list too, since it has the exact same defect. Also ND's, which was signed into law last month. Maybe not such witless hysterics after all.

If only someone had tried to warn them way back in June that this might be a problem!

<https://t.co/VKpvcb4Db0> <https://t.co/jmfyseLxjq>

Consider this language from [Tennessee's anti-CRT bill](#), which Governor Bill Lee signed into law last month.

“An LEA [public school authority] or public charter school shall not *include* or promote the following concepts as part of a course of instruction or in a curriculum or instructional program, or allow teachers or other employees of the LEA or public charter school to use supplemental instructional materials that *include* or promote the following concepts.” [emphasis added]

The law then lists proscribed concepts, but that need not detain us here. What matters is that the law prohibits mere *inclusion* of those concepts, as distinct from and in addition to their promotion. That means even a neutral, objective discussion is off the table. An exception is carved out for some historical events, but many others, as well as current events, are subject to the ban. The moment you include one of these ideas in your curriculum, you've broken the law.

For instance, it is currently *illegal* in the state of Tennessee for teachers to include any material in the classroom that promotes “division between, or resentment of, a race, sex, religion, creed, nonviolent political affiliation, social class, or class of people.” How is a civics teacher supposed to operate within those limits? Can she have her students watch a modern presidential debate? Evaluate a partisan campaign ad? Engage with virtually any polemical work of journalism or political philosophy? I don't see how.

Of course, it didn't help that Chris Rufo was flat out lying about these bills in places like WSJ. But never fear. I'm sure we can trust him going forward.

<https://t.co/x771mkjMnL> <https://t.co/Rk0eRbivRt>

Third, state legislation about critical race theory bans a specific set of pedagogies—not teaching about history. Left-leaning media outlets have claimed that bills in states such as Idaho, Oklahoma, Tennessee and Texas would ban teachers from discussing racism in the classroom. This is patently false. [The legislation in these states would simply prohibit teachers from compelling students to believe](#) that one race “is inherently superior to another,” that one race is “inherently racist, sexist, or oppressive,” or that an individual “bears responsibility for actions committed in the past by other members of the same race.” The same bills explicitly say that teachers may and should discuss the role of racism in American history, but they may not shame or treat students differently according to their racial background.

All of this does raise the question of why, when victory is finally in sight, folks like Kurtz and Eden are suddenly raising some gentle objections about what these bills do or how they do it. It's simple: They know what's coming, and they know how crazy it is going to be.

For instance, I wrote about a new bill out of South Carolina this week for [@PENamerica](#). It has to be seen to be believed, but here's a taste.

<https://t.co/NdDUQQRlq> <https://t.co/fKLprkNhiz>

In South Carolina, two state representatives **prefiled a bill** called the *Freedom from Ideological Coercion and Indoctrination Act*. This bill would apply to any entity receiving state funds or that benefits from tax exempt or nonprofit status, including public and private schools and universities, all levels of state government, state contractors, charitable organizations, and many private businesses.

In other words, an enormous number of South Carolinians.

Under the bill, those entities would be prohibited from teaching, endorsing, or compelling the adoption of certain “discriminatory” concepts, including that:

- “a group or an individual, by virtue of his or her race, ethnicity, sex, sexual orientation, national origin, heritage, culture, religion, or political belief is inherently racist, sexist, bigoted, ignorant, biased, fragile, oppressive, or contributive to any oppression, whether consciously or unconsciously;”
- “an individual should feel discomfort, guilt, anguish, or any other form of psychological distress because of his or her race, ethnicity, sex, sexual orientation, national origin, heritage, culture, religion, or political belief;”
- “an individual’s moral character, value, or status, whether wholly or partly, is necessarily determined by his or her race, ethnicity, sex, sexual orientation, national origin, heritage, culture, religion, or political belief.”

While some of this language is similar to that found in other bills analyzed in our *Educational Gag Orders report*, South Carolina’s legislation breaks new ground by censoring speech about heritage, culture, religion, and political belief. The implications of this are deeply troubling.

For instance, racism, fascism, and homophobia can all be understood as cultural or political beliefs. Under the bill, educators would be prohibited from describing those who hold such beliefs as bigoted or oppressive. Nor would they be permitted to suggest that anti-Semites, for instance, ought to feel discomfort or anguish on account of their anti-Semitism, or that racism reflects poorly on a person’s moral character.

