

State Education Officials Must Restore a Sense of National Character in Public Schools

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KEY TAKEAWAYS

Critical Race Theory (CRT) upends civil rights and equal protection under the law by treating people differently, according to their race or ethnicity.

The Biden Administration's support of CRT training in schools leaves it up to the states to stop this radical ideology from corrupting school curricula.

Lawmakers should require public schools to promote America's founding principles and teach history impartially, and with a balance of viewpoints.

After the Trump Administration rightly banned Critical Race Theory (CRT) training in the federal workforce in late 2020, the Biden–Harris Administration swiftly undid the prohibition in its first day in office. The reversal sent the momentum for combatting CRT to the states, where legislatures and governors are currently considering the impact of CRT's Marxist roots and intolerance of other ideas on K–12 school policies, such as student discipline and curricula.

Can the executives and legislators of the nation's 50 states and the officials of the nearly 14,000 school boards determine the material that is taught in the public school classroom? Certainly. Just as state and local education officials have the authority to adopt and later change academic standards and lessons to include CRT and focus

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on “racialization” and “whiteness,” so, too, can educators create and recommend resources that acknowledge America’s promise of freedom and opportunity.¹

In the words of Derrick Bell, considered the godfather of CRT, the worldview is a “transformative resistance strategy,” weaponized to disrupt all institutions, from representative institutions based on the rule of law, such as the U.S. government, or those which are as basic as the family and the nation state.² To counter this destructive ideology and create opportunities for everyone to pursue the American Dream, regardless of ethnicity or background, Americans have two responsibilities: first, to hold public officials charged with protecting liberty accountable, and, second, to contribute to the national character through civil conduct and equality under the law.

CRT has its intellectual origin in Critical Theory, which is a philosophy based on applying Marxism to every area of life—counter to America’s promise of freedom and equality under the law.³ Authorities have an obligation to ban the implementation of CRT’s practices in a classroom whenever they find that these practices run afoul of this country’s laws, including constitutional provisions, the Civil Rights Act, and other statutes. Many of the practices outlined in this *Backgrounder* rely on race-based classifications, and education officials have a duty to determine whether they violate the 14th Amendment’s Equal Protection clause or Title VI of the Civil Rights Act of 1964, which protects Americans from discrimination based on race, sex, or national origin in educational institutions that receive federal funds.⁴

Federal jurisprudence over the years has supported the rights of public school officials to decide which speech is allowed as part of instructional practices or school activities. Though teachers do not “shed their constitutional rights to freedom of speech or expression at the school house gate,” according to the U.S. Supreme Court ruling in *Tinker v. Des Moines Independent Community School District*, the High Court has also ruled that public school officials can regulate speech if the restrictions are “reasonably related to legitimate pedagogical concerns.”⁵ Federal court opinions in *Garcetti vs. Ceballos* (2006) and *Brown v. Chicago Board of Education* (2016) have ruled that public employees’ speech can be limited by their employers in the course of the employees’ official duties.⁶

To be sure, in their efforts to resist this pernicious and divisive ideology, Americans who want to resist CRT must avoid the excesses of censorship that Critical Theorists themselves espouse.⁷ The authors of this *Backgrounder* would welcome having their report taught in high school or college, for example. Diversity of thought is a worthwhile goal on which legislatures, governors, and school boards must insist, and public schools have a civic

purpose to prepare citizens to participate in civil society. Critical Theory works against this pedagogical responsibility. There is an important distinction to be made between teaching what CRT is, and implementing CRT's pronouncements, such as teaching children to assume every act is racist and ask "how much racism was in play?"; that society is divided into categories of the oppressed and their oppressors; that they should "hate White people"; or that the idea that "hard work is the key to success" or we should "be polite" is evidence of a white culture.⁸ Public officials applying such ideas would be violating any reasonable interpretation of the 14th Amendment, if not other statutes and regulations.

Educators should not use the goal of teaching "diversity of thought" as an excuse to teach students to view others through ethnic stereotypes, or that America is an irredeemably racist country. Educators should use instructional content that creates a shared sense of national identity, teaching that America belongs to all Americans, and that this nation and its progress is worth celebrating.

Critical Race Theory's Threat to the Rule of Law

CRT's origin in Marxism and support for the Soviet Union are clear and easy to document. The direct intellectual ancestor of CRT is Critical Theory, a discipline that began in Frankfurt, Germany, in the 1920s and 1930s at the University of Frankfurt's Institute for Social Research. Known as "the Frankfurt School," the institute was founded in 1923 after the failure of German radicals to establish a socialist state around the same time that the Bolshevik Revolution succeeded in what would become the Soviet Union.

The Frankfurt School was one of the first, if not the first, of the so-called Neo Marxist, or Western Marxist, schools, patterned after the Marx-Engels Institute in Moscow. "Symptomatic of its position was the close ties it maintained with the Marx-Engels Institute in Moscow.... It photostated copies of unpublished manuscripts by Marx and Engels brought over weekly by courier the SPD's [Social Democratic Party] Berlin headquarters and forwarded them to Moscow," wrote historian Martin Jay in his sympathetic history of the school, *The Dialectical Imagination*.⁹

The Frankfurt School's original name was to be the *Institut für Marxismus* (Institute for Marxism) but those in charge thought it too provocative. After the scholars fled to Columbia University's Teachers College in 1934 to escape persecution by the Nazis, they stopped using terms such as "Marxism" and "communism," and switched to such synonyms as

“dialectical materialism.”¹⁰ Another sympathetic historian, Stuart Jeffries, says Frankfurt School writers and academics were careful to erase the “M word [Marxism] from [their] research papers so as not to affront [their] American hosts and potential sponsors.”¹¹

The term Critical Theory itself was first used in by Max Horkheimer in an essay he wrote in 1937, “Traditional and Critical Theory.” The approach married the dialectical approach of philosopher G. W. F. Hegel to Marxism’s emphasis on class conflict, Nietzschean nihilism, and Sigmund Freud’s work on the subconscious. It amounted to a barrage of criticism of all the institutions of America and Europe, in order to bring down the entire edifice. In the postscript to Horkheimer’s 1937 essay, he said that Critical Theory is “not just a research hypothesis...it is an essential element in the historical effort to create a world which satisfies the needs and powers of men.”¹²

Critical Race Theory. CRT is one variant of Critical Theory that emerged in U.S. academic circles in the 1970s out of frustration with what its proponents considered to be the meager gains of the civil rights movement and representative government in general—considered meager because government could not create equal outcomes in public and private life for everyone. Critical Legal Theorists first built on Critical Theory’s main ideas of a world based on systems of power to claim that American law is systemically oppressive, and Critical Race Theorists then added to Critical Legal Theory that the categories of the oppressed and oppressors should be considered as a function of race.

Critical Race Theorists claim that America is systemically racist, and that this racism produced an alliance between working-class whites and the oppressor capitalist class, which prevented working-class solidarity. Derrick Bell, the Harvard professor credited with being CRT’s founder, writes that segregation “represented an economic–political compromise between the elite and working-class whites.” This compromise “gave to the poor the sense of superiority, while retaining the substance for the rich.”¹³

CRT practitioners see the same power dynamics as the proponents of Critical Theory, while considering these dynamics through the prism of race. CRT is just as devoted to the tearing down of societal institutions through criticism. The ultimate goal has not changed: Existing society needs to be broken down and rebuilt. Bell does not mince words when he lays out the radical aims of CRT: “As I see it, critical race theory recognizes that revolutionizing a culture begins with the radical assessment of it.”¹⁴ The work of CRT authors “is often disruptive because its commitment to anti-racism goes well beyond civil rights, integration, affirmative action, and other liberal measures.”¹⁵ Because the law “systematically privileges subjects who are white,” CRT calls for a “transformative resistance strategy.”¹⁶

For its subversive revolutionary work, this resistance relies on members of racial and other categories of the supposedly oppressed, who must be made to understand their oppression (the “consciousness of their servitude”) in order to convince them to overthrow the system. CRT departs from the civil rights movement’s emphasis on equal treatment by openly embracing an anti-liberal agenda. Richard Delgado and Jean Stefancic, also important architects of CRT, write that “[u]nlike traditional civil rights discourse, which stresses incrementalism and step-by-step progress, critical race theory questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law.”¹⁷

CRT Training and Curricula. CRT, like Critical Theory before it, is a strategy to undermine Western, and in the case of CRT, American, norms, principles, and institutions in order to subvert society and install new political, economic, and societal systems. The CRT training and curricula that have awoken such animus in American society must be seen in the context of:

- The goal of radically transforming society;
- The subsequent need to instill grievances and a sense of victimhood by explaining the world only in terms of the oppressed and the oppressors; and
- Criticism of the classical liberal tradition.