In fact, under this bill, it would be illegal for history teachers to make statements condemning or criticizing participants in the regimes of Nazi Germany or the Soviet Union, since this would seemingly violate the bill’s prohibition against teaching that any group or individual is inherently racist or oppressive by virtue of their political beliefs.

@PENamerica Or look at this bill prefiled in Missouri last week. It forbids K-12 schools from assigning any material that teaches the following.

Does "institutions" here include slavery? What does this bit about "income" mean for assigning Dorothy Day or Steinbeck?

<https://t.co/B5IUbt9E8p> <https://t.co/IMXjDeAaqn>

of higher education in this state.

2. As used in this section, "curriculum implementing critical race theory" includes, but is not limited to, any curriculum that:

(1) Identifies people or groups of people, entities, or institutions in the United States as inherently, immutably, or systemically sexist, racist, anti-LGBT, bigoted, biased, privileged, or oppressed; and

(2) Employs immutable, inherited, or typically continuing characteristics such as race, income, appearance, religion, ancestry, sexual orientation, or gender identity to:

(a) Perpetuate stereotypes; and

(b) Assign blame for societal problems or ills to categories of living persons based on any such stereotypes or characteristics; or

@PENamerica Oh, and it applies to higher ed too. Public and private. <https://t.co/YxicHxslGs>

6. (1) If the attorney general determines that a two-year or four-year institution of higher education that receives state moneys has violated this section, the attorney general shall notify the institution of its violation.

(2) If such institution fails to comply with this section within thirty days of such notification, the attorney general may direct the department of higher education and workforce development to withhold a maximum of ten percent of the distribution of state funding to such institution. After the attorney general determines that such

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institution is in compliance with this section, the attorney general shall notify the department to restore the distribution of state funding for the institution to its original amount before the reduction was made if any such funding was withheld.

@PENamerica A new bill in Oklahoma (also prefiled last week) explicitly *requires* teachers and university professors to lie to their students about American history. I'm not making this up!

<https://t.co/LAFT9c9GA3> <https://t.co/6pxQKNIXIb>

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24-159 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. No state agency, school district, charter school, online instruction funded in any manner by the Oklahoma Legislature, or personnel or agent of such state agency, school district, charter school, or online instruction shall teach, use, or provide for use by any pupil any curricula, instructional materials, or assignments designed to teach components of the 1619 Project as part of any curricula, course syllabi, or instruction in any course or program of study, including:

1. Any teaching that America has more culpability, in general, than other nations for the institution of slavery;
2. That one race is the unique oppressor in the institution of slavery;
3. That another race is the unique victim in the institution of slavery;
4. That America, in general, had slavery more extensively and for a later period of time than other nations; or
5. The primary and overarching purpose for the founding of America was the initiation and perpetuation of slavery.

@PENamerica This is clearly crazy, but that's just it. There's no getting off the crazy train once it's in motion. Not without making things politically painful for the legislators at the control switch, which is something Kurtz, Eden, and the rest are neither able nor willing to do.

@PENamerica And so we should expect more. A lot more. Hell, a New York assemblyman just introduced one yesterday. It's less insane than the bills above, but contains that exact same "inclusion" problem Eden ever so gently cautions against. Max, caution harder!

<https://t.co/kRxeVBoYzX>

@PENamerica This brings to a grand total of THIRTY-FOUR bills either introduced or prefiled for the next leg. session. Something will probably pass in Wisconsin and Ohio soon, and Florida won't be far behind. PEN has an up-to-date Index of all these bills here.

<https://t.co/KVTSVh4tcF>

@PENamerica Journalists, pay attention to what's happening. It is, unfortunately, poised to get much, much worse. And probably the only way to push back against it is to highlight just how outrageous some of these bills really are.

@PENamerica For more on new bills, trends and analysis, that sort of thing, be sure to check back at **@PENamerica**. I'll be providing monthly round-ups like this one for all things anti-CRT. Unfortunately, I doubt I'll run out of new things to say.

<https://t.co/NdDUQQRlq>