The training programs and curricula drill into children that racism is everywhere and that America’s past is built on white supremacy, not a promise of freedom. White students are taught that they benefit from “unearned privilege,” and that their ancestors were oppressors. CRT material tells everyone that America is systemically and structurally racist, which is part of a sustained strategy to maintain oppression.

For example, in Chicago, an educator filed a complaint with the U.S. Department of Education about “racial equity” training plans and instructional content that divided teachers and students into “affinity groups” according to race.¹⁸ Faculty and students could only participate in the activities alongside individuals from the same race, and, even more concerning, the federal agency’s initial review of the accusations reported that school administrators advocated for student disciplinary policies that were different for children of different races.

School officials leading these activities divide participants according to race and treat them differently according to ethnicity in the events and ensuing policies from training sessions. Local, state, and federal officials should investigate claims such as these, claims recently made by educators in Illinois and New York.¹⁹ The Trump Administration opened an investigation in January 2021, but officials in the Biden Administration closed the investigation shortly after President Joe Biden's inauguration, which should raise questions as to whether the President's and Vice President Kamala Harris's emphasis on equity at the expense of equality puts the Administration at odds with the Constitution.

Policy Recommendations

The nation's governors and state legislatures, along with local school board members, should determine whether public schools contravene constitutional provisions, Title VI of the Civil Rights Act, and other statutes when they engage in the following practices:

- Discrimination by race, sex, national origin, or any immutable characteristic in school hiring practices, instructional practices and curriculum, or any other school activities, such as dividing students into affinity groups or “[adapting] homework policies to fit the needs of students of color,” as recommended in a math curriculum created by officials from several California school districts.²⁰
- Racial or sexual stereotyping.
- Ascribing a person's character traits, beliefs, ethical codes, privileges, principles, or status to race or sex. While cultural practices or ideologies can be brutal and barbaric, that brutality and barbarism is not inherent in a person's race or sex. The practices of the 20th-century Soviets or the 13th-century Mongols toward their captive peoples are an example. CRT trainers, on the other hand, teach that certain practices and habits inhere in a person's race.
- Race or sex condemnation, as in assigning fault, blame, or bias to a race or sex, or to members of a group because of their race or sex. For example, a new ethnic studies curriculum developed by state education officials includes a lesson that asks students to create a “land acknowledgement poster” that says they are guilty of living on someone else's

land.²¹ Teachers can, however, help students to analyze whether systems, behaviors, or cultural traits lead to human flourishing or not.

- Advocating the overthrow of the United States or its Constitution.
- Teaching that all Americans are not equal under the law.
- Teaching that social disadvantage is assigned at birth and cannot be disproven through success later in life.
- Applying techniques under which subjects such as math, science, or chemistry must be taught differently to children according to their race, ethnicity, or ascribed category.
- Teaching that all disparities in outcomes between individuals from different ethnicities are evidence of systemic racism. Illinois's new teacher certification standards say that "there are systems in our society, especially, but not limited to, our school system that create and reinforce inequities, thereby creating oppressive conditions."²²
- Demanding that students be separated by race, ethnicity, sex, or other category, or demanding that members of categories issue collective apologies or make collective demands, and express feelings of collective guilt or innocence.
- Requiring any faculty, staff, or students to take a position on a political issue of the day that denigrates a political party or members of a certain ethnic group, or by wearing a political button or any other insignia, that supports a political party or a political cause.

Governors, state legislatures, and boards of education can legislate or regulate that public school teachers should:

- **Impart** the foundational principles of this country: intrinsic equality of all humans, equal protection under the law, liberty, self-reliance, and hard work;
- **Teach** history impartially, with differing views considered in a balanced, non-politicized curriculum; and

- **Explain** how government works at different levels, and how a citizen can affect the workings of government.

Conclusion

Conservative columnist George Will writes, “America is, at bottom, about individual freedom, and one cannot love American freedom deeply or defend it successfully without understanding its grounding in the Founders’ philosophy.”²³ CRT seeks to disrupt freedom under the law, and its applications violate civil rights by treating people according to race. State and local officials can and should design and promote instructional content that celebrates pluralism. The American responsibility is to contribute to, and preserve, civil society—for today and for the next generation.

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Endnotes

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